

IN THE MATTER OF:

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

AND

HOWARD TSAO

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Investment Industry Regulatory Organization of Canada (“IIROC”) will issue a Notice of Application to announce that it will hold a settlement hearing to consider whether, pursuant to Section 8215 of the IIROC Rules, a hearing panel (“Hearing Panel”) should accept the settlement agreement (“Settlement Agreement”) entered into between the staff of IIROC (“Staff”) and Howard Tsao (“Tsao”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff and Tsao jointly recommend that the Hearing Panel accept this Settlement Agreement in accordance with the terms and conditions set out below.

PART III – AGREED FACTS

3. For the purposes of this Settlement Agreement, Tsao agrees with the facts as set out in this Settlement Agreement.

Overview

4. This Settlement Agreement concerns Tsao's outside business activity without the approval of his Dealer Member. Tsao advised his Dealer Member that he had resigned from three condominium boards for which he also acted as RR, when he had not. Tsao also failed to cooperate with Staff's investigation by not attending a scheduled interview.

Background

5. Tsao was a Registered Representative ("RR") at a branch of RBC Dominion Securities Inc. ("RBC DS") between June 2017 and February 2020. Tsao was terminated from RBC DS on February 20, 2020 and has not been an IIROC registrant since.

The Outside Business Activity

6. In June 2017, Tsao disclosed to RBC DS that (1) he served as Treasurer and Board Member for three condominium corporations (the "Condominium Corps"); and (2) he wanted to open accounts for the Condominium Corps at RBC DS and serve as their RR. Tsao requested that RBC DS approve his activities with the Condominium Corps as an outside business activity ("OBA").
7. RBC DS's internal policies and procedures require RRs to complete an OBA/Plan of Supervision Request Form ("OBA Request Form") and submit it to the RBC compliance department ("Compliance") for approval.
8. Tsao submitted three OBA Request Forms (one for each Condominium Corp) to Compliance in June 2017.

9. Accounts for the three Condominium Corps were opened at RBC DS starting on July 27, 2017. The Condominium Corps held Guaranteed Investment Certificates (“GICs”) in their respective accounts. Tsao was the RR for all of the Condominium Corps’ accounts.

The Outside Business Activity Request was Denied by RBC DS

10. Compliance denied all three OBA Request Forms in October 2017. Tsao was informed in writing at the time that his OBA requests were denied by Compliance.

Tsao Advised RBC DS that he had Resigned from the OBA

11. Since the OBA Request Form was denied, Tsao advised RBC DS that he would resign as Treasurer and Board Member for the Condominium Corps. Tsao provided RBC DS three signed letters of resignation (one for each Condominium Corp) on October 10, 2017.
12. Tsao signed Annual Attestation disclosure forms for 2018 and 2019 indicating that he had no OBAs.

Tsao Misled RBC DS and Did Not Resign from the OBA

13. Tsao did not actually resign from his role as Treasurer and Board Member of the Condominium Corps, despite advising RBC DS that he had done so.
14. Tsao continued as RR of record for the Condominium Corps.

Commissions and Fees Earned

15. The Condominium Corps each held an account which were comprised of investments in GICs. They were each operated as fee-based accounts until January 2019 when they were switched to commission-based accounts per the Condominium Corps’ request. Due to

delay in switching the accounts to commission-based, RBC DS reimbursed the Condominium Corps approximately \$32,096.86 in fees. Of this amount, \$29,259.55 was charged to and paid by Tsao.

16. Tsao earned \$42,488.90 in fees for the accounts between September 2017 and December 2019. This includes the \$29,259.55 that he had to pay back.

