

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
ORGANIZATION OF CANADA**

AND

GARY MAN KIN NG

AND

DONALD WARREN METCALFE

NOTICE OF HEARING

An initial appearance (“Initial Appearance”) will be held before a hearing panel (“Hearing Panel”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) pursuant to Sections 8203 and 8205 of the Consolidated Enforcement, Examination and Approval Rules of IIROC in this matter. The purpose of the Initial Appearance is to schedule a hearing (“Hearing”).

The Initial Appearance will be held by way of videoconference on January 6, 2021, at 10:00 a.m.

The Respondent must serve a Response (“Response”) to this Notice of Hearing and the Statement of Allegations dated November 2, 2020 (“Statement of Allegations”) in accordance with Section 8415 within 30 days from the effective date of service of this Notice of Hearing.

If the Respondent does not file a Response in accordance with Section 8415(1), the Initial Appearance may be immediately converted to a Hearing.

If the Respondent files a Response in accordance with Section 8415(1), the Initial Appearance will be immediately followed by an initial prehearing conference. In preparation for the prehearing conference, the Respondent must serve and file a prehearing conference form in accordance with Section 8416(5).

The purpose of the Hearing will be to determine whether the Respondent has committed the contraventions that are alleged by the staff of IIROC ("Staff"). The alleged contraventions are contained in the Statement of Allegations.

Pursuant to Section 8409, the Hearing will be conducted as a[n]:

- ☐ Oral Hearing
- ☒ Electronic Hearing
- ☐ Written Hearing

The Respondent may object to the format of the Hearing. The objection must be made in accordance with Section 8409.

The Initial Appearance, the Hearing and all related proceedings will be subject to the Rules of Practice and Procedure as set out in Section 8400.

Pursuant to the Rules of Practice and Procedure, the Respondent is entitled to attend the Hearing and to be heard, to be represented by counsel or by an agent, to call, examine and cross-examine witnesses, and to make submissions to the Hearing Panel at the Hearing.

If the Respondent fails to serve a Response at the Hearing the Hearing Panel may, pursuant to Section 8415(4):

- (a) proceed with the hearing as set out in this Notice of Hearing, without further notice to the Respondent;
- (b) accept as proven the facts and contraventions set out by Staff in the Statement of Allegations; and
- (c) order sanctions and costs against the Respondent pursuant to Sections 8209, 8210 and 8214 and/or IIROC Dealer Member Rules 20.33 and 20.34.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Statement of Allegations, the Hearing Panel may, pursuant to Sections 8209 and 8210 and/or IIROC Dealer Member Rules 20.33 and 20.34 impose any one or more of the following sanctions:

- (a) a reprimand;
- (b) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention;

- (c) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the person, directly or indirectly, as a result of the contravention.
- (d) suspension of the person's approval or any right or privilege associated with such approval, including access to a Marketplace, for any period of time and on any terms and conditions;
- (e) imposition of any terms or conditions on the person's continued approval or continued access to a Marketplace;
- (f) prohibition of approval in any capacity, for any period of time, including access to a Marketplace;
- (g) revocation of approval;
- (h) a permanent bar to approval in any capacity or to access to a Marketplace;
- (i) permanent bar to employment in any capacity by a Regulated Person; and
- (j) any sanction determined to be appropriate under the circumstances.

If the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Statement of Allegations, the Hearing Panel may assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances pursuant to Section 8214 and/or IIROC Dealer Member Rule 20.49.

DATED this 2nd day of November, 2020.

"National Hearing Coordinator"

NATIONAL HEARING COORDINATOR
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9

IN THE MATTER OF:

**THE RULES OF THE INVESTMENT INDUSTRY REGULATORY
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STATEMENT OF ALLEGATIONS

Further to a Notice of Hearing dated November 2, 2020, Enforcement Staff of the Investment Industry Regulatory Organization of Canada make the following allegations:

PART I – REQUIREMENTS CONTRAVENED

Contravention 1

Between November, 2018 and January, 2020, the Respondent Ng engaged in fraudulent conduct with respect to loan financing, contrary to Consolidated Rule 1400.

Contravention 2

In July, 2020, the Respondent Ng failed to cooperate with Enforcement Staff who were conducting an investigation, contrary to section 8104 of the Consolidated Rules.

