Re Movassaghi

IN THE MATTER OF:

The Rules of the Investment Industry Regulatory Organization of Canada

and

Mohammad Movassaghi

2021 IIROC 16

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

Heard: June 15, 2021 in Vancouver, British Columbia via videoconference
Decision: June 15, 2021
Reasons for Decision: August 18, 2021

Hearing Panel:
Linda J. Murray (Chair), William Wright and Johannes van Koll
Appearance:
Stacy Robertson, Senior Enforcement Counsel
Mohammad Movassaghi, the Respondent was neither present nor represented by Counsel

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REASONS FOR DECISION – LIABILITY HEARING

INTRODUCTION

¶ 1 This hearing was commenced and conducted pursuant to the IIROC Consolidated Enforcement, Examination and Approval Rules ("Consolidated Rules") 8200 and 8400. After a number of adjournments, the hearing proceeded electronically on June 15, 2021.

¶ 2 The Notice of Hearing and Statement of Allegations, issued on April 28, 2020, set out the details of the alleged contraventions. The Respondent filed a Reply to the Statement of Allegations dated June 3, 2020 (the "Response").

¶ 3 The Notice of Hearing alleged three contraventions but only the following two contraventions were advanced by IIROC Enforcement Counsel at the hearing:

> **Contravention 1**: Between July and September 2016, the Respondent falsified client signatures on account documentation, or knew or ought to have known that certain of his clients' documents were falsified, or failed to exercise due diligence to ensure that certain clients' documents were not falsified contrary to Dealer Member Rule 29.1 and Consolidated Rule 1400 (for conduct after September 1, 2016).
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> **Contravention 2**: On December 14, 2016 and February 13, 2019, the Respondent misled Enforcement Staff ["IIROC Staff"] in sworn interviews and thereby acted contrary to Consolidated Rule 1400.

¶ 4 The Notice of Hearing informed the Respondent of the consequences of failing to appear and participate in the hearing process. The Respondent was represented by counsel.

Service of Documents on the Respondent

¶ 5 Although the Respondent filed a Response and continued to be represented by counsel, neither the Respondent nor his counsel of record appeared at the hearing on June 15, 2021, or participated further in the hearing process.

¶ 6 Enforcement Counsel reviewed the evidence regarding service of the Notice of Hearing presented at the initial appearance for this matter on March 8, 2021. This evidence was also summarized in the Panel's Decision on Hearing Adjournment, which was issued in March 2021:

a. Enforcement Counsel advised the Panel that he received an email from Respondent's Counsel (Bobby Movassaghi) on January 29, 2021, in which Counsel advised that the Respondent would not participate further in these proceedings, the Respondent denied the allegations, and the Respondent is no longer working in the industry.

b. Respondent's Counsel was advised of the March 8, 2021 initial appearance hearing and a confirmation memorandum was sent to him. Enforcement Counsel followed up with Respondent's Counsel asking for confirmation that he continued to act as Counsel for the Respondent and would receive IIROC's disclosure documents on behalf of the Respondent. Enforcement Counsel received no response from Respondent's Counsel or from the Respondent.

c. IIROC Staff provided Respondent's Counsel with IIROC's electronic disclosure documents on February 16, 2021. The disclosure link provided to Respondent's Counsel allowed him to download the disclosure documents for 14 days after receiving the link. Enforcement Counsel was advised by IIROC Staff that Respondent's Counsel did not access the link or download any disclosure documents.

d. Enforcement Counsel had no further communications from Respondent's Counsel, other counsel on behalf of the Respondent, or the Respondent. Bobby Movassaghi did not formally withdraw as the Respondent's Counsel.

¶ 7 The Confirmation Memorandum for this hearing was sent to the Respondent's Counsel in the ordinary course. By email dated March 8, 2021, the National Hearing Coordinator advised the Panel that a 'read receipt' was received in response to the email sending the Confirmation Memorandum to Respondent's Counsel. The Panel noted that the Respondent's Counsel received notice of this hearing.

¶ 8 At the initial appearance on March 8, 2021, the Panel asked that the National Hearing Coordinator also send the Confirmation Memorandum for this hearing to the Respondent at his last known address. By email dated March 15, 2021, the National Hearing Coordinator advised the Panel that the envelope containing the Confirmation Memorandum was returned by FEDEX with a notation that the Respondent had moved and so the envelope was not deliverable.

¶ 9 Enforcement Counsel advised that the affidavits filed for consideration at this hearing were sent to the Respondent's Counsel. Enforcement Counsel advised that he received no reply from the Respondent or any counsel acting on his behalf.

¶ 10 The Panel was satisfied that the Notice of Hearing was properly drafted as required by the Rules. The Notice of Hearing set out the consequences of the Respondent failing to appear, including the potential for the hearing to proceed in his absence, for findings of fact to be made against him, and for sanctions and costs to be imposed upon him pursuant to Rule 8423(12).

¶ 11 The Panel was satisfied that the Respondent and his counsel were properly served with the Notice of Hearing, disclosure documents, Confirmation Memorandum, and all materials (including affidavit evidence and submissions), upon which Enforcement Counsel proposed to rely at this hearing.

¶ 12 The Panel adjourned the hearing for twenty minutes to confer regarding the request of Enforcement Counsel to proceed with the hearing on its merits. The Panel also wanted to provide the Respondent or his counsel with an opportunity to attend the hearing in case they were experiencing technical difficulties in connecting to the electronic hearing platform.

¶ 13 The Panel reconvened the hearing. Neither the Respondent nor anyone acting on his behalf joined the hearing.

HEARING ON THE MERITS APPLICATION (STEP 1)

¶ 14 This was not a case where the Respondent failed to provide any Response as contemplated by Rule 8415(4). The Respondent filed a Response in which he denied some of the allegations.

¶ 15 At the initial appearance on March 8, 2021, the Panel advised that before entertaining an application under Rule 8423(12) to proceed with a hearing in the Respondent's absence, the Panel wanted to hear key evidence regarding the substance of the allegations.

¶ 16 Enforcement Counsel confirmed the obligation of IIROC to prove its case on a balance-of-probabilities civil standard.

¶ 17 Enforcement Counsel referred the Panel to a number of previous IIROC cases including *Re Woodward* 2018 IIROC 06, *Re Dirani* 2016 IIROC 13 and *Re Matthews* 2014 IIROC 56, and made submissions regarding the Rule 8423(12) application.

¶ 18 The respondents Woodward and Dirani did not file a Response or attend their hearings. The panel in *Re Woodward* relied upon Rules 8423(12) and 8415(4). The panel in *Re Dirani* directed IIROC to provide evidence regarding the facts and allegations. After hearing from IIROC Staff, the panel noted it had power to accept the facts and contraventions due to Dirani's failure to file a Response and attend the hearing and, in addition, that IIROC had proven the violations with evidence and submissions. The panel in *Re Dirani* then proceeded to a penalty hearing.

¶ 19 The *Re Matthews* case was similar to this case in that Matthews filed a Response, but did not appear at the hearing. IIROC made an application under Rule 8423(12) but the panel asked to hear evidence and submissions. IIROC provided evidence through an IIROC staff member and two of four clients at issue. The panel found that the violations had been committed regarding all four clients, based upon the evidence presented by IIROC at the hearing.

¶ 20 Enforcement Counsel referred the Panel to the decision in *Re Gottfred* 2016 IIROC 22, which set out factors a hearing panel might consider regarding proceeding with a hearing in the respondent's absence. The hearing panel in *Gottfred* noted (para 8) that "regulatory discretion must be exercised reasonably and […] a decision to depart significantly from usual practices should attract particular care". The panel set out principles that should apply including:

a. Proper notice must be given to the Respondent of the allegations and potential adverse consequences of failing to participate in the process.

b. A panel should only deem as proven the facts and contraventions of which the Respondent had notice and declined to address. If IIROC tendered additional evidence to supplement its case, that evidence should be assessed in the usual manner for relevance, credibility and reliability. A panel should consider whether the evidence changes the nature of the case alleged in the Notice of Hearing and whether it would be unfair to accept the evidence without prior notice to the Respondent.

c. IIROC has the onus of proving the case based on the balance-of-probabilities civil standard.

¶ 21 The Panel decided to proceed with the hearing, without further notice to the Respondent, on its merits

in a two-step approach. The Panel determined that a 'stepped' approach regarding the application of Rule 8423(12), in this particular case, was appropriate given the seriousness of the conduct, potential ramifications to the Respondent, and credibility issues.

¶ 22 The Panel determined it would first hear evidence, including evidence by way of sworn affidavits, and submissions from Enforcement Counsel. After considering the evidence and submissions, the Panel would then determine whether it would accept as proven the facts and contraventions alleged in the Statement of Allegations (Step 2). At that point, the Panel would determine whether Enforcement Counsel was prepared to proceed with submissions regarding sanctions and costs as permitted by Rule 8423(12).

¶ 23 The Panel determined that its approach was in keeping with the principles set out in *Re Gottfred* for the reasons we set out.

ADMISSIONS BY THE RESPONDENT

¶ 24 The Panel noted that in his Response, the Respondent admitted the following allegations in the Statement of Allegations:

a. Paragraphs 4-10, regarding registration and employment details, termination for admittedly falsifying one client (KO) signature on at least nine documents to transfer the client's account from Investors Group Financial Services Inc. to Harbourfront Wealth Management Inc., using the client's driver's licence as a template to sign the documents. This resulted in a Settlement Agreement approved by an IIROC hearing panel on June 28, 2017 in *Re Movassaghi* 2017 IIROC 46 (the "2017 Settlement Agreement"), which included an eight-month suspension from registration with IIROC in any capacity.

b. Paragraphs 20 and 24, in which he admitted that he was interviewed under oath by IIROC staff on December 14, 2016 and February 13, 2019, during the course of its investigations and stated several times that he had not forged any other client signatures, except for KO's.

c. Paragraph 29, in which he acknowledged that Dealer Member Rule 29.9(a) requires disclosure of all actual or a reasonable estimate of the charges regarding the sale of any mutual fund prior to the sale.

¶ 25 The Respondent took no position regarding paragraph 21 of the Statement of Allegations dealing with his meeting with client DC (see details below).

¶ 26 The Respondent took no position regarding paragraph 27 of the Statement of Allegations dealing with his discussions, including text messages, with client RM (see details below).

¶ 27 The Respondent said that the facts in paragraph 22 of the Statement of Allegations were outside his knowledge regarding certain text messages with client RM (see details below).

¶ 28 Otherwise, the Respondent denied the facts and allegations in the Statement of Allegations.

EVIDENCE PRESENTED AT THE HEARING

¶ 29 Enforcement Counsel filed the following affidavits, including redacted versions where appropriate in order to comply with IIROC's *Policy Regarding Use and Disclosure of Personal Information in IIROC Disciplinary Proceedings*:

a. Affidavit of Faye Leong (IIROC Staff) sworn May 6, 2021 (the "Leong Affidavit");

b. Affidavit of Tiffany Tai (the Respondent's non-registered assistant) sworn March 31, 2021;

c. Affidavit of RM (client) sworn April 21, 2021; and

d. Affidavit of CY (client) sworn April 19, 2021.

¶ 30 The Leong Affidavit contained evidence regarding: IIROC's investigations; the Respondent's registration and employment history; the registration and employment history of Ms. Kindle Blythe (the Respondent's registered assistant); information regarding the Respondent's dealings with clients DC/EC, and RS regarding the transfer of their accounts; information regarding the forgery of client documents by the Respondent; and excerpts of transcripts from the sworn IIROC interviews of the Respondent (December 14, 2016 and February 13, 2019) and Ms. Blythe (January 30, 2017 and October 4, 2018). The Leong Affidavit contained documents and information regarding the deferred service charges ("DSCs") incurred by the clients.

¶ 31 Ms. Tai's affidavit contained details regarding her employment relationship and duties while working with the Respondent.

¶ 32 The Affidavits of RM and CY contained details regarding their dealings with the Respondent regarding the transfer of their accounts.

¶ 33 Enforcement Counsel referred the Panel to *Re Blythe* 2020 IIROC 20 ("Blythe Settlement Agreement"), which was also relevant to these client matters. Ms. Blythe admitted that she failed to report the client complaints to her firm or to IIROC as required and that she misled IIROC regarding her knowledge of the complaints and possible forgeries during her sworn interview. The sanctions included a nine-month suspension from registration by IIROC in any capacity.

¶ 34 The Panel determined that it would receive and consider the information contained in the affidavits and the Blythe Settlement Agreement, and would consider submissions by Enforcement Counsel based upon those documents, pursuant to Rule 8203(3).

¶ 35 The Panel found that the affidavit evidence and submissions presented by Enforcement Counsel during the hearing did not change the character of IIROC's case against the Respondent as set out in the Notice of Hearing. The Respondent was provided with copies of the affidavits and IIROC submissions, but did not respond or participate further in the hearing process. Therefore, the Panel concluded that there was no prejudice to the Respondent as a result of the Panel accepting the affidavit evidence and submissions tendered by Enforcement Counsel at the hearing.

STANDARD OF PROOF

¶ 36 The standard of proof to be applied in securities regulatory proceedings such as this is the balance-of-probabilities civil standard. In *Re Matthews* (para 17) referenced *F.H. v. McDougall*, 2008 SCC 53 (paras 40, 45-46, 49) and summarized the standard of proof as follows:

> … there is only one civil standard of proof at common law and that is proof on a balance of probabilities. Of course, context is all important and a judge should not be unmindful, where appropriate, of inherent probabilities or improbabilities or the seriousness of the allegations of consequences…
>
> … evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test"…

¶ 37 The panel in *Re Matthews* referenced the above standard of proof as applied in *Re Arbour Energy Inc.*, 2012 ABASC 131, noting:

> Therefore, in applying the balance-of-probabilities civil standard, "we must be satisfied that there is sufficiently clear, convincing and cogent evidence that the existence or occurrence of any alleged fact required to be proved is more likely than its non-existence or non-occurrence" (*Arbour* at para 38).

