

# Re Spooner

IN THE MATTER OF:

**The Investment Dealer and Partially Consolidated Rule**

**and**

**Dominic Spooner**

2023 CIRO 22

Canadian Investment Regulatory Organization  
Hearing Panel (Pacific District)

Heard: January 1 and February 1, 2023, in Vancouver, British Columbia (via videoconference)

Liability and Penalty Decision: July 23, 2023

Reasons for Decision on Costs: November 21, 2023

**Hearing Panel:**

Linda J. Murray (Chair), William Wright and Brian Worth

**Appearances:**

Mr. Stacy Robertson, IIROC Senior Enforcement Counsel

Mr. Owais Ahmed and Ms. Yana Konakh, Articled Student, Counsel for Dominic Spooner

Mr. Dominic Spooner (by video link)

---

## DECISION ON COSTS

---

### INTRODUCTION

¶ 1 These proceedings were commenced by a Notice of Hearing and Statement of Allegations issued October 31, 2022, under previous IIROC Rules 8200 (sections 8203 and 8205), for the following contraventions:

**Contravention #1**

Between February and April 2018, the Respondent, Dominic Spooner accepted monies from a person other than his Dealer Member, for the securities related activities conducted on behalf of the Dealer Member contrary to Dealer Member Rule 18.15.

**Contravention #2**

Between February and April 2018, the Respondent, Dominic Spooner, proceeded with a private placement for individuals and entities that were not clients of his firm in contravention of his firm's policies and procedures and without his firm's knowledge and/or approval. To facilitate those transactions, the Respondent signed the firm's Finder's Fee and Non-Circumvention Agreement, which he was not authorized to sign on behalf of the firm. This conduct is contrary to Rule 1400.

¶ 2 The hearing proceeded under the new Investment Dealer and Partially Consolidated Rules, effective January 1, 2023 ("IDPC" Rules). Transition Rule 1105(5)(i) provides that any proceedings commenced prior to January 1, 2023, would proceed according to the IIROC Rules in place at the time the hearing was commenced and be heard by the same hearing panel which retained jurisdiction.

¶ 3 The Panel issued its Decision on Liability and Penalty on July 23, 2023. The Panel determined that the facts and admissions agreed by the parties and as set out in an Agreed Statement of Facts were sufficient to conclude that Mr. Spooner contravened Dealer Member Rule 18.15 and Rule 1400.

¶ 4 The Panel ordered the following sanctions:

- a) bar from registration with the CIRO for two years;
- b) a fine of \$20,000 (taking into account the \$30,000 paid to the firm);
- c) disgorgement of commissions of \$35,500;
- d) successful completion of the Conduct and Practices Handbook course;
- e) a 12-month strict supervision upon registration with the CIRO; and
- f) costs to be determined in a subsequent application.

#### **Costs Submissions**

¶ 5 At the hearing, the parties agreed to make cost submissions upon receipt of the Panel's decision on penalty.

¶ 6 After receiving the Panel's Decision on Liability and Penalty, the parties advised the Panel, through the National Hearing Officer, that they agreed that \$15,000 would be an appropriate amount for costs in this case. No additional written submissions, Bill of Costs, or additional submissions were provided by the parties.

¶ 7 IDPC Rule 8214 provides that after a hearing, the Panel may order a party to pay any costs incurred by or on behalf of the Corporation relating to the hearing or Corporation's investigation. These costs may include amounts for: (1) time spent by CIRO staff; (2) fees paid for legal, accounting, or expert witness services; (3) witness fees and expenses; (4) costs of recording and transcribing evidence and preparing transcripts; and (5) disbursements.

¶ 8 During the hearing, counsel referred the Panel to a number of cases to support their respective submissions regarding appropriate penalties in this case. Cases included both settlement agreements and hearing decisions and covered a period from 2009 to 2022 from various regulatory jurisdictions.

¶ 9 Counsel agreed that there were no cases directly on point with the particular facts of this case, although the cases set a reasonable range. Many of the cases with similar facts involved settlement agreements. Counsel acknowledged that this was serious misconduct warranting at least a period of suspension and agreed that a global approach to sanctions was appropriate.

¶ 10 Enforcement Counsel noted during the hearing that the Panel had wide latitude to determine what penalties were appropriate. The Panel's role in a penalty hearing is to determine the correct sanction and is fact specific process versus the role in a settlement agreement where the panel is bound by previous cases to determine the reasonableness of the agreed sanctions.

¶ 11 Enforcement Counsel referred to *Re Clark*, [1999] I.D.A.C.D. No. 40 (confirmed in *Re Ahrens* 2014 IIROC 46), which cautions against using settlement agreement sanctions to determine appropriate penalties for hearings as settlements generally involve lower penalties than those imposed at hearings for various reasons. In addition, the role of a panel in a hearing is to determine an appropriate penalty and not just accept penalties agreed in a settlement agreement.

¶ 12 Mr. Spooner's Counsel noted that the penalties should be remedial and not crushing.

#### **Panel Review and Analysis**

¶ 13 The Panel reviewed the cost awards in the cases submitted by counsel during the hearing (referenced in paragraphs 87 to 92 of the Decision on Liability and Penalty). The Panel noted:

- a) most of the cases with cost awards at the lower end of the scale (i.e., \$2,500 to \$5,000) involved settlement agreements or were somewhat dated;
- b) the cases with higher cost awards (i.e., \$25,000 to \$60,000) involved more serious quasi-criminal conduct or past disciplinary history; and
- c) there were cases involving similar conduct with cost awards between \$10,000 and

\$15,000.

¶ 14 The Panel concluded that the joint cost award submission of \$15,000 by the parties was within a reasonable range and was not crushing (alone or in addition to the other penalties ordered by the Panel), given the circumstances of this case.

**ORDER**

¶ 15 The Panel orders that Mr. Spooner pay a cost award of \$15,000 in addition to the other penalties ordered in the Decision on Liability and Penalty.

Dated at Vancouver, British Columbia this 21 day of November 2023.

Linda J. Murray, Chair

William Wright

Brian Worth

***Copyright © 2023 Canadian Investment Regulatory Organization. All Rights Reserved***