Contravention 3

Between November, 2018 and January, 2020, the Respondent Metcalfe engaged in fraudulent conduct with respect to loan financing, contrary to Consolidated Rule 1400.

Contravention 4

In August, 2020, the Respondent Metcalfe failed to cooperate with Enforcement Staff who were conducting an investigation, contrary to section 8104 of the Consolidated Rules.

PART II – RELEVANT FACTS AND CONCLUSIONS

Overview

1. The Respondent, Gary Man King Ng (“Ng”), was an Approved Person and a Registered Representative (“RR”) with Chippingham Financial Group Limited (“Chippingham”), and later, PI Financial Corp (“PI Financial”), both Dealer Members. At the material times, he was the Executive Chairman, 100% beneficial indirect owner and a Director of both firms.
2. The Respondent, Donald Warren Metcalfe (“Metcalfe”), was also an Approved Person with both firms. At the material times, he was the President and Chief Operating Officer of Chippingham, and later the Executive Vice Chairman and a Director of PI Financial.
3. Ng was the founder of Chippingham, a small Winnipeg based firm, which he owned through a structure of various entities controlled by him (the “Ng Group”).
4. In November, 2018, Ng, through the Ng Group acquired a 100% controlling interest in PI Financial, a Vancouver based firm in a \$100M all cash purchase.
5. The purchase was partially financed by two outside unrelated lenders – Lender One, which advanced approximately \$80M and Lender Two, which advanced approximately \$20M (together the “PI Purchase Loans”).
6. The PI Purchase Loans were personally guaranteed by Ng. As security for the loans, Ng purportedly granted separate, unencumbered security interests to Lender One, and also

to Lender Two, over collateral including certain Chippingham securities accounts (later PI Financial accounts) which were owned by him.

7. However, despite his representations, Ng did not actually own, control or have trading authority over the securities accounts pledged as collateral. Instead, the ownership and control of the collateral was falsified by Ng and Metcalfe.
8. Ng perpetrated a fraud concerning his purported ownership of the securities accounts pledged as collateral to Lender One and Lender Two. In particular, the fraudulent actions committed by Ng, personally, and/or under his direction, included:
 - (i) Falsifying his own Chippingham and PI Financial securities account statements, summaries, and screen captures, to vastly overstate the value of assets in the accounts;
 - (ii) Altering the securities account statements of two unrelated Chippingham and PI Financial clients by changing the clients' names to his own name, in order to make it appear that those clients' assets were owned by him when this was false;
 - (iii) Creating fictitious account statements, summaries and screen capture images to make it appear that he held millions of dollars in financial assets with Chippingham and PI Financial when in reality those accounts and the claimed assets did not exist.
9. Metcalfe also perpetrated a fraud as he directly and actively participated with Ng in the falsification and distribution of false and/or fictitious account documentation to lenders.
10. In addition, Ng and the Ng Group, borrowed additional funds from Lender Two in July, 2019 and in January, 2020 in the total amount of approximately \$40M, also based on falsified collateral.
11. In June, 2019, the Ng and the Ng Group borrowed approximately \$32M from a third lender, B Corp, also based on falsified collateral.

12. In total, between November, 2018 and January, 2020, Ng and the Ng Group borrowed approximately \$172M from Lender One, Lender Two and B Corp, based on false representations that Ng owned financial assets, used as collateral, which he did not own.
13. PI Financial became aware of the issues concerning Ng's purported ownership of securities accounts at the end of January, 2020, and immediately reported these matters to IIROC.
14. On February 11, 2020, Ng and Metcalfe resigned as employees of PI Financial.
15. In the course of the investigation, Enforcement Staff have not found any evidence of any client losses.
16. On July 9, 2020, Ng failed to attend an interview with Enforcement Staff, and thereby failed to cooperate with the IIROC investigation.
17. On August 13, 2020, Metcalfe failed to attend an interview with Enforcement Staff, and thereby failed to cooperate with the IIROC investigation.

Registration History

Ng

18. Ng, who was born in 1984, represented himself to others as an extremely successful businessperson who created enormous personal wealth through highly successful technology, real estate and manufacturing investments in Canada and China.
19. In 2008, he became involved in the securities business as an RR. In 2012, he co-founded Chippingham, a Dealer Member based in Winnipeg, and became its Chairman and CEO.
20. In 2018, Ng began acquiring other firms. In March, 2018, Ng (through the Ng Group) acquired Rothenberg Capital Management Inc., of Montreal, and in November, 2018, PI Financial, of Vancouver.

