CIRO · OCRI
Canadian Investment Regulatory Organization
Organisme canadien de réglementation des investissements

IN THE MATTER OF
THE INVESTMENT DEALER AND PARTIALLY CONSOLIDATED RULES AND THE UNIVERSAL MARKET INTEGRITY RULES
AND
CANACCORD GENUITY CORP.

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Canadian Investment Regulatory Organization ("CIRO")[1] will issue a Notice of Application to announce a settlement hearing pursuant to sections 8215 and 8428 of the Investment Dealer and Partially Consolidated Rules (the "Investment Dealer Rules") to consider whether a hearing panel should accept this Settlement Agreement between Enforcement Staff and Canaccord Genuity Corp. ("CG" or the "Respondent").

PART II – JOINT SETTLEMENT RECOMMENDATION

2. For the purposes of this Settlement Agreement, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

PART III – AGREED FACTS

3. The Respondent is registered as a Dealer Member and is a Participant under the Universal Market Integrity Rules ("UMIR").

4. On or about June 5, 2018, the Respondent's parent company became the sole owner of 100% of the shares of another CIRO Dealer Member and Participant under UMIR, Jitney Trade Inc. ("Jitney"), thus assuming any regulatory liability arising from Jitney's failure to comply with its regulatory obligations.

5. As of December 2019, the Respondent began providing direct electronic access (''DEA'') to Jitney's former clients.

Regulatory Requirements

6. In providing DEA to CIRO-regulated marketplaces, a Participant is not relieved from its obligations under UMIR pertaining to the supervision of trading activities by its DEA clients.

7. Under UMIR, such Participant retains full responsibility for any order entered by a DEA client and must adequately address the additional risks posed by orders entered by DEA clients to the marketplaces.

8. Pursuant to UMIR 7.1 and UMIR Policy 7.1, a Participant must develop, implement and maintain policies and procedures which are reasonably designed to ensure compliance with applicable rules.

9. UMIR 7.13 provides the requirements under which a Participant may grant DEA to its clients, including that such clients shall immediately notify the Participant in writing of the names of its personnel authorized to enter an order using DEA, as well as details of any changes thereof.

DEA Provided by Jitney

10. Clients A and B respectively opened their accounts with Jitney in December 2012 and January 2014.

11. From January 2017 to December 2019 (the "Jitney Period"), both A and B were DEA clients and as such, accessed marketplaces through Jitney's trading system.

12. During this period Jitney did not receive from, nor request to its clients A and B (collectively, the "Clients"), the list of their authorized personnel pursuant to UMIR 7.13.

13. Furthermore, during the Jitney Period, clients A and B have executed respectively 14,484 and 1,364 trades which involved no change in the beneficial or economic ownership ("wash trades").

14. While Jitney had certain tools in place to monitor wash trades executed by its DEA clients, those tools included a gap which resulted in the failure to detect and prevent such activity on one marketplace.

15. As a result of this gap, during the Jitney Period, over 10,000 trades which apparently involved no change in the beneficial or economic ownership ("wash trades") were not prevented as intended and were executed without being detected. This in turn impeded Jitney's ability to initiate client trade interventions and to file gatekeeper reports with CIRO.

16. Due to lapses in supervisory controls, policies and procedures, a smaller number of uncancelled wash trades executed primarily on another marketplace were also not reported in a timely manner via gatekeeper reports with CIRO and this, in turn, impeded Jitney's ability to initiate client trade interventions.

DEA Provided by Respondent

17. In November 2019, the Respondent entered into an agreement whereby it assumed the provision of DEA access to Jitney's DEA clients.

18. For the relevant period pertaining to this matter, most of Jitney's staff responsible for monitoring and supervising this activity were subsequently employed by the Respondent.

19. From December 2019 to March 2021 (the "CG Period"), A was a DEA client and as such, accessed marketplaces through the Respondent's trading system.

20. During this period the Respondent did not receive from, nor request to its client A, the list of its authorized personnel pursuant to UMIR 7.13.

21. During the CG Period, client A has executed 5,546 wash trades.

22. While the Respondent had certain tools in place to monitor wash trades executed by its DEA clients, those tools included a gap which resulted in the failure to detect and prevent such activity on one marketplace.

23. As a result of this gap, during the CG Period, several thousand wash trades were not prevented as intended and were executed without being detected. This in turn impeded the Respondent's ability to initiate client trade interventions and to file gatekeeper reports with CIRO.

24. From December 2019 to March 2021, the Respondent used a tool to monitor possible instances of "Algo Manipulation (opposite side trade near cancel)", by generating an alert "where a trader enters a relatively large buy or sell order to create short term apparent liquidity…whilst it executes a trade on the opposite side of the market", which primarily generated false positives.

25. During this period, 1,667 alerts were reviewed with respect to client A, including the alert described in paragraph 24.