PANEL FINDINGS AND DECISION ON THE MERITS (STEP 2)

Credibility Issues

¶ 38 There was contradictory information from the Respondent in his Response, and in the affidavits and documentary evidence presented at the hearing. The differences related to dealings with the client accounts and client account documents and to the statements by the Respondent during sworn IIROC interviews. As a result, the Panel was required to make an assessment of credibility. Enforcement Counsel made submissions regarding specific contradictory information and credibility. The Panel's findings regarding the specific instances involving contradictory information are discussed in our findings below.

¶ 39 The panel in *Re Matthews* referred to the decision of the BC Court of Appeal in *Faryna v. Chorny,* [1952] 2 D.L.R. 354 at 357:

> The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanor of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the currently existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.

¶ 40 The Panel compared the information provided by the Respondent in his Response with the affidavits and documents (including the transcripts from the sworn interviews of the Respondent and Ms. Blythe) filed by Enforcement Counsel, and with other documents in which the Respondent and Ms. Blythe made formal admissions accepted by IIROC hearing panels (*i.e.* their respective Settlement Agreements).

¶ 41 The Panel took into account that the clients had a potential personal interest given their losses, for which some received compensation while others did not. However, the Panel noted that the clients made their complaints to Ms. Blythe when they became aware of the potential forgery issues, and the complaints were made independently from, and before the IIROC investigation regarding those accounts.

¶ 42 The Panel took into account the fact that all evidence was documentary and the Panel did not have an opportunity to see any of the witnesses, including the Respondent, give evidence or be able to ask direct follow up questions. However, the Panel found that the evidence in the affidavits and Blythe Settlement Agreement was either supported by, or was consistent with, other documentary evidence.

¶ 43 The Panel noted that the evidence presented at the hearing was not consistent in many material respects with the Respondent's Response or statements he made during his sworn IIROC interviews.

¶ 44 The Panel took into account potential issues with Ms. Blythe's evidence, where not supported by documents or other witness testimony, given her admission that she misled IIROC during her sworn interview regarding her knowledge of other client complaints and potential forgeries. The Panel noted the following regarding the agreed facts and the hearing panel's findings in the Blythe Settlement Agreement:

a. There was no allegation that Ms. Blythe committed or was previously aware of the forgeries brought to her attention by the clients in their email complaints [para 42(b)].

b. Ms. Blythe relied upon the Respondent, who was the broker of record for almost all of the clients prior to his termination from Harbourfront [para 42(c)].

c. Ms. Blythe said she was advised that Harbourfront's Compliance Department would be contacting all clients as a result of the Respondent's admitted forgery regarding the KO client account to confirm the accuracy of other clients' account information and signatures. She said she assumed that the client complaints she received would be dealt with as part of that process. She said she told some of the clients that they could contact the Compliance Department regarding their complaints [para 42(d)].

¶ 45 The Panel was satisfied that the evidence provided in the affidavits sworn by clients CY and RM, Ms.

Tai, and Ms. Leong was credible and reliable. Unless otherwise noted below, the Panel rejected the Respondent's version of events and did not find the Respondent to be credible where his version of events differed from that of other witnesses or the documentary evidence.

¶ 46 The Panel based its decision on credibility upon the following factors: (1) the Respondent's version of events did not accord with the sworn recollections of the other witnesses; (2) the version of events of the other witnesses was more consistent with the documentary evidence; and (3) the Respondent was provided with the affidavit evidence to be presented at the hearing, but he did not appear at the hearing to challenge the affidavit evidence of others or present sworn evidence to support his version of events.

Jurisdiction

¶ 47 Although the Respondent has not been registered in the industry since September 2, 2016, Rule 8107 provides that IIROC continues to have jurisdiction over the Respondent for a period of six years from the date he ceased to a Regulated Person.

Panel Decision on the Merits

¶ 48 The Panel reconvened the hearing and advised that, pursuant to Rule 8423(12), it determined to accept as proven the facts set out in the Statement of Allegations. The evidence presented clearly established, to the requisite balance-of-probabilities civil standard, that the Respondent committed the contraventions set out in the Statement of Allegations.

¶ 49 With respect to Contravention 1, the Panel clarified that the evidence established the contravention for each client 'in the alternative', based upon a plain reading of the contravention set out in the Notice of Hearing. To clarify, for each of the four clients, we decided that the Respondent either (1) falsified client signatures on account documentation; (2) knew or ought to have known that certain of his clients' documents were falsified; and/or (3) failed to exercise due diligence to ensure that certain clients' documents were not falsified, all contrary to Dealer Member Rule 29.1 and Consolidated Rule 1400 (for conduct after September 1, 2016).

¶ 50 The Panel advised that details regarding our decision would follow in these written Reasons.

PANEL REVIEW OF EVIDENCE AND FINDINGS

Contravention 1: Falsifying Client Documents

¶ 51 Between July and September 2016, the Respondent falsified client signatures on account documentation, or knew or ought to have known that certain of his clients' documents were falsified, or failed to exercise due diligence to ensure that certain clients' documents were not falsified contrary to Dealer Member Rule 29.1 and Consolidated Rule 1400 (for conduct after September 1, 2016).

¶ 52 Dealer Member Rule 29.1 (now Consolidated Rule 1400) sets out the general standards of conduct that apply to Regulated Persons, including the Respondent:

> **1402. Standards of Conduct**
>
> (1) A Regulated Person
>
> (i) in the transaction of business, must observe high standards of ethics and conduct and must act openly and fairly and in accordance with just and equitable principles of trade, and
>
> (ii) must not engage in any business conduct that is unbecoming or detrimental to the public interest.
>
> (2) Without limiting the generality of the foregoing, any business conduct that:

(i) is negligent;

(ii) fails to comply with a legal, regulatory, contractual, or other obligation, including the rules, requirements, an policies of a Regulated Person;

(iii) displays an unreasonable departure from standards that are expected to be observed by a Regulated Person; or

(iv) is likely to diminish investor confidence in the integrity of securities, commodities or derivatives markets,

may be conduct that contravenes one or more of the standards set forth in subsection 1402(1).

Respondent Registration and Team Roles

¶ 53 The Respondent admitted in his Response, and the evidence and documents in the other affidavits filed confirmed the following facts regarding the Respondent's registration and his team's roles:

a. Between May 22, 2013 and July 8, 2016, the Respondent was registered in British Columbia as a dealing representative (formerly a mutual fund salesperson) with Investors Group, a Mutual Fund Dealers Association (MFDA) member.

b. The Respondent worked with Ms. Blythe (also an MFDA registrant) at Investors Group and after their move to Harbourfront, an IIROC Dealer Member, on July 11, 2016.

c. On August 30, 2016, a client (KO) emailed a complaint to the Respondent, Harbourfront and securities regulators regarding forged documents used to transfer KO's account from Investors Group to Harbourfront. Upon receipt of the complaint, the Respondent admitted the forgeries to Harbourfront.

d. After receiving KO's complaint on August 30, 2016, Harbourfront told the Respondent and Ms. Blythe to leave the office and not to contact any clients. Ms. Blythe returned to Harbourfront and became the advisor of record for the team's clients.

e. Harbourfront terminated the Respondent's employment on September 2, 2016 for cause as a result of KO's complaint.

f. The Respondent was employed by another firm from May 2018 to October 2018 in an unregistered capacity.

¶ 54 The Respondent testified in his sworn IIROC interview on February 13, 2019, that:

a. He worked in a team relationship with Ms. Blythe and Ms. Tai at Investors Group and at Harbourfront.

b. Ms. Tai did only administrative work, greeted clients and set up meetings with clients for the Respondent and/or Ms. Blythe.

c. He did not handle most of the paperwork. Sometimes he met with the clients, sometimes Ms. Blythe did, and some of the paperwork was mailed but he could not remember the details in each case.

¶ 55 Ms. Tai was not then a registrant. She advised that she had an administrative role providing support to the Respondent and Ms. Blythe including completing client documents to transfer client accounts from Investors Group to Harbourfront. Ms. Tai prepared client documents upon instructions from the Respondent or Ms. Blythe using information provided by them or contained in a spreadsheet kept by the team which included information such as clients' contact information, birth dates, etc. Ms. Tai provided the documents to

the Respondent and/or Ms. Blythe for their meetings with clients.

¶ 56 Ms. Tai said that Respondent met with most clients, sometimes with Ms. Blythe, and that most client meetings occurred outside the Harbourfront office. Ms. Tai observed only a couple of client meetings in the Harbourfront office.

¶ 57 Ms. Tai said that the Respondent or Ms. Blythe would return the signed client documents to her. Ms. Tai then sent the documents to the Operations Department at Harbourfront for processing and account opening. Ms. Tai would occasionally verify the client identification provided by the Respondent or Ms. Blythe and would check the appropriate box on the documents as instructed by Ms. Blythe.

¶ 58 Ms. Tai said she did not meet with any clients, nor did she obtain any client signatures on documents while at Harbourfront.

¶ 59 Ms. Blythe advised that at both Investors Group and Harbourfront she assisted the Respondent with his client work and performed primarily administrative tasks and she said:

a. She met with some clients at the office, the Respondent met with clients inside and outside the office, and they met a few clients together at the office.

b. The team kept copies of client account documents for reference in a file cabinet in their area of the office.

c. The team had at times two interns assisting with client documents and other tasks.

d. She could not recall with certainty the discussions with clients at specific meetings except where specifically noted. She did not know the details of conversations between the clients and Respondent at meetings she did not attend.

e. She confirmed Ms. Tai's administrative role.

¶ 60 Ms. Blythe testified in her sworn IIROC interview on October 4, 2018, that most of the clients were those of the Respondent. She said that all the client accounts were opened at Harbourfront under the Respondent's broker code as Ms. Blythe did not have a broker code during the Respondent's employment at Harbourfront. Ms. Blythe advised that:

a. DC and EC were clients at Investors Group who became clients of the Respondent and Ms. Blythe a couple of months before the transfer to Harbourfront as a result of their Investors Group advisor leaving;

b. RS and the Respondent had a mutual friend;

c. CY was referred by another of the Respondent's clients and Ms. Blythe considered her a joint client as she also had contact with CY; and

d. RM was a personal friend of the Respondent and most of her dealings were with him (this was confirmed by RM in her affidavit).

¶ 61 Ms. Blythe sent the new client account documents for these four clients to a Harbourfront email to formally open the accounts and the original documents were delivered to Harbourfront's back office.

¶ 62 Ms. Blythe sent the Transfer Authorization Forms for these four clients by email to Harbourfront's carrying broker to initiate the transfers from Investors Group. The original documents were not required by the back office to process the transfer requests. Ms. Blythe confirmed that the transmission of the Transfer Authorization Forms to Harbourfront's carrying broker triggered the process of transferring securities and monies, including the sale of the Investor Group proprietary mutual funds for which DSCs were incurred.

¶ 63 The Respondent drafted an email dated July 10, 2016, to be sent to all clients regarding the move by

the team from Investors Group to Harbourfront. The Respondent sent the email to Ms. Blythe, who used it as a template for emails she sent to all clients, including each of these clients, on or about July 11, 2016. The email noted "We wish to continue managing your finances, and ***will look to initiate a transfer of assets to our new firm upon receiving your consent [emphasis added]***". The email was signed by the Respondent (or Ms. Blythe in the case of RS) as "Parter [sic] at Harbourfront".

¶ 64 On September 3, 2016 (the day after the Respondent's termination by Harbourfront), Ms. Blythe sent an email to all clients advising that they would receive a welcome letter from Harbourfront to follow up on the transfer process.

¶ 65 Ms. Blythe said when the Respondent was terminated by Harbourfront they were told to advise clients that he was no longer employed by Harbourfront and was no longer a registrant. She was told by Harbourfront that, if clients asked for more details, she was to say only that it was due to a client complaint but not to give specifics. Harbourfront did not require Ms. Blythe to obtain updated client account documents for the clients as a result of the Respondent's termination.

¶ 66 Ms. Blythe said she spoke to the Respondent in the weeks after his termination after she received the other client complaints including the following occasions:

a. After KO complained on August 30, 2016 about forged signatures, Ms. Blythe said she asked the Respondent if he had done the same for any other clients. He said he had not done so.

b. After she received RM's email on September 3, 2016, Ms. Blythe again asked the Respondent, "candidly", if there was anything she should know or any other clients for whom he signed anything. The Respondent again advised her he did not do so.

c. After she received DC's email on September 16, 2016, she had a more in-depth conversation with the Respondent, but he said he did not sign anything else for anybody. She said at this point she was confused and did not know whom to believe.

d. She said that the Respondent brushed off her inquiries saying that Ms. Tai and the interns made a lot of mistakes, the issues were just discrepancies, and that clients did not always remember everything they signed. The Respondent again advised her he did not sign anything else for any other clients.

e. She did not speak to Ms. Tai at that time of her discussions with the Respondent. She later asked Ms. Tai if she had signed anything for anyone. Ms. Tai advised her that she did not do so.

¶ 67 Ms. Blythe said she noticed that Ms. Tai occasionally corrected some errors on client documents but that Ms. Tai always used her own initials when correcting the errors, not the initials of the client.

¶ 68 Ms. Blythe said that she did not forge any client signatures or sign any documents for clients. Ms. Blythe said she did not know who forged the client signatures but said that one would have to consider those who had access to those documents.