Failure to Cooperate with Enforcement Staff's Investigation

17. Enforcement Staff first attempted to contact Tsao regarding its investigation in March 2020 by sending Tsao a letter and providing him with the opportunity to respond. Tsao did not provide a response.
18. Between August 31 and September 25, 2020 Enforcement Staff telephoned Tsao five times. Tsao never answered the telephone. Enforcement Staff left a voicemail four times. Tsao never responded to the voicemails.
19. On October 1, 2020, a letter was sent to Tsao's residential address advising of a virtual interview date of October 29, 2020.
20. On October 2, 2020, Tsao telephoned Enforcement Staff and advised that he had been living outside of Canada since his termination from RBC DS and had been renting the property listed as his residential address in Canada. He also indicated that he had a limited internet connection. During this phone call, Enforcement Staff again advised of the virtual interview date. Tsao indicated that he did not plan on attending the interview because he did not intend to return to Canada and did not intend to seek registration with IIROC again.
21. Tsao did not attend the scheduled interview or communicate with Enforcement Staff any further regarding his non-attendance.

22. In November 2021, Tsao retained counsel and became fully engaged in the proceeding.

Mitigating Factors

23. By settling, Tsao has saved the need for a hearing and has indicated acceptance of his responsibilities.

24. Tsao does not have any disciplinary history with IROC.

PART IV – CONTRAVENTIONS

25. By engaging in the conduct described above, Tsao committed the following contraventions of IROC's Rules:

- (i) Between June 2017 and February 2020, Tsao engaged in an outside business activity by serving as Treasurer and Board Member for three condominium corporations for which he was also the Registered Representative and misled his Dealer Member about the activity, contrary to Dealer Member Rule 18.14 and Consolidated Rule 1400.
- (ii) Between March 2020 and October 2020, Tsao failed to cooperate with Enforcement Staff who were conducting an investigation, contrary to section 8104 of Consolidated Rule 8100.

PART V – TERMS OF SETTLEMENT

26. Tsao agrees to the following sanctions and costs:
- (i) Tsao will pay a monetary sanction of \$30,000, which includes disgorgement in the amount of \$13,229.35;
 - (ii) Tsao will pay costs of \$5,000;
 - (iii) Tsao will be permanently banned from registration in any capacity with IIROC.
27. If this Settlement Agreement is accepted by the Hearing Panel, Tsao agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Staff and Tsao.

PART VI – STAFF COMMITMENT

28. If the Hearing Panel accepts this Settlement Agreement, Staff will not initiate any further action against Tsao in relation to the facts set out in Part III and the contraventions in Part IV of this Settlement Agreement, subject to the provisions of the paragraph below.
29. If the Hearing Panel accepts this Settlement Agreement and Tsao fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Rule 8200 against Tsao. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement.

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

30. This Settlement Agreement is conditional on acceptance by the Hearing Panel.

31. This Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing in accordance with the procedures described in Sections 8215 and 8428, in addition to any other procedures that may be agreed upon between the parties.
32. Staff and Tsao agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If Tsao does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the Hearing Panel.
33. If the Hearing Panel accepts the Settlement Agreement, Tsao agrees to waive all rights under the IIROC Rules and any applicable legislation to any further hearing, appeal and review.
34. If the Hearing Panel rejects the Settlement Agreement, Staff and Tsao may enter into another settlement agreement or Staff may proceed to a disciplinary hearing based on the same or related allegations.
35. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
36. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full of copy of this Settlement Agreement on the IIROC website. IIROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.
37. If this Settlement Agreement is accepted, Tsao agrees that neither he nor anyone on his behalf, will make a public statement inconsistent with this Settlement Agreement.

38. The Settlement Agreement is effective and binding upon Tsao and Staff as of the date of its acceptance by the Hearing Panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

39. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.

40. A fax or electronic copy of any signature will be treated as an original signature.

DATED this “22” day of March, 2022.

“Witness”
Witness

“Howard Tsao”
Howard Tsao

“Witness”
Witness

“April Engelberg”
April Engelberg “March 23, 2022”
Enforcement Counsel on behalf of
Enforcement Staff of the Investment
Industry Regulatory Organization of
Canada

The Settlement Agreement is hereby accepted this "29" day of "March", 2022 by the following Hearing Panel:

Per: "Barry Bresner"
Panel Chair

Per: "Guenther Kleberg"
Panel Member

Per: "Leo Ciccone"
Panel Member