Metcalfe

21. Metcalfe was not an RR but an Approved Person and worked closely with Ng first at Chippingham, and later at PI Financial.

Fraudulent Conduct

22. The Statement of Allegations relates to fraudulent conduct by Ng and Metcalfe to procure a total of approximately \$172M in loans from three separate lenders, on the basis of falsified collateral records in support of those loans:

(i) Lender One – \$80M (November, 2018)

(ii) Lender Two - Loan 1 - \$20M (November, 2018)
 - Loan 2 - \$20M (July, 2019)
 - Loan 3 - \$20M (January, 2020)

(iii) B Corp - \$32M (June, 2019)

(i) Lender One - Falsified Collateral Records

23. Lender One is an investment firm based in the United States.
24. In November, 2018, Lender One advanced approximately \$80M (“Lender One Loan”) to Ng and the Ng Group as part of a transaction whereby the Ng Group (with Ng as sole beneficial owner) agreed to purchase 100% of the outstanding shares of PI Financial. In connection with the transaction, Ng granted a personal guarantee to Lender One whereby he guaranteed up to \$16M of the Lender One Loan to the Ng Group.
25. The Lender One Loan was secured against certain collateral, including two securities accounts at Chippingham (“J Accounts”) which Ng represented that he owned personally.
26. On November 30, 2018, in furtherance of the Lender One Loan, Ng executed a Securities Pledge Agreement, in favour of Lender One. This agreement, signed by Metcalfe on behalf

- of Chippingham, specifically identified the J Accounts as the purported security for the Lender One Loan. At the time, the J Accounts had a market value of approximately \$27M.
27. However, in reality, Ng did not own the J Accounts purportedly pledged by Ng as collateral. Rather, the J Accounts statements, summaries and screen shots provided by Ng to Lender One were falsified by Ng by changing the client name from J Corp to Ng to make it appear as though these accounts were owned by him.
 28. On April 1, 2019, Lender One requested Ng provide the updated current market value of the J Accounts. Ng responded by emailing Lender One falsified account summaries as of March 31, 2019 for the J Accounts, which indicated a current market value of approximately \$22M.
 29. On July 3, 2019, Ng emailed Lender One to advise that he would provide the updated current market value of the J Accounts. He also stated that the previous account numbers for the J Accounts were no longer valid as his personal trading account had now moved from Chippingham to PI Financial. He said he would provide the new PI Financial account numbers to Lender One ASAP.
 30. On July 4, 2019, Ng emailed Lender One to again provide updated current market value for the J Accounts, and also to provide the new replacement account numbers for the J Accounts – the 013 Account and the 023 Account. He also attached what he says was an account “snapshot” for the 013 Account. He did not attach an account snapshot for the 023 Account.
 31. However, contrary to what Ng stated in his email, these accounts were not replacement account numbers for the J Accounts, but entirely new accounts. The 013 Account snapshot stated that the account was in the name of Gary Ng, and that it had a current market value of \$20,634,368.87. However, in reality, although the 013 Account was in Ng’s name, Ng had falsified the document and the 013 Account did not actually contain any securities and had a zero balance. The 023 Account was a fictitious account and did not exist at PI Financial.

32. On July 5, 2019, Ng executed an Amended Securities Pledge Agreement, in favour of Lender One, to reflect what Ng represented to Lender One were simply new PI Financial account numbers for the J Accounts. This agreement, signed by Metcalfe on behalf of PI Financial, purportedly pledged the 013 Account (which was falsified) and the 023 Account (which did not exist) as security for the Lender One Loan.
33. On October 7, 2019, Lender One emailed Ng requesting an updated current market value for the 013 Account and the 023 Account.
34. On October 8, 2019, Ng emailed Lender One falsified account summaries, which purported that the 013 Account had a current market value of \$20,843,710.49, and the 023 Account had a current market value of \$1,238,001.01.
35. On January 8, 2020, Ng again emailed Lender One falsified account summaries, which purported that the 013 Account had a current market value of \$21,139,490.78, and the 023 Account had a current market value of \$1,339,929.14.
36. As stated above, at all material times, the 013 had a zero balance and the 023 was a fictitious account.
37. On January 27, 2020, Ng executed another Securities Pledge Agreement in favour of Lender One, in connection with the Lender One Loan. This Agreement, which was signed by Metcalfe on behalf of PI Financial, purported to pledge two other PI Financial accounts held personally by Ng as security (the "184 Accounts"). These accounts had a purported value of approximately \$91M.
38. In reality, the 184 Accounts were held by Ng but they had an actual total market value of approximately \$1.9M.
39. As of February 28, 2020, following payments to Lender One, the balance owing by Ng and the Ng Group on the Lender One Loan was approximately \$60M.