¶ 69 The Respondent denied the allegation that Ms. Blythe contacted him after each of the client complaints regarding falsified documents. He also denied that he told Ms. Blythe that the clients had either forgotten what they signed or that an administrative assistant was responsible for falsifying the signatures.

¶ 70 Ms. Blythe said she and the Respondent discussed with clients in general the potential fees, but that they could not give specific numbers until the transactions were done.

<u>Evidence Regarding Client RM</u>

¶ 71 RM was a personal friend of the Respondent and a client since 2013/2014. Most of RM's dealings were with the Respondent. RM said she understood that Ms. Blythe did mostly administrative work for the

Respondent.

¶ 72 In July 2016, the Respondent told RM he was changing firms.

¶ 73 On July 6, 2016, the Respondent texted RM and asked her to send a picture of her driver's licence, which he needed for her file. RM texted it to the Respondent on July 7.

¶ 74 RM received the Respondent's July 11, 2016 email from Ms. Blythe.

¶ 75 On July 19, 2016, RM asked the Respondent to let her know if any paperwork was required for the transfer of her account to his new firm. The Respondent replied that the paperwork would be ready the next week and it would be submitted to Investors Group "right away" and that he would monitor her accounts daily.

¶ 76 The Leong Affidavit contained an email dated July 29, 2016, from Ms. Blythe to Harbourfront Document Processing attaching New Client Application Forms purportedly signed by RM on July 28, 2016. Ms. Blythe received an email in response advising that additional information was required in order to process the documents. One of the items missing was a designation of beneficiary in section 2 of the Tax Free Savings Account (TFSA) application. Ms. Blythe responded to the email, provided the additional information, and attached another copy of the document with the beneficiary filled in as 'Estate'. The documents contain a number of initials purportedly those of RM.

¶ 77 The Respondent in his sworn IIROC interview on February 13, 2019, said that he met with RM on July 28, 2016 and that RM signed new client account documents at that time. He said that Ms. Blythe, who was in and out of the meeting, brought the documents to them for RM to sign. The Respondent could not remember if he was in the room the entire time. When asked if he saw RM sign the documents, the Respondent said he was in the room, RM's head was down, and they were talking back and forth.

¶ 78 The Leong Affidavit contained an email dated August 3, 2016, from Ms. Blythe to Harbourfront's carrying broker attaching Transfer Authorization Forms purportedly signed by RM on July 28, 2016 to initiate the transfer of RM's holdings from Investors Group.

¶ 79 On August 11, 2016, RM sent the Respondent a text asking about the redemption fees involved with the transfer of her accounts – "I want to be sure there won't have any charges". The Respondent replied that "we did steps before we left IG, meaning most of your funds were switched from DSC to no load. We will look to rebate any remaining DSC fees and also discount your advisory fee. All new money has also been no loaded".

¶ 80 On August 12, 2016, RM texted the Respondent thanking him for his reply and asked "Any idea how much the fees are?" On August 15, 2016, the Respondent replied and told RM that "DSCs remaining are around $4k. We can rebate most of it." RM responded "we should talk about it for sure… it's a large amount and I sure wasn't expecting it".

¶ 81 On August 18, 2016, the Respondent replied and suggested they meet the following week. On August 19, 2016, RM suggested a meeting at 2 pm on the following Tuesday and asked the Respondent to text the address of the new office. The Respondent sent her a text with the address later that day.

¶ 82 RM said she first met with the Respondent at the Harbourfront office on August 23, 2016. They discussed the fees and costs to transfer the account, including $5,000 in DSCs to move proprietary mutual funds from Investors Group. RM advised the Respondent that she felt that was a lot of money. RM asked the Respondent to leave it with her so she could speak to her accountant. RM said she did not sign any documents at this meeting to authorize the transfer of her account. RM was not aware at this meeting that her account had already been transferred from Investors Group to Harbourfront.

¶ 83 On August 24, 2016, RM received an email from Ms. Blythe advising that some of her monies had been

transferred from Investors Group and provided Fund Fact documents for RM's review.

¶ 84 Shortly after her meeting with the Respondent on August 23, 2016, RM contacted Investors Group regarding the DSCs. Investors Group staff advised RM that her account had already been transferred based upon documents she purportedly signed authorizing the transfer.

¶ 85 RM requested, and received from Investors Group, copies of the transfer forms which were dated July 28, 2016. The transfer forms were date stamped as received by Harbourfront's carrying broker on August 4, 2016. RM said that the signature was not hers, that the false signature was dated before she met the Respondent on August 23, 2016. She said she had not seen these documents before Investors Group provided them to her.

¶ 86 On September 3, 2016, RM responded to Ms. Blythe's August 24 email. RM advised that she had not consented to the transfer, had not signed any documents to authorize the transfer, and asked how the transfer could have taken place without her written consent.

¶ 87 RM said she did not receive a response from Ms. Blythe to her September 3 email, nor did she receive copies of the documents purportedly authorizing the transfer, despite several requests. However, about 20 minutes after her September 3 email to Ms. Blythe, RM received a text from the Respondent advising that her money was safe and asking her to call him. RM called the Respondent but he said he was in a meeting with his brother, a lawyer, they could talk another time, but that her money was safe. RM said that at this time she was not aware that the Respondent had been terminated by Harbourfront.

¶ 88 On September 3, 2016, the Respondent texted RM to advise that part of her funds were invested as per the Fund Facts sent to her, with the rest in cash until they sorted out the rebate of fees and he advised her "There is enough to enable a full rebate". RM asked if that meant she would be rebated with her own money. The Respondent replied "No. What happens is that money that was locked in will be locked in again for a shorter term. The money that would have been paid as commission to me will be paid directly into your account to you.". RM asked the Respondent if there were sufficient funds in the account to cover the fees. He replied that there was cash available and they were waiting to see how much the DSC fees were. He also advised that they had the option to request a further discount to her advisory fee and pay all trading costs to fully offset any DSC fees. He said that they would do what made sense for her.

¶ 89 On September 8, 2016, RM texted the Respondent asking to meet with him the next day.

¶ 90 On September 26, 2016, RM texted the Respondent and asked that he have Ms. Blythe email her a complete summary of her investments with Harbourfront as she wanted to know how much was transferred and her current balances. The Respondent replied that he asked Ms. Blythe to email RM a statement the next day. He advised that part of her money was held in cash and part invested and all was "unlocked" and could be moved anywhere with no fees. He advised that if RM decided to "stay with us" they could rebate all the fees if she could submit a statement from Investors Group of the DSC fees. RM said she would review the statement and they could meet after to discuss the matter.

¶ 91 On October 4, 2016, RM advised the Respondent that she reviewed the statement and had made decisions regarding the funds, which she would discuss with him later in October upon her return from a trip, and she asked if her funds were safe. The Respondent advised that the funds were safe.

¶ 92 RM received a letter from Harbourfront dated October 21, 2016, enclosing signed copies of a New Client Account Form, Self-directed Retirement Savings Plan (RSP) Application, and a TFSA application. The forms were dated July 28, 2016. RM said that none of the signatures on the forms were hers, nor did she authorize anyone to sign the forms on her behalf.

¶ 93 RM said in paragraph 9 of her affidavit that over the next few months she had several conversations with the Respondent in which he admitted he had forged her signature, and that of others, and that he was

sorry. RM advised the Respondent in late October 2016 that she was transferring her account out of Harbourfront. RM said the Respondent apologized several times, said he had learned his lesson, and it would not happen again.

¶ 94 On November 28, 2016, RM advised Ms. Blythe that she was transferring her account to another firm. About two hours later, RM received a text from the Respondent that Ms. Blythe advised him of her decision to move her account, which he respected. With respect to his situation, the Respondent advised RM that he was told by the regulator that all should be resolved by the holidays, there would be a hearing in early December and "will likely get time served and a fine". The Respondent added:

> I'm hoping that once all is said and done that we can reconnect on positive terms again in the future. I sincerely apologize for the stress I caused u in the past. I should have known better. I can assure you that I'm not that person anymore who could ever tamper with a document. Too many sleepless nights and anxiety filled days take their toll!

¶ 95 On December 19, 2016, the Respondent asked RM if she had time to talk that day. RM agreed and asked that the Respondent have Ms. Blythe provide her with the information she requested regarding her accounts by noon that day. The Respondent advised RM that he was "on it" and that is what he wanted to talk to her about that day.

¶ 96 In the Blythe Settlement Agreement, Ms. Blythe said that on December 31, 2016, there were a series of emails with RM regarding her request to transfer her account from Harbourside to another firm. In those emails RM asked how her accounts could be transferred from Investors Group without her approval or consent. Ms. Blythe did not advise Harbourfront of RM's concerns.

¶ 97 On January 3, 2017, RM advised the Respondent that she would be moving her assets 'in kind' and they arranged to meet the next day. RM said that on January 4, 2017, she met with the Respondent to sign the forms to transfer her accounts from Harbourfront. RM said that the Respondent admitted in that meeting that her signature had been forged and that he instructed Ms. Blythe to do so and she followed the Respondent's instructions. The Respondent also agreed to repay RM the DSCs incurred from the transfer of her account to Harbourfront. RM said that from March 15 to July 10, 2017, the Respondent paid her about $5,000.

¶ 98 On February 7, 2017, the Respondent provided an update regarding the regulatory matter advising that IIROC was still not yet ready to settle but he hoped that he would have clarity by the end of the month. The Respondent asked RM to give him until the first week of March and "regardless of what happens with IIROC, I'll settle up with you".

¶ 99 On March 9, 2017, the Respondent texted RM advising that he would e-transfer "your money" in two payments, the first on the following Wednesday. RM acknowledged receipt of the first payment on March 15.

¶ 100 On April 21, 2017, RM texted the Respondent asking when she would receive her next payment. The Respondent replied that he hoped to be back to work the following week and was finalizing an offer with a new firm including an up-front bonus, from which he would pay her.

¶ 101 On May 4, 2017, the Respondent texted RM that he had sent her some additional funds but that he was awaiting his licence (a condition of the anticipated bonus) which he hoped would be sorted out soon so he could pay her the balance of funds owed to her.

¶ 102 On July 5, 2017, RM texted the Respondent and asked that he pay the balance no later than the following Monday. He confirmed payment on July 10, 2017. RM asked the Respondent to confirm the payments made as she received $1,500, $500 and $1,230. RM asked when he would pay the balance owed to her. The Respondent replied that he sent an additional transfer based upon figures provided by RM to Ms. Blythe in an email.

¶ 103 RM made a complaint to Harbourfront's Compliance Department by telephone and email dated November 29, 2017.

¶ 104 RM said that she initially did not report the forgery since she was working with the Respondent who appeared to be remorseful. However, RM noted that the Respondent then began to make comments which made her question whether he was truly remorseful i.e., that he knew lots of people who forged signatures such as realtors and others for client convenience. RM said she advised the Respondent that it was never acceptable.

¶ 105 RM said that after the transfer of her account from Harbourfront it took time to determine the actual losses in her accounts due to the Respondent's actions. RM said that she calculated the losses to be $17,898.12. She said that this delayed her complaint to Harbourfront.

¶ 106 In his Response to the allegations involving RM, the Respondent:

a. in paragraph 1(d), denied the "one official complaint by RM … in February 2019";

b. denied generally (subject to his admissions) the allegations regarding RM;

c. specifically denied allegations 11 (paragraph 92 above), allegation 14 (paragraphs 86, 87, 93, 94 above), allegation 16 and 28 (paragraphs 86 and 33 above), allegation 19 and 23 (paragraphs 33, 53(e), 66, 96 and 104 above); allegation 23 regarding IIROC Staff's knowledge of other client complaints (paragraph 245), allegations 25 and 26 (paragraphs 76-78, 81-85);

d. specifically denied allegations 28, 30, 31 (paragraphs 70, 79, 80, 82, 84, 88 90 above) regarding fees and rebates;

e. specifically denied allegation 32 (paragraphs 79, 80, 82, 93, 97 above) that RM may not have transferred her account if she knew the amount of the fees and that RM transferred her account out of Harbourfront after learning of the full extent of the transfer fees;

f. said that the facts in allegation 22 (paragraphs 33, 53(e), 64, 94 and 96 above) were outside his knowledge; and

g. took no position regarding allegation 27 (paragraphs 87, 93, 94, 97-102 above).

<u>Evidence Regarding Client CY</u>

¶ 107 CY was a client of the Respondent and Ms. Blythe. CY lived and worked in Alberta and had not met the Respondent or Ms. Blythe.

¶ 108 In July 2016, CY was told by the Respondent and Ms. Blythe about the team's move and the transfer of her accounts. CY received the Respondent's July 11, 2016 email from Ms. Blythe.

¶ 109 CY said that she agreed to transfer her accounts but was not told about the process, documents or signatures required, or costs (including DSCs) that would be incurred in moving her accounts. CY did not initially receive any documents to sign regarding the transfer of her accounts.

¶ 110 The Leong Affidavit contained an email dated August 8, 2016, from Ms. Blythe to Harbourfront Document Processing attaching New Client Application Forms purportedly signed by CY on August 4, 2016. The documents contained a number of initials purporting to be those of CY. The beneficiary for CY's RSP and TFSA accounts was crossed off and 'Estate' added with initials purporting to be those of CY.

¶ 111 On August 8, 2016, CY sent an email to Ms. Blythe in which she provided the names of the three beneficiaries to correct her RSP and TFSA accounts. Ms. Blythe acknowledged receipt of the email and said she would add the information to the accounts.

¶ 112 The Leong Affidavit contained an email dated August 12, 2016, from Ms. Blythe to Harbourfront's

carrying broker attaching Transfer Authorization Forms purportedly signed by CY on August 4, 2016 to initiate the transfer of CY's holdings from Investors Group.