26. While the Respondent made some efforts to monitor and query the alerts, the Respondent's post-trade monitoring reports and review records in respect of the alert described at paragraph 24 did not provide adequate written explanation of the reviews actually performed in connection with these alerts and the factors considered in dismissing the alerts.

27. The Respondent has since taken additional steps to regularly monitor, prevent or cancel wash trades.

28. Wash trades that were not identified by the Respondent represented a small fraction of the total DEA trades executed during the relevant periods.

29. Since acquiring Jitney in 2018, the Respondent has undertaken and continues to be in the process of improving UMIR compliance policies and procedures, with the help of an independent expert.

30. The breaches that form the subject matter of this settlement agreement were unintentional and historical in nature.

31. Jitney has a prior and relevant disciplinary history.

32. The Respondent undertakes to:

a) retain an independent expert whose mandate will be to review the Respondent's ongoing UMIR compliance policies and procedures to expressly include the specific contraventions herein, and to issue a report setting out recommendations; and

b) implement the expert's recommendations accordingly.

PART IV – CONTRAVENTIONS

33. By engaging in the conduct described above, the Respondent committed the following contraventions of CIRO requirements:

From January 2017 to March 2021, the Respondent failed to comply with its trading supervision obligations to maintain a system of risk management and supervisory controls, policies and procedures that are reasonably designed to ensure compliance with the applicable Rules and Policies, more specifically as they relate to market access by some of its direct electronic access clients, thus contravening UMIR Rules and Policies 7.1 and 7.13.

PART V – TERMS OF SETTLEMENT

34. The Respondent agrees to the following sanctions and costs:

(i) a fine of $ 475,000 payable by the Respondent to CIRO; and
(ii) costs of $ 25,000 payable by the Respondent to CIRO.

35. If this Settlement Agreement is accepted by the hearing panel, the Respondent agrees to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Enforcement Staff and the Respondent.

36. The Respondent agrees to implement the remedial measures described in paragraph 32 and provide a report to Staff outlining the implementation and adoption date of the remedial measures within six (6) months of the acceptance date of the Settlement Agreement.

PART VI – STAFF COMMITMENT

37. If the hearing panel accepts this Settlement Agreement, Enforcement Staff will not initiate any further action against the Respondent 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.

38. If the hearing panel accepts this Settlement Agreement and the Respondent fails to comply with any of the terms of this Settlement Agreement, Enforcement Staff may bring proceedings under Investment Dealer Rule 8200 against the Respondent. 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

39. This Settlement Agreement is conditional on acceptance by the hearing panel.

40. This Settlement Agreement shall be presented to a hearing panel at a settlement hearing in accordance with sections 8215 and 8428 of the Investment Dealer Rules, in addition to any other procedures that may be agreed upon between the parties.

41. Enforcement Staff and the Respondent agree that this Settlement Agreement will form all 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 the Respondent does not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the hearing panel.

42. If the hearing panel accepts this Settlement Agreement, the Respondent agrees to waive all rights under the Rules of CIRO and any applicable legislation to any further hearing, appeal and review.

43. If the hearing panel rejects this Settlement Agreement, Enforcement Staff and the Respondent may enter into another settlement agreement or Enforcement Staff may proceed to a disciplinary hearing based on the same or related allegations.

44. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the hearing panel.

45. This Settlement Agreement will become available to the public upon its acceptance by the hearing panel and CIRO will post a copy of this Settlement Agreement on the CIRO website. CIRO will publish a notice and news release of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement and the hearing panel's written reasons for its decision to accept this Settlement Agreement.

46. If this Settlement Agreement is accepted, the Respondent agrees that neither they nor anyone on their behalf, will make a public statement inconsistent with this Settlement Agreement.

47. This Settlement Agreement is effective and binding upon the Respondent and Enforcement Staff as of the date of its acceptance by the hearing panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

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

49. An electronic copy of any signature will be treated as an original signature.

DATED this 1st day of November, 2023.

"Stuart Raftus"

Witness

Respondent

"Francis Larin"

Mr. Francis Larin
Enforcement Counsel on behalf of
Enforcement Staff of the
Canadian Investment Regulatory
Organization

The Settlement Agreement is hereby accepted this 20th day of December, 2023 by the following Hearing panel:

"Susan E. Ross"

Per: _____

Chair

"Brian Worth"

Per: _____

Industry Member

"David Duquette"

Per: _____

Industry Member

[1]On January 1, 2023, IIROC and the MFDA were consolidated into a single self-regulatory organization recognized under applicable securities legislation.

The Canadian Investment Regulatory Organization ("CIRO") has adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the "Interim Rules"). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and the rules and certain by-laws and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the rules and by-laws and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules.

Section 1105 (Transitional provision) of the Investment Dealer and Partially Consolidated Rules sets out CIRO's continuing jurisdiction, including that CIRO shall continue the regulation of any person subject to the jurisdiction of the Investment Industry Regulatory Organization of Canada that was formerly conducted by the Investment Industry Regulatory Organization of Canada.