(ii) Lender Two - Falsified Collateral Records

40. Lender Two is an asset management firm based in Canada.

Lender Two – Loan One

41. In November, 2018, Lender Two advanced \$20M (“Lender Two Loan One”) to Ng and the Ng Group as part of the transaction whereby Ng Group agreed to purchase 100% of the outstanding shares of PI Financial. Ng granted a personal guarantee to Lender Two whereby he guaranteed the indebtedness owing by the Ng Group.
42. Lender Two Loan One was secured against certain collateral, including two securities accounts at Chippingham (“J Accounts”) which Ng represented that he owned personally.
43. On November 22, 2018, in furtherance of Lender Two Loan One, Ng executed a Securities Account Pledge and Control Agreement, in favour of Lender Two. Metcalfe executed this agreement on behalf of Chippingham, which specifically identified the J Accounts as security for Lender Two Loan One. At the time, the J Accounts had a market value of approximately \$26M.
44. The J Accounts are the same two securities accounts at Chippingham that Ng pledged as collateral to Lender One, in connection with the Lender One Loan.
45. As was the case with the Lender One Loan, in reality, Ng did not own the J Accounts purportedly pledged by Ng as collateral for Lender Two Loan One. Rather, the J Accounts’ statements, summaries and screen shots provided by Ng to Lender Two were falsified by Ng by changing the client name on account records from J Corp to Ng.
46. Between January 14, 2019 and April 16, 2019, Metcalfe (on behalf of Ng) emailed falsified monthly account statements and/or screen capture images on five separate occasions to Lender Two, reflecting purported monthly account holdings in the J Accounts.
47. On April 30, 2019, Ng executed an Amended and Restated Securities Account Pledge and Control Agreement, in favour of Lender Two. This agreement, which was signed by

Metcalfe on behalf of PI Financial, was intended to replace the previous Securities Account Pledge and Control Agreement from November 22, 2018, and specifically referenced the J Accounts (but with new PI Financial account numbers) as collateral for outstanding indebtedness.

48. On May 21, 2019, Metcalfe emailed falsified account statements to Lender Two for the month of April, 2019 with respect to the J Accounts, for both Chippingham and PI Financial accounts. The statements purported to show securities held in Ng's account with a market value of approximately \$26M. However, these statements were falsified as again Ng changed the name of the account holder from J Corp to his own name.

Lender Two – Loan Two

49. Ng was seeking to purchase an interest in B Corp, a private company based in Canada.
50. On June 14, 2019, Ng emailed Lender Two with what he described as his "other trading account statement". In it, Ng represented that he held another account at PI Financial with a market value of \$87,385,816.96.
51. In reality, this document was a falsified account statement for R Corp, another unrelated existing client at PI Financial. Although the R Corp account held securities with a current market value of approximately \$8.7M (the "R Account"), the account statement had been altered to change the account holder name from R Corp to Gary Ng. In addition, the market value of the R Account holdings had been altered to show a 10 fold increase in market value, from approximately \$8.7M to a false value of \$87M.
52. On June 20, 2019, Lender Two agreed to advance Ng and the Ng Group an additional \$20M to purchase a 50% interest in shares of B Corp ("Lender Two Loan Two"). The Offer to Lend referenced the R Account as security for the new loan.
53. On July 3, 2019, Lender Two emailed Ng seeking clarification as to why a Manitoba PPSA search result had indicated that the J Accounts were pledged as security to another company - Lender One. Ng replied by email to Lender Two to say that this was "an error".