¶ 113 The Leong Affidavit contained a Harbourfront transaction history, which showed that CY's accounts were transferred from Investors Group on August 30, 2016.

¶ 114 CY noted that the beneficiary in the August 2016 RSP and TFSA forms was 'estate', which was not what she had instructed for her accounts in her email to Ms. Blythe on August 8, 2016. CY said that she did not sign the Designation and Change of Beneficiary Form dated August 23, 2016, which she did not see until it was provided to her to prepare her affidavit for this hearing.

¶ 115 CY noted that she did not sign the Transfer Authorization Forms dated August 4, 2016 to authorize the transfer of her RSP and TFSA accounts from Investors Group to Harbourfront. CY said she did not see these forms until they were provided to her to prepare her affidavit for this hearing.

¶ 116 On September 8, 2016, CY received an email from Ms. Blythe advising that her accounts had been transferred to Harbourfront.

¶ 117 CY received final account statements from Investors Group. On September 14, 2016, CY responded to Ms. Blythe's September 8 email and noted that:

a. CY had been trying to contact Ms. Blythe but was having issues with her internet connection as she was still working in northern Alberta.

b. CY noted that she was surprised by the redemption fees paid to Investors Group and she did not realize they were going to transfer all of her Investors Group funds.

c. CY had not been able to open the links to the fund information provided by Ms. Blythe, likely due to internet connectivity issues, and was holding off on making investment decisions.

d. CY's budget and financial condition changed and she had concerns regarding market conditions.

e. CY asked Ms. Blythe if her corporate accounts had been transferred to Harbourfront.

f. CY asked that her investments be in low risk, low fee products until she had time to consider the matter. CY said she would get back to Ms. Blythe in about two weeks.

¶ 118 On September 15, 2016, Ms. Blythe sent an email to CY with details regarding new mutual fund products, the DSC rebate for her accounts, and instructions regarding completion of the new client account documents attached to the email. Ms. Blythe attached a Relationship Disclosure form and New Client Application Forms for CY's RSP and TFSA accounts. Ms. Blythe highlighted the places on the forms where CY's signature was required and where she was to fill in missing information.

¶ 119 On September 15, 2016, CY received an email from Ms. Blythe regarding the DSC rebate. Ms. Blythe attached documents regarding DSC rebates (Mutual Fund Commission Rebate Approval) and advisory fee (Clearwater) forms which were highlighted where CY's signature was required.

¶ 120 On September 24, 2016, CY received an email from Ms. Blythe with a detailed explanation of the DSC rebate program. Ms. Blythe advised that DSC fees to a maximum of 5% would be rebated to CY's RSP account by re-committing her funds to longer term products. Ms. Blythe explained that "Basically a new DSC fund is buying out your DSC fees incurred". Ms. Blythe also noted that since CY's DSC fees were higher than 5%, she was reducing the advisory fees payable on the accounts. Ms. Blythe attached an updated Mutual Fund Commission Rebate Approval form which was highlighted with the spot for CY's signature.

¶ 121 On September 26, 2016, CY received an email from Ms. Blythe with amended forms to sign for the DSC rebate. Ms. Blythe highlighted the places on the forms were CY's signature was required.

¶ 122 Ms. Blythe said that around September 27, 2016, she was reviewing CY's corporate account as there

was an issue with the transfer from Investors Group. During the review she noted that some of the information in CY's personal accounts did not seem to be accurate and she sent CY updated account documents to review and sign. CY signed the updated forms and sent them back to Ms. Blythe on September 27, 2016.

¶ 123 CY said she filled in all of the forms provided by Ms. Blythe and signed and dated them September 27, 2016. CY returned all the requested rebate, advisory fee, and new client account documents to Ms. Blythe by email on September 27, 2016. CY said these were the only forms she was asked to sign regarding her account transfers from Investors Group to Harbourfront.

¶ 124 On December 13, 2016, Ms. Blythe sent CY the documents to sign for the corporate account rebate with the place for CY's signature circled. CY returned the signed form to Ms. Blythe that day.

¶ 125 On December 19, Ms. Blythe sent an email to CY with information regarding products for CY's corporate account.

¶ 126 CY received a welcome letter from Harbourfront dated December 15, 2016, which attached copies of New Client Application Forms for her RSP, TFSA and corporate accounts. She was asked to review the forms and advise Harbourfront of any discrepancies. The New Client Account Forms for her RSP and TFSA accounts were dated August 4, 2016, and the forms for her corporate account were dated August 9 and 11, 2016. CY said she did not sign or initial any of these forms. CY said that on August 4, 2016, she was working in a camp in northern Alberta.

¶ 127 On December 22, 2016 in response to the Harbourfront welcome letter, CY sent an email to Ms. Blythe in which she advised that it seemed rather late for a welcome package given that the transfer occurred some months prior. CY also noted:

a. "I am really shocked and disturbed that you had the documents filled out long before issuing a copy for me to sign. Now what happened with the copy I provided you? Harbourfront obviously has the forged documents, why wasn't mine sent out to me as confirmation?"

b. The forms contained incorrect information including her employment history, estimated net worth, and the account beneficiary.

c. "It concerns me greatly what was done without my knowledge. Please in the future do not sign for me without my consent".

d. CY asked Ms. Blythe about the copy of documents for her corporate account, which CY had not received.

e. CY asked that Ms. Blythe not take any further steps regarding her accounts. CY asked for Ms. Blythe's explanation regarding the documents.

¶ 128 On December 22, CY received a reply email from Ms. Blythe who advised she understood CY's concerns. Ms. Blythe asked about CY's availability for a telephone call in which she would provide a further explanation. Ms. Blythe said that things had been rectified, there had been changes to the team, and that this would not happen again to anyone. CY said that in further discussions Ms. Blythe advised her that one of the assistants had forged the signatures on the forms but the situation had been corrected.

¶ 129 Ms. Blythe confirmed in her IIROC interview that she called CY about her December 22 concerns. She told CY it was a team transition issue which had been fixed and that CY could contact Harbourfront's Compliance Department regarding her concerns. Ms. Blythe admitted she did not advise Harbourfront of CY's concerns.

¶ 130 In his Response to the allegations regarding CY, the Respondent:

a. denied generally the allegations (subject to his admissions) regarding CY's complaint;

b. specifically denied allegation 15 (paragraph 126 above), allegation 16, 17 (paragraphs 110-115, 123, 126, 127, 129, 33 above), allegation 19 (paragraphs 33, 53(e) above), allegation 28, 30 (paragraphs 70, 109 above), and allegation 31 (paragraphs 119-121, 124 above); and

c. specifically denied allegation 32 that CY may not have transferred her account had she known the amount of the fees associated with the transfer.

Evidence Regarding Clients DC & EC

¶ 131 EC and DC, an elderly retired couple, were clients of the Respondent and Ms. Blythe at Investors Group.

¶ 132 DC and EC received the Respondent's email dated July 11, 2016, from Ms. Blythe. On July 18, 2016, Ms. Blythe sent an email to follow up on an earlier telephone conversation with DC in which she requested a copy of DC's identification documents and information from EC.

¶ 133 On September 3, 2016, Ms. Blythe sent an email to DC and EC advising that they would receive a welcome letter from Harbourfront to follow up on the transfer process.

¶ 134 Harbourfront's Chief Compliance Officer sent DC a letter dated September 7, 2016, attaching copies of DC's New Client Application form and RSP account application documents to process her account transfer. The letter noted that as part of the firm's internal review process DC should review the documents to ensure they agreed with her records and to contact the firm if there were any discrepancies. The documents contained a number of corrections with initials and were purportedly signed by DC on August 17, 2016.

¶ 135 The Leong Affidavit contained a Harbourfront transaction history which showed that the DC and EC accounts were transferred from Investors Group to Harbourfront on September 8, 2016.

¶ 136 On September 16, 2016, DC sent an email to Ms. Blythe advising that she received the September 7 letter from Harbourfront. DC noted that some of the information in the forms was inaccurate and she requested further information regarding items such as margin, fees, etc. DC also noted that "It would appear that Mo [the Respondent] has signed this document [the RSP application] in my name. It is my understanding that I should be signing it as well. Is that correct?"

¶ 137 The Leong Affidavit noted that in response to DC's September 16 email, Ms. Blythe arranged to meet with the client at her home on September 19, 2016. The Respondent also attended the meeting.

¶ 138 In her sworn IIROC interview, Ms. Blythe said that the meeting was to correct discrepancies with the account documents. She said that she told the clients that the Respondent was no longer registered and that she would be the broker for their accounts. Ms. Blythe said that either she or the Respondent told DC and EC that their assistant (Ms. Tai) made some mistakes which were being corrected. Ms. Blythe said that they discussed investment options and account options but that there was no real discussion about forged signatures and the clients did not specifically identify the documents they said they did not sign. Ms. Blythe said that in subsequent discussions with the clients she did not deal with any issues regarding forged signatures, only correcting errors.

¶ 139 On November 6, 2016, DC sent an email to Ms. Blythe advising that she and EC were contacted by the Investors Group Compliance Department to clarify issues regarding the Respondent's handling of the transfer of their accounts. Investors Group provided DC and EC with copies of Transfer Authorization forms asking that they review and confirm they had signed these forms. DC noted that neither she nor EC signed the forms. They were advised by Investors Group that transactions could not be processed without the client's prior consent and that 'consultants' could not sign documents on behalf of clients. Given that information, DC asked Ms. Blythe for clarification and an explanation as to why they had not seen and been asked to sign the

Transfer Authorization forms.

¶ 140 DC and EC received a welcome letter from Harbourfront dated December 15, 2016, which attached copies of the New Client Application Forms and RSP applications, and TFSA forms for EC. They were asked to review the forms and advise Harbourfront of any discrepancies. The forms were dated August 17, 2016.

¶ 141 On February 5, 2017, DC sent an email to Ms. Blythe advising that she had been "sitting on" the December 15 welcome letter and forms she received from Harbourfront. DC said the forms contained a number of blatant errors, and the signatures were not hers. Although she believed that Ms. Blythe had her (and EC's) best interests at heart, she felt they must report the discrepancies. DC asked Ms. Blythe if she had advice on how they should proceed.

¶ 142 In his Response to the allegations regarding DC and EC, the Respondent:

a. specifically denied allegation 11 (paragraph 134 above), allegation 12 (paragraph 136 above), allegation 13 (paragraphs 139, 141 above), allegation 15 and 16 (paragraphs 139, 140, 141 above), allegation 19 and 23 (paragraphs 33, 53(e), 66, 137, 138 above), allegation 23 (paragraphs 33, 66 above), allegation 23 regarding IIROC Staff's knowledge of other client complaints (paragraph 245), allegation 28 (paragraphs 70, 136, 138 above); allegation 31 regarding fee rebates;

b. otherwise denied generally the allegations regarding DC and EC; and

c. took no position regarding allegation 21 (paragraphs 53(e), 137, 138 above).

Evidence Regarding Client RS

¶ 143 RS knew the Respondent through mutual friends and was a client of the Respondent and Ms. Blythe at Investors Group.

¶ 144 On July 11, 2016, Ms. Blythe sent the Respondent's July 10, 2016 email to RS confirming their earlier discussions and the team's transfer to Harbourfront. As noted above, the email noted that they wished to continue managing RS's investments and looked to initiate a transfer of accounts to the new firm *upon receiving his consent* [emphasis added]. Ms. Blythe signed the email as "Parter [sic] at Harbourfront".

¶ 145 The Leong Affidavit contained an email dated August 5, 2016, from Ms. Blythe to Harbourfront Document Processing attaching New Client Application Forms purportedly signed by RS on July 29, 2016. The beneficiary designated in the RSP application was 'sister'. The documents contain a number of initials purportedly those of RS.

¶ 146 The Leong Affidavit contained an email dated August 11, 2016, from Ms. Blythe to Harbourfront's carrying broker attaching Transfer Authorization Forms purportedly signed by RS on July 29, 23016 to initiate the transfer of RM's holdings from Investors Group.

¶ 147 On August 26, 2016, Ms. Blythe sent an email to RS requesting information regarding his RSP loan at Investors Group. RS and Ms. Blythe had a series of emails on August 29, 2016 in which:

a. RS asked if the interest and payments would be the same if the loan was moved to Harbourfront. Ms. Blythe advised that they would be the same.

b. RS advised that he wanted to make sure he was not paying more and he also wanted to make sure that he would not lose money due to the account transfer. RS asked Ms. Blythe to confirm that Harbourfront would cover any costs for the transfer. Ms. Blythe said that they could discuss penalties when the accounts were moved over, that Harbourfront had funds that would rebate fees, and asked RS to call her with any questions.

c. RS responded that he wished to discuss potential penalties before the accounts were moved

since if he were to incur losses, why would he move his accounts. Ms. Blythe advised that the Respondent would return to the office shortly.

d. Ms. Blythe did not tell RS she had already submitted the forms to process his account transfer.

¶ 148 The Leong Affidavit contained a Harbourfront transaction history which showed that RS's accounts were transferred from Investors Group on December 7, 2016, due to a delay in dealing with his RSP.

¶ 149 RS received from Harbourfront a welcome letter dated December 15, 2016, which attached New Client Application forms for the RSP account that were dated July 29, 2016. The letter asked that he review the forms and report any discrepancies.

¶ 150 On January 7, 2017, RS sent an email to Ms. Blythe advising that he received the December 15 welcome letter which contained documents he did not remember signing, and it did not look like his signature. RS said given concerns about the signatures, he asked about the security of his funds.

