

Re DiCostanzo

IN THE MATTER OF:

The Rules of the Investment Industry Regulatory Organization of Canada

and

Neil DiCostanzo

2021 IIROC 32

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

Heard: December 22, 2021 via videoconference

Hearing Panel:

The Hon. Karen Weiler, M.C., O.Ont., Stuart Livingstone, Steven Garmaise

Appearances:

April Engelberg, Enforcement Counsel

Kathryn Andrews, Senior Enforcement Counsel

Neil DiCostanzo, self-represented (present)

RULING AND ORDER ON RESPONDENT’S REQUEST TO EXTEND THE TIME TO FILE WRITTEN SUBMISSIONS

¶ 1 Following the hearing on the merits, the parties agreed to make their submissions in writing to the panel. While Enforcement Counsel filed their submissions in a timely manner, the Respondent did not file his written submissions on the agreed date, which was December 7, 2021.

¶ 2 This hearing was convened at the Panel’s request to give the Respondent an opportunity to address his default. The Respondent attended and requested an extension of time to file his written submissions and asked for “as much time as you can give me.” He indicated that he wished to have the assistance of legal counsel in formulating his written submissions. He also asked that a portion of the hearing be closed to the public as he wished to put forward personal information as to why a lengthy extension to file written submissions would be appropriate. Enforcement Counsel did not oppose the request and advised the Panel it had a discretion to make the order requested.

¶ 3 The Panel exercised its discretion pursuant to Rule 8203(5)(iii) and ordered that part of the hearing held today be held *in camera* or closed to the public on the basis that the desirability of avoiding disclosure of the personal information outweighed the desirability of a public hearing.

¶ 4 Enforcement Counsel agreed to an extension of time for the Respondent to file written submissions and suggested that the time be extended to January 31, 2022.

¶ 5 After conferring and having regard to the Respondent’s personal circumstances, the Panel decided to grant the Respondent an extension of time to file written submissions, with or without counsel, to March 15, 2022. The Panel explained to the Respondent that this was a final order and that, if the Respondent chose to

engage counsel to assist him in filing written submissions, counsel was bound by the extension and had to file written submissions on the Respondent's behalf by March 15, 2022. The Panel further explained that no further extensions would be granted beyond March 15, 2022 for any reason. The Panel also made clear to the Respondent that in the event he did not file his written submissions by March 15, 2022, the Panel would proceed to consider the evidence and the written submissions that have been filed and to render a decision.

¶ 6 The Panel also suggested the date of March 22, 2022 for Enforcement Counsel to file a Reply, if necessary, to which Enforcement Counsel agreed.

ORDER

¶ 7 It is hereby ordered that the personal information disclosed by Mr. DiCostanzo during the non-public portion of the proceeding be redacted pursuant to IIROC's *Policy Regarding the Use and Disclosure of Personal Information in IIROC Disciplinary Proceedings* and the remainder made public.

¶ 8 It is hereby ordered that the time for the Respondent to file his written submissions is extended to March 15, 2022. This order is peremptory to the Respondent, which means that after March 15, 2022 there will be no further opportunity for postponement by the Respondent. If the Respondent's written submissions have not been filed, his default will be noted and the Panel will proceed without his written submissions.

¶ 9 In the event that it is necessary for Enforcement Counsel to file a response to written submissions filed by the Respondent, the time for filing a Reply, if any, is extended to March 22, 2022.

Dated at Toronto, Ontario, this 22 day of December 2021.

Karen Weiler

Stuart Livingston

Steve Garmaise

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