54. Ng did not advise Lender Two that this was not actually an error. Rather, Ng had deliberately pledged the J Accounts to Lender One, and Lender Two separately, despite not actually owning the J Accounts.
55. As a result, Ng emailed Lender One to advise that he needed to “update” the account numbers for the J Accounts pledged to them, as the account numbers were out of date with the move of his accounts to PI Financial. Ng then emailed falsified account snapshots for the 13 Account (actual zero balance) and the 23 Account (fictitious) to Lender One. He then entered into a modified Securities Pledge Agreement with Lender One in which he pledged these accounts (previously described in Lender One section above).
56. On July 5, 2019, Lender Two advanced the \$20M to the Ng Group pursuant to Lender Two Loan Two. In reality, as of July 5, 2019, Ng’s two accounts with PI Financial had values of just \$4 and USD\$222,359 respectively.
57. On July 9, 2019, Ng emailed Lender Two a falsified account summary for the R Account.
58. On July 11, 2019, Ng emailed Lender Two falsified account summaries for the J Accounts and the R Account.
59. The J Account indicated a current market value of approximately \$20.5M. In reality, this account statement was falsified as it did not belong to Ng, but to J Corp. The R Account indicated a current market value of approximately \$90.5M in a PI Financial account in the name of Gary Ng. In reality, this account did not belong to Ng, but R Corp, and the figures were falsified as the actual market value of this account was approximately \$8.6M.
60. Between July 16, 2019 and September 24, 2019, Metcalfe (on behalf of Ng) emailed falsified accounts statements and/or screenshots for the J Accounts and the R Account to Lender Two on at least seven different occasions, in order to provide monthly account value updates.
61. In November, 2019, the Ng Group paid back the original \$20M borrowed from Lender Two pursuant to the Lender Two Loan One, advanced to purchase PI Financial.

Lender Two – Loan Three

62. In January, 2020, Lender Two agreed to lend an additional \$20M to Ng and the Ng Group. In connection with the transaction, Ng granted a personal guarantee to Lender Two whereby he also guaranteed this loan to Lender Two.
63. On January 15, 2020, in furtherance of this loan, Ng executed a Pledge Agreement and a Securities Account Pledge and Control Agreement whereby Ng purportedly pledged the J Accounts and the R Account as security. Once again, at no time did Ng own, control or have any ownership interest in the J Accounts or the R Account.

(iii) B Corp – Falsified Collateral Records

64. At approximately the same time that Ng Group borrowed from Lender Two to acquire 50% share ownership of B Corp, on June 21, 2019, Ng Group in turn agreed to borrow approximately \$32M from B Corp (“B Corp Loan”). In connection with the transaction, Ng provided a guarantee to B Corp whereby he guaranteed the B Corp Loan to the Ng Group.
65. The B Corp Loan was purportedly secured against certain collateral, including a securities account at PI Financial, which Ng represented that he owned personally.
66. On June 21, 2019, in furtherance of the B Corp Loan, Ng entered into a General Security and Pledge Agreement, and a Securities Account Control Agreement with B Corp, referencing another PI Financial account as collateral - Account 58. These agreements specifically identified Account 58 as security for the B Corp Loan.
67. On June 21, 2019, Ng emailed B Corp with a falsified account summary for Account 58, which purported that the total current market value of the securities in Account 58 was \$90,444,768.18.
68. In reality, Account 58 was held in Ng’s name at PI Financial, but it had a balance of just \$4.

Summary – Fraudulent Conduct

- 69. Ng and Metcalfe perpetrated a fraudulent scheme by deceiving lenders into providing them with millions of dollars in loans in reliance on falsified and fictitious documentation purportedly evidencing substantial financial assets as security when this was not true.
- 70. These fraudulent acts constitute conduct unbecoming contrary to Consolidated Rule 1400.

Failure to Cooperate

- 71. Staff scheduled an interview with Ng for July 9, 2020, which Ng failed to attend.
- 72. Staff scheduled an interview with Metcalfe for August 13, 2020, which Metcalfe failed to attend.
- 73. The failure by Ng and Metcalfe to attend interviews with Staff constitutes a failure to cooperate, contrary to section 8104 of the Consolidated Rules.

DATED at Vancouver, British Columbia, this 2nd day of November, 2020.