¶ 151 On January 11, 2017, Ms. Blythe met with RS regarding the transfer of his RSP account, given the outstanding loan, and the issues of his beneficiary. Ms. Blythe said she talked to RS about the errors and issues with the team and told RS that if he had questions regarding any of the signatures on the documents, he could contact Harbourfront's Compliance Department.

¶ 152 In emails with IIROC Enforcement Counsel on March 31 and April 21, 2020, RS said:

a. None of the signatures or writing on the documents dated July 29, 2016, was his.

b. The signature on the transfer form dated October 4, 2016 was his.

c. RS said in other emails he asked who signed the form and was told it was an assistant and that he had to sign new forms.

d. The July 29 forms showed the wrong beneficiary i.e., his daughter mistakenly noted as his sister, which is a mistake he would not make.

¶ 153 IIROC Enforcement Counsel sent an email to RS on January 20, 2021, asking about his availability to attend this hearing. RS replied that he had a large loss and declined to participate further in the hearing. RS further confirmed that the signatures on the Transfer Authorization Forms were not his.

¶ 154 In his Response to the allegations regarding RS, the Respondent:

a. specifically denied allegations 15, 16, 18 (paragraphs 149-153 above), allegation 19 (paragraphs 33, 53(e), 66, 150-152 above), allegation 23 regarding IIROC Staff's knowledge of other client complaints (paragraph 245), allegations 28 and 30 (paragraphs 70, 145-148 above); and

b. otherwise generally denied the allegations (subject to his admissions) regarding RS.

Deferred Service Charges

¶ 155 No allegations were pursued at the hearing. However, the Panel found that the facts regarding the DSCs were relevant to our consideration of Contravention 1.

¶ 156 As the client's Investors Group mutual funds were proprietary, they could not be transferred in kind and had to be redeemed which triggered DSCs payable to Investors Group. The filing by Ms. Blythe with the carrying broker of the Transfer Authorization Forms containing the apparent forged client signatures triggered the redemptions, the DSCs, and the request to transfer remaining account assets to Harbourfront. The specific details for each client transfer are discussed above.

¶ 157 The Leong Affidavit provided details regarding the DSCs incurred by the four clients resulting from the unauthorized sale of their Investors Group mutual funds:

a. DC $4,816.97 and EC $613.51;

b. RS $1,781.74;

c. CY $3,758.01; and

d. RM $4,746.87.

Case Authorities and Submissions

¶ 158 Enforcement Council referred the Panel to other cases in which hearing panels found that forgeries of client signatures breached IIROC Rule 29.1 (now Consolidated Rule 1400):

a. *Re Abbott* 2012 IIROC 2. New client account documents and transfer forms were forged by a registrant. The clients signed a set of forms but due to changes in the respondent's team, she had to get new client documents signed. The registrant resorted to forging the client signatures which she realized was wrong. She reported her conduct to her employer and to IIROC. The IIROC hearing panel accepted that the forgeries breached IIROC Rule 29.1.

b. *Re Movassaghi* 2017 IIROC 46 (the 2017 Settlement Agreement). The Respondent admitted that he forged one client's (KO) signature on at least nine documents using the client's driver's licence as a template for the signature in order to transfer the client's account from Investors Group to Harbourfront in 2016. KO asked if the transfer would involve costs and require her to sign documents. In response to her inquiries, the Respondent advised KO that she needed to sign documents and there would be fees payable which he would discuss with her at their next meeting. The Respondent used the forged documents to open the Harbourfront account and transfer the holdings from Investors Group without KO's knowledge or consent. The DSCs relating to the sale of the Investors Group mutual funds were about $3,600. KO learned of the account transfer from the firm, not the Respondent, and in an email on August 30, 2016 confronted him about forging her signature and transferring her account without consent. Upon receiving the email, the Respondent admitted the forgeries to Harbourfront and was terminated. The Respondent cooperated with IIROC's investigation regarding KO.

   The IIROC hearing panel accepted the Respondent's admission that his conduct amounted to forgery and breached IIROC Dealer Member Rule 29.1 (now Consolidated Rule 1400). One of the factors relied upon by the hearing panel in accepting the Settlement Agreement was that the "misconduct consisted of an isolated episode in which a limited sequence of actions imposed limited short-term harm to one client" [para. 24(b)].

¶ 159 Enforcement Counsel advised that Contravention 1 was pled in the alternative given that the Respondent worked with a team. Enforcement Counsel said he was unable to find any cases where there was a team involved and that other cases involved individual registrants who admitted to the forgeries. Enforcement Counsel advised that he was unable to find any contested cases involving forgery of documents as the other cases all involved settlement agreements.

¶ 160 Enforcement Counsel submitted that the Respondent admitted to forging the signatures of RM, and others, in discussions with RM and in his text message to RM on November 28, 2016.

PANEL FINDINGS – CONTRAVENTION 1

¶ 161 As noted above, the Panel accepted the evidence contained in the Leong Affidavit (including evidence regarding clients DC/EC and RS) and the evidence of RM, CY, Ms. Tai and Ms. Blythe as credible. Where that evidence conflicted with that of the Respondent, the Panel determined that the evidence of the others was more reliable than, and was accepted over, that of the Respondent unless otherwise noted.

Findings Regarding the Team

¶ 162 The Respondent admitted that he was the broker for these clients.

¶ 163 The Respondent admitted he was the broker responsible for a team that included Ms. Blythe (a registered assistant) and Ms. Tai (a non-registered assistant), who provided administrative and support services.

¶ 164 The Respondent met with most of the clients out of the office. Ms. Blythe occasionally met with clients on her own and with the Respondent. Very few client meetings occurred at the office.

¶ 165 Only the team members had access to client documents regarding the transfer of the accounts.

¶ 166 On September 2, 2016, the Respondent admitted he was terminated by Harbourfront after KO's complaint that her signature was forged on documents to transfer her accounts from Investors Group to Harbourfront. The Respondent admitted he forged KO's signature by tracing her driver's licence signature.

¶ 167 Ms. Blythe became the broker for the clients after the Respondent's termination. The Panel accepted Ms. Blythe's evidence that after KO's complaint she asked the Respondent if he had forged signatures for any other clients and the Respondent told her he had not done so. We find that this would be a logical question for Ms. Blythe to ask in the circumstances, given the Respondent's admission regarding KO and that Ms. Blythe was taking over the regulatory responsibilities for the Respondent's remaining clients.

¶ 168 The Respondent admitted, and documents provided by RM confirmed, that he and Ms. Blythe remained in regular contact between September and December 2016 in order to transition the accounts.

¶ 169 Ms. Blythe admitted that she did not report the clients' complaints to the firm or IIROC and that she misled IIROC in a sworn interview regarding her knowledge of the complaints and possible forgeries. In accepting the Blythe Settlement Agreement, the hearing panel noted that there was no allegation that Ms. Blythe committed or was aware of the forgeries before the client complaints, and Ms. Blythe relied upon the Respondent who was the broker of record for most of the clients.

¶ 170 The Panel accepted the evidence of Ms. Blythe and Ms. Tai that they did not sign any client documents, including documents relating to these clients.

Findings Regarding Client RM

¶ 171 RM was a friend of the Respondent and most contact regarding her account was with the Respondent. RM and the Respondent were in regular contact about RM's accounts after the Respondent's termination from Harbourfront.

¶ 172 Shortly after the Respondent's initial July 11, 2016 email noting that client consent would be obtained, RM asked the Respondent about the documents required to transfer her account. The Respondent was aware that RM expected to receive account documents and provide consent prior to the transfer of her accounts.

¶ 173 The new client account and transfer form documents dated July 28, 2016 were not signed by RM, nor had she seen them before Ms. Blythe sent them for processing on July 29 and August 3, 2016. The signatures on the documents were forged, RM had not provided consent to transfer of her accounts, and RM did not authorize the disposition of the proprietary Investors Group mutual funds. As a result of the unauthorized transfer of the proprietary mutual funds, RM incurred DSC fees totaling $4,746.87.

¶ 174 The Panel accepted RM's evidence, including copies of texts, that:

a. she met with the Respondent on August 23 to discuss her account transfer, not July 28, 2016 as asserted by the Respondent;

b. prior to the meeting, RM advised the Respondent that she was concerned about the amount of potential transfer and DSC fees;

c. at the August 23 meeting: RM advised the Respondent of her concern regarding potential fees;

RM asked for the opportunity to speak with her accountant; and she did not sign client account or transfer documents; and

d. the Respondent did not tell RM at the meeting that her account had already been transferred.

¶ 175 It was clear from her August 2016 texts and meeting with the Respondent that RM wanted to consider the account transfer, including any fees, before providing her consent. It would not have been logical for RM to sign documents to transfer her account on August 23 as the forged documents to process the transfer were sent for processing on July 29 and August 3, 2016.

¶ 176 After RM discovered the forged documents and unauthorized account transfer by speaking with Investors Group, RM advised Ms. Blythe on September 3, 2016 that she had not signed the July 28 documents. Ms. Blythe contacted the Respondent upon receiving RM's complaint, and the Respondent contacted RM shortly after. The Panel found that the Respondent was therefore aware of RM's complaint regarding the potential forgery of her account documents on September 3, 2016.

¶ 177 The Panel accepted Ms. Blythe's evidence that after she received RM's complaint, she asked the Respondent if there was anything else she should know and whether he had signed documents for any other clients. The Respondent advised her that he had not done so. The Panel found that the Respondent failed to accurately respond to Ms. Blythe and failed to report RM's complaint to Harbourfront or the regulatory authorities.

¶ 178 The Respondent was aware of his professional obligations not to forge client documents and of the requirement to report RM's complaint regarding his conduct. The Respondent had been terminated the day before for forging another client's signature and was aware there would likely be a regulatory investigation into his conduct. As a result of his actions, the Respondent delayed the discovery of RM's complaint regarding the forged signatures, and the complaints of other clients' regarding forged signatures, for his own benefit and to the detriment of his clients, Harbourfront, and the public.

¶ 179 The Panel accepted RM's evidence that in her subsequent discussions with the Respondent, including their meeting on January 4, 2017, he admitted forging her signature and that of others.

¶ 180 The Panel accepted the evidence of RM and Ms. Blythe that over time the Respondent appeared to shift the blame to others including assistants and the clients whom he said often forgot what they signed, and he began to offer excuses in an attempt to justify situations where client signatures may be forged for convenience.

¶ 181 The Respondent said that the facts surrounding the November 28, 2016 text were outside his knowledge. The Panel found that the facts were within the Respondent's knowledge since he authored the text message to RM. From a plain reading of the text message, it is clear that the Respondent was apologizing for his behaviour regarding her account, that he "should have known better", and that he was no longer a person who could tamper with a document.

¶ 182 The Respondent admitted he was aware of the regulatory requirement to provide the actual or a reasonable estimate of DSC fees prior to any mutual fund sale. The Respondent did not provide the estimate until after the sale, and only after RM requested the information.

¶ 183 The Panel found that the Respondent did not provide accurate information to RM regarding the DSC fees and proposed rebate program. RM asked if she was essentially paying the DSC fees with her own money. The Respondent assured her that was not the case but that the rebate to cover the fees came from locking the funds in for a shorter term (which is not correct as the rebate results from locking the funds in for a longer term) and from him reducing his advisory fees.

¶ 184 The Panel found that RM may not have transferred her account, or at least the Investors Group proprietary mutual funds, had she known the amount of the DSC fees or the correct details regarding the

proposed rebate plan which involved reinvesting and locking in her funds for longer periods in order to obtain part of the rebate.

¶ 185 The Respondent 'took no position' regarding the allegation that he repaid RM the amount of the DSC fees ($4,746.87) in instalments from March to July 10, 2017. The Panel found that the documentary evidence proved that the Respondent did repay RM the fees during instalments over that period of time.

¶ 186 The Respondent had access to the documents and the opportunity to forge RM's signature. The Respondent's motive can be inferred from the facts i.e,. if RM knew that the Investors Group mutual funds must be sold and subject to DSC fees, she might decide not to transfer her account to the Respondent at Harbourfront. The Respondent was aware of the likelihood of a regulatory investigation regarding the initial client (KO) complaint and his admission that he forged her signature. There was incentive to the Respondent not to have additional client complaints come to light as this would no doubt expand any regulatory investigation and the Respondent would likely face more serious consequences if multiple instances of forgery were discovered.

¶ 187 After a careful review of the evidence, and taking into account issues of credibility, the Panel found that on or about July 28, 2016, the Respondent forged RM's signature on new client account and transfer forms to transfer RM's accounts from Investors Group to Harbourfront without RM's consent. The Respondent's actions in forging the client signatures and permitting the documents to be processed without RM's consent resulted in DSC fees totaling $4,746.87 from the unauthorized sale of the Investors Group proprietary mutual funds. As a result, the Respondent breached DMR 29.1, now Consolidated Rule 1400, regarding the standards of conduct expected of a registrant.

Findings Regarding Client CY

¶ 188 CY received the initial email drafted by the Respondent and sent by Ms. Blythe on July 11, 2016, regarding the need for CY's consent to transfer her accounts. The Respondent was aware that CY expected to receive account documents and provide consent prior to the transfer of her accounts.

¶ 189 The new client account and transfer form documents dated August 4, 2016 were not signed by CY (who was working in northern Alberta at the time), nor had she seen them before Ms. Blythe sent them for processing on August 4 and 12, 2016. The forms contained the wrong beneficiary information which is a mistake that CY would not have made had she had the opportunity to review the forms. CY never attended at the Harbourfront office, nor had she met the Respondent or Ms. Blythe. There was no evidence that the Respondent (or others upon his direction) provided copies of the August 4, 2016 new client application and transfer forms to CY for signature. CY was not aware of, nor did she sign, the Change of Beneficiary form dated August 23, 2016. The signatures of CY on the August 4 and 23 documents were forged.

