

# Re Movassaghi

IN THE MATTER OF:

**The Rules of the Investment Industry Regulatory Organization of Canada**

**and**

**Mohammad Movassaghi**

2021 IIROC 04

Investment Industry Regulatory Organization of Canada  
Hearing Panel (Pacific District)

Heard: March 3, 2021 in Vancouver, British Columbia (via videoconference)

Decision: March 3, 2021

Reasons for Decision: March 23, 2021

## **Hearing Panel:**

Linda J. Murray (Chair), William Wright and Johannes van Koll

## **Appearance:**

Stacy Robertson, Senior Enforcement Counsel

Mohammad Movassaghi (absent)

Bobby Movassaghi, for Mohammad Movassaghi (absent)

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## **DECISION ON HEARING ADJOURNMENT**

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### **INTRODUCTION**

¶ 1 This hearing was commenced pursuant to the IIROC Consolidated Enforcement, Examination and Approval Rules (Consolidated Rules) by Notice of Hearing and Statement of Allegations dated April 28, 2020. The Respondent filed a Response to the allegations. A hearing was set for January 18, 2021. In November 2020, the hearing was adjourned by consent pursuant to IIROC Rule 8422 of the Rules of Practice and Procedure. New hearing dates were to be canvassed at a prehearing conference per IIROC Rule 8416.

¶ 2 This matter was convened on March 3, 2021 to set new hearing dates.

¶ 3 Enforcement Counsel advised the Panel that he received an email from Bobby Movassaghi, counsel for the Respondent, on January 29, 2021, in which Mr. Movassaghi advised that the Respondent would not participate further in these proceedings, he denied the allegations, and that he is no longer working in the industry.

¶ 4 Bobby Movassaghi was advised of this set-date hearing and a confirmation notice dated February 2, 2021 was sent to him. Enforcement Counsel followed up with Bobby Movassaghi asking him to confirm that he continued to act as counsel for the Respondent and that he would receive IIROC's disclosure package on behalf of the Respondent. Enforcement Counsel received no response from Bobby Movassaghi.

¶ 5 Bobby Movassaghi was provided with IIROC's electronic disclosure package on February 16, 2021. The disclosure link was accessible to Bobby Movassaghi and the disclosure documents were available for him to

download for 14 days after receiving the link. Enforcement Counsel was advised by IIROC staff that Bobby Movassaghi did not access the link or download any disclosure documents.

¶ 6 Enforcement Counsel has not had further communications from Bobby Movassaghi or other counsel on behalf of the Respondent. Bobby Movassaghi has not formally withdrawn as counsel for the Respondent.

#### Rule 8423(12) Application Discussion

¶ 7 Enforcement Counsel advised that IIROC has in other set-date hearings made an application pursuant to Rule 8423(12) of the Consolidated Rules. The Rule provides the Panel with discretion to proceed with the hearing in the Respondent's absence, accept as proven the facts and contraventions alleged in the Notice of Hearing and Statement of Allegations, hear submissions on sanctions immediately or at a further hearing, and impose sanctions and costs the Panel considers appropriate.

¶ 8 Enforcement Counsel advised that generally (with some exceptions) panels proceeded under Rule 8423(12) where the Respondent had not filed a Response. In this case, the Respondent filed a Response and has denied the allegations. Enforcement Counsel pointed out that the Panel likely had the authority to proceed if it wished to do so.

¶ 9 Enforcement Counsel advised that he was not making a formal application to proceed under Rule 8423(12) at this time and sought the Panel's guidance on how it wished to proceed. Enforcement Counsel reviewed the following options:

- a. Accept the allegations as proven and proceed with submissions on sanction. Enforcement Counsel advised that he was not prepared to make detailed submissions at this time.
- b. Postpone ruling on a Rule 8423(12) application, order a hearing where some key evidence regarding the substance of the allegations is presented, and then rule on the application. Individual cases differ regarding the amount of evidence that the panels wished to hear.
- c. Proceed with a full hearing in the ordinary course. Given the ongoing COVID pandemic, the hearing could proceed electronically with witnesses or affidavit evidence. Enforcement Counsel could bring an application under Rule 8423(12) at that time.

¶ 10 The Panel canvassed potential hearing dates with Enforcement Counsel. Enforcement Counsel estimated that, due to the location of witnesses and COVID attestation procedures, he would require at least two months to prepare the necessary documents. He advised that pursuant to Rule 8418, he must serve upon the Respondent, or his counsel, the required Witness Lists and Statements at least 30 days prior to the commencement of the hearing on the merits. Enforcement Counsel proposed dates in summer or fall 2021.

¶ 11 The Panel recessed to consider the matter.

#### **PANEL DECISION, REASONS, AND DIRECTIONS**

¶ 12 The Panel thanked Enforcement Counsel for his helpful submissions.

¶ 13 The Panel noted that Enforcement Counsel did not make an application to proceed under Rule 8423(12) at this time. Before entertaining such an application, the Panel wants to hear key evidence regarding the substance of the allegations given the nature of the allegations, the fact that the Respondent filed a Response, and that the Respondent continues to deny the allegations.

¶ 14 The Panel set the hearing dates for this matter for June 15 and 16, 2021. The Panel directed that the hearing be held electronically. Affidavit evidence may be filed. Enforcement Counsel may, but is not required to, make an application under Rule 8423(12) at that time.

¶ 15 This matter has been outstanding for some time and the panel wishes to proceed with the hearing

on June 15 and 16, 2021. Bobby Movassaghi has not formally withdrawn as counsel for the Respondent and will be served with the continuance notice in the ordinary course. However, the Panel wishes to ensure that the Respondent receives adequate notice of the new hearing dates so that the hearing can proceed on June 15 and 16, 2021 without further adjournment, including any adjournment which may result from the Respondent retaining new counsel. Enforcement Counsel advised that he would provide to the National Hearing Coordinator the last known address that IIROC has for the Respondent.

¶ 16 The Panel unanimously made the following orders:

- a. The hearing of this matter is adjourned to June 15 and 16, 2021, and will proceed electronically.
- b. The National Hearing Coordinator will send a copy of the continuance notice for hearing to the Respondent at his last known address, in addition to his current counsel of record, Bobby Movassaghi.

Dated at Vancouver, British Columbia on March 23, 2021.

Linda J. Murray

William Wright

Johannes van Koll

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