¶ 190 When CY received copies of the forged account documents with the Harbourfront welcome letter dated December 15, 2016, she advised Ms. Blythe that she was "shocked and disturbed" about the forgery of the initial client documents without her knowledge.

¶ 191 The Panel found that although CY agreed to transfer her accounts from Investors Group to Harbourfront, the Respondent did not provide sufficient opportunity for her to provide informed consent or proper authorization to do so. We found that the signatures on the August 4 and 23, 2016 documents were forged. As a result, CY did not provide informed consent to the transfer her accounts, nor did she authorize the disposition of the proprietary Investors Group mutual funds. As a result of the unauthorized activity, CY incurred DSC fees totaling $3,758.01.

¶ 192 Based upon a review of other client account documents sent to CY later in September 2016, it appeared that Ms. Blythe highlighted the portions of the forms where CY's signature was required. There was no highlighting on the August 4 or 23, 2016 forged client documents for CY.

¶ 193 The Panel accepted Ms. Blythe's evidence that she contacted the Respondent upon receiving each client's complaint, including CY's. The Respondent admitted that he was in regular contact with Ms. Blythe from September to December 2016 regarding the transfer of client accounts to her as a result of his termination on September 2, 2016. The Panel found that there was sufficient evidence to conclude that Ms. Blythe advised the Respondent of CY's September and December 2016 emails regarding her concerns about the DSC fees, unauthorized transfer of all her Investors Group assets, and the forged signatures on the client documents and transfer forms. The Respondent did not contact CY to advise her that her account documents were, or may have been forged, nor did he advise anyone including Ms. Blythe to follow up to ensure that any issues regarding the apparently forged documents were promptly addressed.

¶ 194 The Respondent was aware of his professional obligations not to forge client documents and of the requirement to report CY's complaint. The Respondent had been terminated for forging another client's signature and was aware of the ongoing IIROC investigation into his conduct. As a result of his actions, the Respondent delayed the discovery of CY's complaint regarding the forged signatures, and the complaints of other clients' regarding forged signatures, for his own benefit and to the detriment of his clients, Harbourfront, and the public.

¶ 195 The Respondent admitted he was aware of the regulatory requirement to provide the actual or a reasonable estimate of DSC fees prior to the sale of CY's Investors Group mutual funds. Based upon CY's September 14, 2016 email to Ms. Blythe, the Respondent did not do so. Ms. Blythe admitted that she and the Respondent did not advise clients of the amount of the DSC fees as they did not know the amounts until after the accounts were transferred.

¶ 196 The Panel accepted the evidence of RM and Ms. Blythe that over time the Respondent appeared to shift the blame to others including assistants and the clients whom he said often forgot what they signed, and he began to offer excuses in an attempt to justify situations where client signatures may be forged for convenience.

¶ 197 The Panel found that CY may not have transferred her account, or at least the Investors Group proprietary mutual funds, had she known the amount of the DSC fees.

¶ 198 The Respondent had access to the documents and the opportunity to forge CY's signature. The Respondent's motive can be inferred from the facts i.e., if CY knew that the Investors Group mutual funds must be sold and subject to DSC fees, she might decide not to transfer her account to the Respondent at Harbourfront. The Respondent was aware of the ongoing IIROC investigation into the initial client (KO) complaint and his admission that he forged her signature. There was incentive to the Respondent not to have additional client complaints come to light as this would no doubt expand the regulatory investigation and the Respondent would likely face more serious consequences if multiple instances of forgery were discovered.

¶ 199 After a careful review, and taking into account issues of credibility, the Panel found that there was sufficient evidence to conclude that the Respondent knew or ought reasonably to have known that the documents were forged, or failed to exercise due diligence to ensure that the documents were not forged, regarding CY's August 4 and 23, 2016 signatures on the new client account, transfer, and beneficiary change forms to transfer CY's accounts from Investors Group to Harbourfront without CY's consent. The Respondent's actions permitted the documents to be processed without CY's consent resulting in DSC fees totaling $3,758.01 from the unauthorized sale of the Investors Group proprietary mutual funds. As a result, the Respondent breached DMR 29.1, now Consolidated Rule 1400, regarding the standards of conduct expected of a registrant.

Findings Regarding Clients DC and EC

¶ 200 DC and EC received the initial email drafted by the Respondent and sent by Ms. Blythe on July 11, 2016, regarding the need for their consent to transfer their accounts. The Respondent was aware that DC and

EC expected to receive account documents and provide consent prior to the transfer of their accounts.

¶ 201 The new client account and transfer form documents dated August 17, 2016 were not signed by DC or EC, nor had they seen them before Ms. Blythe sent them for processing. There was no evidence that the Respondent (or others upon his direction) provided copies of the August 17 documents to DC and EC for signature. The signatures on the documents for DC and EC were forged. As a result, DC and EC did not provide informed consent to the transfer their accounts, nor did they authorize the disposition of the proprietary Investors Group mutual funds. As a result of the unauthorized activity, DC incurred DSC fees totaling $4,816.97 and EC $613.51.

¶ 202 After DC and EC discovered the forged documents and unauthorized account transfer as a result of a letter from Harbourfront, DC advised Ms. Blythe on September 16, 2016 that she had not signed the documents, it appeared that the Respondent had signed on DC's behalf, and she understood that she had expected to sign the documents. Ms. Blythe contacted the Respondent upon receiving DC's complaint and arranged a meeting with the clients, which the Respondent attended on September 19, 2016 even though he was no longer registered. The Panel found that the Respondent was therefore aware of the forgery of the account documents for DC and EC and of DC's potential complaint on or about September 16, 2016.

¶ 203 The Panel accepted Ms. Blythe's evidence that during their meeting with DC and EC on September 19, 2016, there was no discussion about the forged signatures and the conversation focused on correcting errors purportedly made by one of the assistants and discussing account investments. The Respondent did not make it clear to DC and EC at the meeting that their account documents were, or may have been forged, nor did the Respondent advise anyone including Ms. Blythe to follow up to ensure that any issues regarding the apparently forged documents were promptly addressed.

¶ 204 The Respondent 'took no position' regarding the allegation that he met with DC and EC on September 19, 2016 with Ms. Blythe regarding their complaint after he was terminated by Harbourfront. The Panel found that the evidence proved that the Respondent attended the meeting and at that time he was no longer a registrant.

¶ 205 The Panel accepted Ms. Blythe's evidence that after she received DC's complaint, she had more detailed discussion with the Respondent and asked whether he had signed documents for any other clients. The Respondent advised her that he had not done so. The Panel found that the Respondent failed to accurately respond to Ms. Blythe and failed to report to Harbourfront or the regulatory authorities the potential forgery of DC and EC's documents and the complaint.

¶ 206 The Panel accepted Ms. Blythe's evidence that she contacted the Respondent upon receiving each client's complaint, including DC's. The Respondent admitted that he was in regular contact with Ms. Blythe from September to December 2016 regarding the transfer of client accounts to her as a result of his termination on September 2, 2016. The Panel found that there was sufficient evidence to conclude that Ms. Blythe advised the Respondent of DC's November 6 email regarding the concerns of DC and EC regarding forged transfer forms after discussions with Investors Group. Despite the fact that this was the second time that these clients raised the issue of apparently forged client documents, the Respondent did not advise anyone including Ms. Blythe to follow up to ensure that any issues regarding the apparently forged documents were promptly addressed.

¶ 207 The Panel found that there was insufficient evidence to conclude that the Respondent was aware of the further complaint by DC and EC to Ms. Blythe on February 5, 2017, after they received copies of the initial forged client account documents with Harbourfront's December 15, 2016 welcome letter.

¶ 208 The Respondent was aware of his professional obligations not to forge client documents and of the requirement to report DC's complaint regarding his conduct. The Respondent had been terminated for forging another client's signature and was aware of the ongoing IIROC investigation into his conduct. As a

result of his actions, the Respondent delayed the discovery of DC's complaint regarding the forged signatures, and the complaints of other clients' regarding forged signatures, for his own benefit and to the detriment of his clients, Harbourfront, and the public.

¶ 209 The Respondent admitted he was aware of the regulatory requirement to provide the actual or a reasonable estimate of DSC fees prior to the sale of DC and EC's Investors Group mutual funds. The Respondent did not do so. Ms. Blythe admitted that she and the Respondent did not advise clients of the amount of the DSC fees as they did not know the amounts until after the accounts were transferred.

¶ 210 The Panel accepted the evidence of RM and Ms. Blythe that over time the Respondent appeared to shift the blame to others including assistants and the clients whom he said often forgot what they signed, and he began to offer excuses in an attempt to justify situations where client signatures may be forged for convenience.

¶ 211 The Respondent had access to the documents and the opportunity to forge the signatures of DC and EC. The Respondent's motive can be inferred from the facts i.e., if DC and EC knew that the Investors Group mutual funds must be sold and subject to DSC fees, they might decide not to transfer their accounts to the Respondent at Harbourfront. The Respondent was aware of the ongoing IIROC investigation into the initial client (KO) complaint and his admission that he forged her signature. There was incentive to the Respondent not to have additional client complaints come to light as this would no doubt expand the regulatory investigation and the Respondent would likely face more serious consequences if multiple instances of forgery were discovered.

¶ 212 After a careful review of the evidence, and taking into account issues of credibility, the Panel found that there was sufficient evidence to conclude that the Respondent knew or ought reasonably to have known that the documents were forged, or failed to exercise due diligence to ensure that the documents were not forged, regarding the signatures of DC and EC on the August 17, 2016 new client account and transfer forms used to transfer the accounts of DC and EC from Investors Group to Harbourfront. The Respondent's actions permitted the documents to be processed without the consent of DC and EC resulting in DSC fees totaling $4,816.97 for DC and $613.51 for EC from the unauthorized sale of the Investors Group proprietary mutual funds. As a result, the Respondent breached DMR 29.1, now Consolidated Rule 1400, regarding the standards of conduct expected of a registrant.

Findings Regarding Client RS

¶ 213 RS received the initial email drafted by the Respondent and sent by Ms. Blythe on July 11, 2016, regarding the need for his consent to transfer his accounts. The Respondent was aware that RS expected to receive account documents and provide consent prior to the transfer of his accounts.

¶ 214 The new client account and transfer form documents dated July 29, 2016 were not signed by RS, nor had he seen them before Ms. Blythe sent them for processing on August 5 and 11, 2016. The forms contained the wrong beneficiary information. There was no evidence that the Respondent (or others upon his direction) provided copies of the July 29, 2016 documents to RS for signature. The signatures on the documents were forged. As a result, RS did not provide informed consent to the transfer of his accounts, nor did he authorize the disposition of the proprietary Investors Group mutual funds. As a result of the unauthorized activity, RS incurred DSC fees totaling $1,781.74.

¶ 215 In his email discussions with Ms. Blythe on August 29, 2016, RS advised that he wanted to discuss potential fees before the accounts were moved since, if losses would be incurred, he questioned why he would move the accounts. RS was not aware at that time that the forged documents had been submitted to initiate the transfer of his accounts. Ms. Blythe replied that the Respondent would return to the office shortly. The Panel found that it was logical to assume that Ms. Blythe referred RS's email to the Respondent to respond. We concluded that the Respondent was therefore aware of RS's expectation that he would be

informed about the transfer fees and have the opportunity to decide whether to transfer his accounts.

¶ 216 The Panel accepted Ms. Blythe's evidence that she contacted the Respondent upon receiving each client's complaint, including RS's. The Respondent admitted that he was in regular contact with Ms. Blythe from September to December 2016 regarding the transfer of client accounts to her as a result of his termination on September 2, 2016. RS's accounts were transferred on December 7, 2016, using the forged July 29 documents. Despite the fact that this was the third time that these clients raised the issue of apparently forged client documents, the Respondent did not advise anyone including Ms. Blythe to follow up to ensure that any issues regarding the apparently forged documents were promptly addressed.

¶ 217 The Panel found, however, that there was insufficient evidence to conclude that the Respondent was aware of the further complaint by RS to Ms. Blythe on January 7, 2017, or RS's meeting with Ms. Blythe on January 11, 2016, after he received copies of the initial forged client account documents with Harbourfront's December 15, 2016 welcome letter.

¶ 218 The Respondent was aware of his professional obligations not to forge client documents. The Respondent had been terminated for forging another client's signature and was aware of the ongoing IIROC investigation into his conduct. As a result of his actions, the Respondent delayed the discovery by RS of the forged signatures and unauthorized account transactions. The Respondent's actions also delayed the discovery of RS's eventual complaint regarding the forged signatures, and the complaints of other clients' regarding forged signatures, for his own benefit and to the detriment of his clients, Harbourfront, and the public.

¶ 219 The Respondent admitted he was aware of the regulatory requirement to provide the actual or a reasonable estimate of DSC fees prior to the sale of RS's Investors Group mutual funds. The Respondent did not do so, despite specific requests by RS for that information in order to make an informed decision regarding his account transfer. Ms. Blythe admitted that she and the Respondent did not advise clients of the amount of the DSC fees as they did not know the amounts until after the accounts were transferred.

¶ 220 The Panel accepted the evidence of RM and Ms. Blythe that over time the Respondent appeared to shift the blame to others including assistants and the clients whom he said often forgot what they signed, and he began to offer excuses in an attempt to justify situations where client signatures may be forged for convenience.

¶ 221 The Panel found that RS may not have transferred his account, or at least the Investors Group proprietary mutual funds, had he known the amount of the DSC fees.

¶ 222 The Respondent had access to the documents and the opportunity to forge RS's signature. The Respondent's motive can be inferred from the facts i.e., if RS knew that the Investors Group mutual funds must be sold and subject to DSC fees, he might decide not to transfer his account to the Respondent at Harbourfront. The Respondent was aware of the ongoing IIROC investigation into the initial client (KO) complaint and his admission that he forged her signature. There was incentive to the Respondent not to have additional client complaints come to light as this would no doubt expand the regulatory investigation and the Respondent would likely face more serious consequences if multiple instances of forgery were discovered.

¶ 223 After a careful review of the evidence, and taking into account issues of credibility, the Panel found that there was sufficient evidence to conclude that the Respondent knew or ought reasonably to have known that the documents were forged, or failed to exercise due diligence to ensure that the documents were not forged, regarding the July 29, 2016 new client account and transfer forms used to transfer RS's accounts from Investors Group to Harbourfront. The Respondent's actions permitted the documents to be processed without RS's consent resulting in DSC fees totaling $1,781.74 from the unauthorized sale of the Investors Group proprietary mutual funds. As a result, the Respondent breached DMR 29.1, now Consolidated Rule 1400, regarding the standards of conduct expected of a registrant.

Conclusions

¶ 224 The Respondent was the registrant with primary responsibility for the client accounts under his broker code. He was also responsible for his team. He was the main contact for the clients.

¶ 225 The Respondent was aware of his professional responsibility to obtain the informed consent of his clients before initiating account transfers. He confirmed his knowledge in the July 10, 2016 email he drafted for Ms. Blythe to send to clients in which he noted that the client's consent was required to initiate the transfer.

¶ 226 The Respondent knew that forging client documents was a breach of his professional obligations. When client KO complained, the Respondent admitted the forgeries on August 30, 2016. Documents for RM, CY, DC and EC, and RS were signed in late July or early August 2016. At the time he admitted to forging KO's signature, he was aware that there were, or could be, other forged client signatures for the other clients. He admitted to RM that he forged her signature, and that of other clients, on documents. Given her knowledge of the KO forgery, Ms. Blythe brought the clients' complaints to the Respondent's attention and asked if he had forged any other client documents. The Respondent denied doing so. The Respondent did not advise Harbourfront or IIROC about these additional clients.

¶ 227 The Respondent tried to blame others (assistants making clerical errors and clients who did not remember what they had signed) and to justify the forgeries for client convenience in discussions with RM. The Respondent failed to serve the interests of his clients by ensuring that their accounts were properly transferred and by failing to take responsibility for, and remedy, the forgeries of other client signatures.

¶ 228 The Respondent had the opportunity to forge the client signatures as he met with most of the clients out of the office and returned the documents to assistants to process. He had access to the documents in the office. The Respondent had the most to gain from forging client documents to effect the transfer of the accounts to his new firm under his broker code. He was aware that at least some clients may not consent to transfer their accounts, or at least the portion of their accounts invested in proprietary mutual funds at Investors Group, if the clients were aware of the DSC fees.

¶ 229 Even if the Respondent himself did not forge the documents, given his knowledge of the one forgery, he had an obligation to review the documents for all clients and ensure each client provided proper informed consent for their account transfers. This is particularly so when he received complaints from more than one client in a short period after the other forgery came to light. There was no evidence that the Respondent contacted, or directed his administrative staff to contact, each of his clients to ensure that he had the client's informed consent (including fee estimates) to each account transfer or to ensure that their signatures were not also forged on account documents.

¶ 230 By forging signatures on the transfer forms, or by failing to ensure that the signatures on other client documents were not forged, the Respondent deprived the clients of the opportunity to fully consider their needs and make informed decisions regarding the account transfers, which is the client's right. The Respondent put the clients and Harbourfront at risk, particularly as some of the forms admittedly contained a number of errors, some of which were material errors such as account beneficiaries.

¶ 231 If the Respondent had discussions with the clients, the discussions were not documented to the client, nor passed on to his assistant, Ms. Blythe, who took over the clients after he was terminated by Harbourfront.

¶ 232 None of these clients were aware of their account transfers or the amount of the DSC fees until after the fact, some not until December 2016 when they received welcome packages from Harbourfront.

¶ 233 The clients essentially paid their own transfer fees (as queried by RM in a text to the Respondent) given the Harbourfront rebate scheme described by Ms. Blythe. The clients' funds were reinvested in DSC funds with longer redemption periods to earn rebates of 5% and then advisory fees were discounted to try to make

up some of the difference to cover the DSC fees. This was not fully explained to any of the clients until after the accounts were already transferred and the DSC fees incurred.

¶ 234 Harbourfront rebated some of the DSCs but only if the clients reinvested in mutual funds at Harbourfront with DSCs which had the effect of re-setting the redemption period to seven years to avoid additional DSCs. As a result, the clients had to re-invest their funds for a longer redemption period and did not receive a full rebate of the DSCs paid upon the redemption of the Investors Group mutual funds for the transfer to Harbourfront.

¶ 235 The Respondent's motive, and the lack of seriousness he attributed to his conduct in forging a client's signature, can be inferred from his actions.

a. He was aware of the other clients' complaints regarding potential forgeries of their account and transfer documents, but did not report any of the other client complaints.

b. In his Response, the Respondent said that he understood that once the 2017 Settlement Agreement was completed, that IIROC Staff would not look into any other potential issues regarding his conduct at Harbourfront. At the time of the 2017 Settlement Agreement, neither IIROC Staff nor the hearing panel was aware of the other clients' complaints and it is unlikely that the 2017 Settlement Agreement would have been approved by IIROC Staff and/or accepted by the hearing panel had they been aware of those other complaints. IIROC Staff was not aware of the other complaints until RM complained to Harbourfront in November 2017.

c. The Respondent's counsel at his sworn IIROC interview on February 13, 2019 asked what was taking so long for IIROC to complete the investigation.

d. The Respondent made the following comments in his text messages to RM:

   i. September 26, 2016 text, in which he advised RM that if she decided to "stay with us" [inferring that he would still be a registrant] they could rebate all DSC fees;

   ii. November 28, 2016 text, in which he said that he had been told by the regulator that the issues regarding KO would be resolved by the holidays, there would be a hearing in early December, and he "will likely get time served and a fine";

   iii. April 21, 2017 text, in which he said he hoped to be back to work the following week and was finalizing an offer with another firm; and

   iv. May 4, 2017 text, in which he said he was awaiting his licence as a condition of employment with his new firm which he hoped would be sorted out soon.

¶ 236 We noted the following comments made by the hearing panel when considering the Respondent's 2017 Settlement Agreement, which apply equally in this case:

a. When the client (KO) was advised of the proposed account transfer, she asked about the possible cost implications and her ability to approve the transfer. She understood it was her decision to make and that the costs were an important consideration (para 27).

b. The Respondent's reaction to KO's inquiries should have been to provide her with detailed information regarding the costs of the transfer in order to assist her in making the decision regarding the account transfer. However, he delayed telling her the amount of the DSCs, which delayed her ability to make an informed decision regarding the account transfer (para 28).

c. The Respondent's motive for the forgeries was inferred based upon the facts i.e., KO may have exercised her own judgment not to transfer the account if she were aware of the costs involved and the Respondent took matters into his own hands to effect the account transfer by forging

her signature. The Respondent's admission to the firm regarding the forgery when challenged by the client illustrated that he could not have been under the mistaken belief that he had the client's consent when he forged the documents.

d. The hearing panel noted at paras 29, 31, 32:

> Forgery is grievous and inexcusable misconduct under any circumstances. It is particularly troubling, however, that in the present case it was apparently motivated by the Respondent's refusal to accept his client's right to make investment decisions for herself.
>
> [...]
>
> By its nature, forgery is deliberate in the sense of being an intentional act. It requires will and the directed application of effort … It is simply not possible to characterize any of this as the result of a hasty mistaken decision or some other sudden impulse.
>
> Deliberate misconduct of this nature is highly damaging to the reputation of the securities industry. IIROC members exist to provide their clients with investment advice they can trust. The Respondent betrayed that trust by showing a blatant lack of integrity in dealing with KO's interests. This kind of behaviour can only cast a negative light on the integrity of the industry as a whole.

e. The hearing panel noted at para 35 that the documents forged by the Respondent included new client account forms and a TFSA application, which required obtaining details from the client including risk tolerance, investment objectives and time horizons and that:

> This information, which forms the basis for determining client appropriate investment advice, is of critical importance for the proper administration of an investment account. In forging this vital information, the Respondent betrayed his obligation to respect KO's true investment needs.

f. In determining the sanctions, the hearing panel noted at para 43:

> The adviser and client relationship begins and ends with trust, and is predicated on honesty and transparency. The Respondent utterly failed to meet these criteria in his dealings with KO. Running roughshod over her prerogatives as his client, he forged documents with troubling ease and against her intentions imposed unnecessary costs on her portfolio. The agreed upon penalties reflect the gravity of the Respondent's ethical breach…

¶ 237 Forgeries are not clerical or administrative errors. Signing another person's name is always a conscious act and is not forgettable. It is never acceptable. The Respondent's actions circumvented the right of his clients to make informed decisions regarding their accounts and in some cases defied the clients' (RM and RS) specific instructions to him that they wished to consider the issue of fees before consenting to the account transfers. The Respondent betrayed his clients' trust, caused his clients financial losses, and put his clients at risk due to the errors (including incorrect beneficiaries) in the forged client documents and transfer forms.

¶ 238 We find that the Respondent failed to observe, and his conduct displayed an unreasonable departure from, the high standards of ethics and conduct expected of him as an IIROC registrant. He engaged in conduct that breached regulatory requirements and was unbecoming and detrimental to the public interest. His actions are likely to diminish investor confidence in the integrity of the securities markets. As a result, the Panel found that the Respondent breached DMR 29.1, now Consolidated Rule 1400, regarding the standards of conduct expected of a registrant regarding these clients.

CONTRAVENTION 2: MISLEADING IIROC INVESTIGATION STAFF

¶ 239 On December 14, 2016 and February 13, 2019, the Respondent misled IIROC Staff in sworn interviews and thereby acted contrary to Consolidated Rule 1400.

Evidence of Misleading IIROC Staff

¶ 240 In his Response, the Respondent admitted that during his sworn IIROC interviews on December 14, 2016 and February 13, 2019, he admitted to forging one client's (KO) signature and as a result was terminated by Harbourfront. During the interview the Respondent stated a number of times that he did not forge any other client signatures.

¶ 241 During the February 13, 2019 interview, the Respondent said he did not know about any other client complaints with the exception of RM's complaint. He said that RM's complaint was brought to his attention by Harbourfront's Compliance Department in about February 2018, and that his previous counsel responded and advised that the Respondent denied the allegation that he forged RM's signature.

¶ 242 During the February 13, 2019 interview, the Respondent testified that he met with RM at his office on July 28, 2016. He said that RM signed the new client and transfer documents at that time, although he did not specifically see her do so. At the time, the Respondent was aware of the text messages from RM on August 19, 2016 in which she asked for the address to his new office for their meeting on August 23, 2016. As a result, the Respondent was not truthful in his responses and made misrepresentations to IIROC regarding his meeting dated with RM and her signature on the documents to transfer her accounts.

¶ 243 The evidence and Panel's findings regarding the Respondent's dealings with each client are summarized above in Contravention 1. The Panel's findings regarding each client are summarized below as they relate to Contravention 2.

¶ 244 In his Response to the allegations regarding misleading IIROC Staff, the Respondent:

a. denied when he was interviewed under oath on December 14, 2016, he knew or ought to have known about additional client complaints regarding falsifying signatures on client account documents or that he misled IIROC Staff;

b. denied that when he was interviewed on February 13, 2019, he misled or made misrepresentations to IIROC Staff regarding his testimony regarding RM's complaints and meeting;

c. said that the facts in allegation 22 relating to his text messages with RM on November 28, 2016 (paragraphs 33, 53(e), 64, 94 and 96 above) were outside his knowledge;

d. took no position regarding allegation 27 relating to his repayments to RM for the transfer fees (paragraphs 87, 93, 94, 97-102 above); and

e. took no position regarding allegation 21 relating to meeting with DC after he was terminated in response to her complaint (paragraphs 53(e), 137, 138 above).

Case Authorities and Submissions

¶ 245 Enforcement Counsel advised the Panel that:

a. On the basis of these admissions under oath, IIROC concluded its initial investigation and the 2017 Settlement Agreement was submitted to and accepted by an IIROC hearing panel.

b. At the time of the Respondent's first interview in December 2016 and at the time of the 2017 Settlement Agreement, IIROC Staff was only aware of the one (KO) client complaint upon which the settlement was based. IIROC Staff was not aware of any other client complaints until RM complained in November 2017.

c. IIROC Staff obtained client information, including computer records, from the firm for the first investigation. The additional forgery issues were not apparent at the time of the initial investigation. In addition, IIROC Staff relied upon assurances by the Respondent made under oath that KO was the only client for whom he forged documents. The Respondent said he wanted to admit to the forgery, deal with the issue, and move on.

d. Had IIROC Staff become aware of any additional forgery complaints, IIROC Staff would not have recommended acceptance of the 2017 Settlement Agreement.

¶ 246 Enforcement Council referred the Panel to a number of cases in which hearing panels found that misleading IIROC during its investigations represented a breach of Rule 1400 (formerly Rule 29.1). The cases included: *Re Bortolin* 2012 IIROC 13; *Re Orr* 2020 IIROC 16; *Re O'Brien* 2020 ABASC 160; and *Re Tassone* 2017 IIROC 14.

¶ 247 Orr changed contact information for a client to mislead his firm and made false or misleading statements to IIROC. The hearing panel referenced a number of authorities and noted that honesty is a basic requirement in the regulated securities industry (para 20):

> […] The hearing panel in Rudensky quoted the reasons in Re Scoten: "The investment industry by necessity operates in an atmosphere of trust … between the Approved Person and his or her client, trust between the Approved Person and his or her employer, and the trust between the Approved Person and IIROC staff. Where an Approved Person breaches any of these trust relationships, serious consequences should follow." [Re Scoten, 2012 IIROC 67 at para 2]

¶ 248 In *Re O'Brien* 2020 ABASC 160, the respondent misled IIROC staff. The Alberta Securities Commission, in affirming the IIROC hearing panel's findings, noted that: (1) omitting information can be misleading; (2) information can be misleading if it contains half-truths or even where the information is later corrected; and (3) the respondent had a positive obligation to disclose evidence even in the absence of direct questions. The Commission panel noted that "those required to cooperate with regulatory investigations conducted in the public interest must understand that there is no room for dishonesty, even if it is temporary". The Commission panel further noted at para 164:

> We agree with both the IIROC Panel and IIROC staff that the regulatory context is critical to the analysis of this question. It is trite that a credible securities industry, operating within a fair and efficient capital market, depends on public trust. In turn, that trust depends in large part on the trustworthiness of those who make the industry their profession. Honesty and candor are required, not only between issuers and investors, or between registrants and their clients, but also between registrants and those responsible for their regulation and oversight. Timely and efficient investigations of registrants are obviously more likely to occur when the subjects are forthright (see, e.g., *Nuttall* at para. 10), but even more important is the protection of market integrity and investor confidence. Confidence is encouraged when the public can be assured that the registrants who serve them have integrity and comply with their regulatory responsibilities.

¶ 249 The hearing panel in *Re Tassone* (para 46) noted it was important to be forthright and honest when responding to securities regulatory authorities, and that failure to do so subverts the ability of those regulators (including IIROC) to perform their regulatory functions. The hearing panel noted (paras 52 & 53) that Tassone's statements were "simply unbelievable" and did not relate to only minor points that could have been forgotten but rather to issues of substance that one would not have difficulty remembering. The panel noted the "utter implausibility" of Tassone's recollection of events and concluded that he provided false information to IIROC staff.

¶ 250 Enforcement Counsel submitted that although the Respondent may deny IIROC's Statement of

Allegations, the Respondent must provide fulsome, honest answers to IIROC inquiries, particularly in sworn interviews. The Respondent may not provide half-truths or omit significant facts.

¶ 251 Enforcement Counsel submitted that regulatory investigations are different from criminal investigations where the accused person has a right to remain silent. Registrants, including the Respondent, do not have that right in IIROC investigations. The Respondent has a positive obligation to disclose information even in the absence of direct questions.

¶ 252 Enforcement Counsel pointed out in his Submissions (para 50) that:

> IIROC Rules by which the Respondent is bound require him to observe high standards of ethics and conduct and must act openly and fairly and in accordance with just and equitable principles of trade. In a self regulated industry that relies largely on self reporting as a first line of defence, honesty is a paramount issue that governs that relationship between IIROC and its registrants.

¶ 253 Enforcement Counsel argued that the Respondent's failure to be forthcoming and honest in the December 14, 2016 interview delayed IIROC's investigation and this hearing as IIROC was not aware of other issues until it received the additional complaints of RM and other clients.

¶ 254 In order to support his denials, the Respondent created factual scenarios regarding his meeting with RM on July 28, 2016, and the date upon which he first became aware of RM's complaint. These factual scenarios were not true and amounted to misrepresentations. These misrepresentations by the Respondent had the effect of misleading IIROC Staff.

Panel Findings – Contravention 2

¶ 255 For the reasons noted above, the Panel accepted the evidence contained in the Leong Affidavit (including evidence regarding clients DC/EC and RS) and the evidence of RM, CY, Ms. Tai and Ms. Blythe as credible. Where that evidence conflicted with that of the Respondent, the Panel determined that the evidence of the others was more reliable than, and was accepted over that of the Respondent unless otherwise noted.

¶ 256 The Panel's findings are based upon the evidence and findings of fact for each client as outlined above for Contraventions 1 and 2.

<u>December 14, 2016 Interview</u>

¶ 257 The Panel found that at the time of the December 14, 2016 IIROC interview, the Respondent was aware of a number of complaints and inquiries by these clients regarding potential forgery of signatures on their client account and transfer documents. In particular:

a. RM's September 3, 2016 complaint and subsequent discussions in which the Respondent admitted to RM that he forged her signature and that of others. This included his November 28, 2016 text to RM November 28, 2016 (about two weeks before the IIROC interview), in which he noted he was no longer the person who could tamper with a document.

b. CY's September 14, 2016 email noting her surprise at the redemption fees and the transfer of her Investors Group mutual funds.

c. DC's September 16, 2016 email noting it appeared that the Respondent signed documents without her knowledge, the meeting with DC, EC and Ms. Blythe on September 19, 2016, and DC's November 6, 2016 email regarding the information they received from Investors Group which included documents regarding their account transfers that DC and EC had not signed.

d. RS's August 29, 2016 emails noting his wish to discuss potential penalties before his accounts

were moved since, if he were to incur losses, there would be no reason to transfer the accounts.

¶ 258 The Respondent did not report the potential issues to Harbourfront or to the regulatory authorities despite the ongoing IIROC investigation. IIROC Staff was not aware of the other client complaints at the time of the interview or when the 2017 Settlement Agreement was presented or approved by the hearing panel on June 28, 2017.

¶ 259 The Respondent's actions delayed discovery of the forged signatures, the unauthorized account transactions, and the clients' complaints for his own benefit and to the detriment of his clients, Harbourfront, regulatory authorities (including IIROC), and the public.

¶ 260 The Respondent's motive can be inferred from the facts. The Respondent was aware of the ongoing IIROC investigation into the initial client (KO) complaint and his admission that he forged her signature. In his November 28, 2016 text to RM, the Respondent said that he expected the matter to be resolved in December and that he would "likely get time served and a fine". In his April 21, 2017 text to RM, the Respondent said that he hoped to have the regulatory matter concluded and be back to work the following week. There was incentive for the Respondent not to have additional client complaints come to light as this would no doubt expand and delay completion of the regulatory investigation, and the Respondent would likely face more serious consequences if multiple instances of forgery were discovered.

¶ 261 Even when specifically asked, the Respondent failed to advise IIROC Staff during the interview of his knowledge of these additional complaints and possible additional forgeries of client documents, or his discussion with Ms. Blythe regarding potential additional forgeries. As a result, the Respondent made misrepresentations and/or misled IIROC Staff while testifying under oath on December 14, 2016.

<u>February 13, 2019 Interview</u>

¶ 262 The Panel found that the Respondent made the following misrepresentations and/or misled IIROC Staff while testifying under oath on February 13, 2019:

a. The Respondent continued to deny that he forged any other client signatures. Even when specifically asked, the Respondent failed to advise IIROC Staff of his knowledge of the additional complaints and possible additional forgeries of client documents, or his discussions with Ms. Blythe regarding potential additional forgeries. However, the Respondent was aware of the client complaints and inquiries noted above, including his November 28, 2016 text to RM. In addition, Ms. Blythe advised the Respondent of additional complaints including CY's December 22, 2016 complaint, DC and EC's February 5, 2017 complaint, and RS's January 7, 2017 complaint.

b. Between mid-December 2016 to July 2017, the Respondent had further discussions and texts with RM in which the Respondent admitted forging the signatures of RM and other clients on documents to transfer their accounts. The Respondent did not advise IIROC Staff of these discussions.

c. Between March and July 2017, in order to satisfy RM's complaint, the Respondent paid to RM the amount of the DSC fees ($4,746.87) incurred as a result of the unauthorized transfer of her account using documents forged by the Respondent. The Respondent did not advise IIROC Staff of these discussions with, or payments to, RM.

d. The Respondent testified that he was not aware of RM's allegations of forgery until sometime in 2018 when he was advised by Harbourfront compliance staff of RM's complaint. The Panel found that the Respondent was aware of RM's complaint from at least September 3, 2016 and that by July 2017, the Respondent had repaid RM the resulting DSC fees for the unauthorized

account transfer. Based upon the evidence and the Panel's findings summarized above, the Respondent knew at the time that those statements were not truthful.

e. The Respondent testified that he met RM at the Harbourfront offices on July 28, 2016 and that RM signed client documents at that time. The Panel found that the meeting with RM did not occur until August 23, 2016 and that RM did not sign any documents at that time nor would it have been logical for RM to sign documents at that time as the July 28 forged documents for RM's account transfer were sent for processing on July 29 and August 3, 2016. Based upon the evidence and the Panel's findings summarized above, the Respondent knew at the time that his statements were not truthful.

¶ 263 The Respondent's motive can be inferred from the facts. The 2017 Settlement Agreement was concluded and accepted by a hearing panel based upon the Respondent's admission of one client complaint (KO) as an isolated incident. The Respondent expected to be able to be re-registered once he complied with the disciplinary penalties imposed, including an eight-month suspension and payment of a fine. If the additional client complaints came to light, the Respondent would face additional disciplinary action, which could impact his ability to be re-registered.

Conclusions

¶ 264 These were not administrative or minor matters that the Respondent could have easily overlooked or forgotten. The Respondent's conduct in forging the clients' signature, and then concealing that fact and the clients' resulting complaints from IIROC despite direct inquiries under oath, were deliberate and intentional acts, not the result of administrative errors or inadvertent mistakes or misunderstandings by the Respondent.

¶ 265 The Respondent cannot, and did not argue, that his knowledge of other clients' complaints and forged signatures was not material. During the interviews, IIROC Staff asked the Respondent specific, clear and understandable questions regarding his knowledge of other potential forged signatures. The Respondent's answers were not truthful and as a result he made the misrepresentations to, and/or misled, IIROC Staff regarding the matters referred to above.

¶ 266 Even if IIROC Staff had not asked specific questions, the Respondent had a professional duty of candor and honesty and he ought to have advised IIROC Staff of the additional complaints and potential forgery of other clients' documents. As noted by the hearing panel in *Re O'Brien*, omitting information or providing half-truths can be misleading. During the IIROC interviews, the Respondent omitted to advise IIROC of material information. In the February 13, 2019 interview, while under oath, the Respondent provided half-truths about his meetings with RM, the timing of his discovery of her complaint regarding the forged signatures, and his payments to her to cover the DSC fees. The Respondent's omissions and half-truths misled IIROC Staff.

¶ 267 As noted by the hearing panels in *Re Orr* and *Re O'Brien*, trust is a necessary element in all relationships within the securities industry, including the relationship between registrants and IIROC, which regulates to protect clients and the public interest. IIROC regulates the securities industry to protect the public interest and ensure market integrity and confidence of the public in the capital markets. The public must have confidence that registrants will comply with their regulatory responsibilities. Honesty and candor by registrants with IIROC are essential to ensure that IIROC can properly carry out its oversight function, including timely and efficient investigations of client complaints and potential registrant misconduct.

¶ 268 The Respondent's conduct was deliberate, ongoing, was meant to deceive, and did deceive IIROC for his personal benefit, at the expense of his clients, the firms, the regulatory authorities, and the public.

¶ 269 The Panel concluded that the Respondent failed to observe, and his conduct displayed an unreasonable departure from, the high standards of ethics and conduct expected of him as an IIROC registrant. He engaged in conduct that breached regulatory requirements and was unbecoming and

detrimental to the public interest. His actions would likely diminish investor confidence in the integrity of the securities markets. As a result, the Panel found that the Respondent breached Consolidated Rule 1400 regarding the standards of conduct expected of a registrant.

OTHER ISSUES RAISED IN RESPONDENT'S RESPONSE

¶ 270 In paragraph 1 of his Response, the Respondent said he objected to the new allegations in the Notice of Hearing on a number of grounds set out in subparagraphs (a) through (e). In paragraphs 1(b) through (e) of his Response, the Respondent raised other issues regarding the conduct of the IIROC investigation into these matters.

¶ 271 At the request of the Panel, Enforcement Counsel provided brief submissions regarding the issues raised in paragraph 1 of the Response:

a. The Leong Affidavit noted that RM's November 29, 2017 complaint to Harbourfront was when the firm, and IIROC, become aware of the other potential forgeries and that IIROC commenced its second investigation at this time.

b. IIROC Staff had no knowledge of the complaints as Ms. Blythe (and the Respondent) did not report them to Harbourfront or to IIROC as required. Ms. Blythe acknowledged that responsibility, and her failure to comply, in the Blythe Settlement Agreement.

c. IIROC Staff received information from Harbourfront regarding the Respondent's client accounts during the first investigation leading to the 2017 Settlement Agreement. However, given the Respondent's sworn testimony that there were no other client forgeries other than KO's, IIROC Staff had no reason to look further at the remaining client information gathered during the first investigation. IIROC Staff went back and looked at the information gathered as part of its second investigation regarding the matters at issue in this hearing as it was entitled to do.

d. Enforcement Counsel noted that the Respondent did not provide further particulars regarding the issues raised in paragraph 1 of the Response, there was no evidence led to support any of the issues, and the Respondent did not attend the hearing to put forward any submissions regarding those issues or of any potential bias or prejudice to the Respondent.

¶ 272 The Panel found that these other issues raised by the Respondent were not supported by any evidence or submissions by the Respondent.

SANCTION HEARING AND SUBMISSIONS

¶ 273 The Panel directed that a sanction hearing be set upon delivery of these written Reasons and notice to the Respondent.

¶ 274 The Panel thanked Enforcement Counsel for his helpful submissions and all participants who assisted with the hearing process.

Dated at Vancouver, British Columbia on August 18, 2021.

Linda J. Murray

William Wright

Johannes van Koll