

January 7, 2015

Sent via E-mail

Josée Turcotte
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
PO Box 55, Suite 1900
Toronto, ON M5H 3S8

Dear Ms. Turcotte:

Re: Notice of Requests for a Stay and Hearing and Review of the Decision of the Director dated January 5, 2015, in the matter of Christopher Reaney

We act for Christopher Reaney.

On or about December 17, 2014, Staff of the Ontario Securities Commission (the "Commission") advised Mr. Reaney that it was reviewing Mr. Reaney's suitability for ongoing registration under the *Securities Act* (the "Act"). On or about August 14, 2014, Staff recommended to the Director that, among other things, the registration of Mr. Reaney be suspended. Mr. Reaney exercised his right to an opportunity to be heard (the "OTBH") pursuant to s. 31 of the Act. The OTBH was conducted in person on December 16, 2014.

On January 5, 2015, the Deputy Director, Marianne Bridge, issued her decision (the "Director's Decision") in which she determined as follows.

- A. The registration of Mr. Reaney is suspended for a period of six months. The suspension term begins 10 business days after the date of the decision and continues for a period of six months.
- B. In the 10 business day period prior to the suspension term commencing, Mr. Reaney is not permitted to accept any new clients, open any new client accounts, or accept any new funds into an existing client's account.
- C. If Mr. Reaney complies with paragraphs A and B above, then upon Mr. Reaney reapplying for registration in the future with a registered mutual fund dealer, Staff of the Compliance and Registrant Regulation branch of the Commission will not recommend to

the Director that his application be refused unless Staff becomes aware after the date of this OTBH of conduct impugning Mr. Reaney's suitability for registration, provided the following conditions are met.

- i) Mr. Reaney meets all other applicable criteria for registration at the time he applies for registration, and
- ii) Mr. Reaney's registration on reinstatement is subject to the following terms and conditions for a period of one year:
 - a) Mr. Reaney will be under strict supervision as that term is commonly understood by his sponsoring firm;
 - b) if Mr. Reaney processes a transaction for a client using a document that is signed or initialled by a client and that is not the original version of the document, Mr. Reaney must deliver the original document to his sponsoring firm within one week of the transaction to permit the firm to verify the authenticity of the copied document, including whether the copied document was created using a pre-signed form; and
 - c) Mr. Reaney may not use a limited trading authorization for any of his clients.

A copy of the Director's Decision is attached as Schedule A.

As Mr. Reaney is directly affected by the Director's Decision, please accept this letter as a formal request for:

1. A hearing and review of the Director's decision pursuant to subsection 8(2) of the Act; and
2. A stay of the Director's decision pending the disposition of the hearing and review pursuant to subsection 8(4) of the Act.

The grounds for the request for a hearing and review are as follows.

- A. The Director's decision lacks adequate reasons to explain the basis for the serious findings allegedly warranting a six-month term of suspension.
- B. The Director erred in finding, on the record before her, that Mr. Reaney currently lacks the requisite integrity for registrants.
- C. The Director erred in failing to give due consideration and weight to the evidence submitted by Mr. Reaney for the OTBH, and in some instances failed to give any consideration to the evidence submitted by Mr. Reaney for the OTBH.

- D. The Director erred in failing to give due consideration and weight to the evidence submitted by Mr. Reaney for the OTBH, and in some instances failed to give any consideration to the evidence submitted by Mr. Reaney for the OTBH.
- E. The Director erred in her emphasis on the need for general deterrence. Further, the Director erred in finding that general deterrence required a six-month suspension of Mr. Reaney.
- F. The Director erred in failing to apply relevant prior decisions of a director and/or the Commission regarding the applicable principles of integrity and suitability for registration.
- G. Such further and other grounds as counsel may advise and the Commission may permit.

The grounds for the request for a stay are:

- A. Mr. Reaney is currently registered as a dealing representative with IPC Investment Corporation. He has had an active business since 1996.
- B. Staff did not seek the imposition of terms of and conditions on the registration of Mr. Reaney in the year between the commencement of the investigation and the OTBH. During that time, Mr. Reaney discharged his professional obligations without incident.
- C. There is no evidence that the public is currently at risk from Mr. Reaney. The Director's Decision expressly found that Mr. Reaney had successfully passed the Conduct and Practices Handbook course in November of 2014, was remorseful for his past actions, and "is unlikely to repeat this misconduct in the future."
- D. This request for hearing and review raises serious issues to be tried.
- E. The hearing and review would be rendered moot if Mr. Reaney was required to serve some or all of his term of suspension while waiting for his hearing and review.
- F. If Mr. Reaney was successful in whole or in part on the hearing and review, Mr. Reaney would suffer irreparable harm if the stay were not granted.
- G. In the circumstances, it is in the public interest to grant a stay of the Director's Decision pending the disposition of the hearing in review.
- H. Such further and other grounds as counsel may advise and the Commission may permit.

Given that the Director's Decision takes effect immediately, with the suspension set to begin on January 19, 2015, we request that Mr. Reaney's request for a stay be heard by the Commission on an urgent basis.

Should you have any questions, please do not hesitate to contact me.

Yours truly,

A handwritten signature in black ink, appearing to read 'J. Braden', with a long horizontal flourish extending to the right.

Johanna Braden
JB/cp
Encl.

cc. Mark Skuce - Ontario Securities Commission
Marriane Bridge - Ontario Securities Commission

SCHEDULE "A"

In the Matter of Staff's Recommendation to Suspend the Registration of Christopher Reaney

Opportunity to be heard by the Director Under Section 31 of the *Securities Act* (Ontario)

Decision

1. For the reasons outlined below, my decision is as follows:

- a. The registration of Christopher Reaney (**Reaney**) is suspended for a period of six months. The suspension term begins 10 business days after the date of this decision and continues for a period of six months.
- b. In the 10 business day period prior to the suspension term commencing, Reaney is not permitted to accept any new clients, open any new client accounts, or accept any new funds into an existing client's account.
- c. If Reaney complies with paragraphs a. and b. above, then upon Reaney reapplying for registration in the future with a registered mutual fund dealer, staff (**Staff**) of the Compliance and Registrant Regulation Branch (CRR) of the Ontario Securities Commission (**OSC** or **Commission**) will not recommend to the Director that his application be refused unless Staff becomes aware after the date of this opportunity to be heard of conduct impugning Reaney's suitability for registration, provided the following conditions are met:
 - i. Reaney meets all other applicable criteria for registration at the time he applies for registration, and
 - ii. Reaney's registration on reinstatement is subject to the following terms and conditions for a period of one year (a) Reaney will be under "strict supervision" (as that term is commonly understood) by his sponsoring firm, (b) if Reaney processes a transaction for a client using a document that is signed or initialled by a client and that is not the original version of the document, Reaney must deliver the original document to his sponsoring firm within one week of the transaction to permit the firm to verify the authenticity of the copied document, including whether the copied document was created using a pre-signed form, and (c) Reaney may not use a limited trading authorization for any of his clients.

Background

2. Reaney has been registered as a salesperson or mutual fund dealing representative with various sponsoring firms since 1996.
3. On October 21, 2013, the Mutual Fund Dealers Association (MFDA) sent a letter to Reaney related to his admission to obtaining 10 blank signed forms from his clients, as well as falsifying the signature of his clients on 24 documents. The forms in question were comprised of know your client forms and trading forms and were dated between August 2007 and September 2012. The MFDA letter stated in part:

Enforcement Staff is of the view that there is sufficient evidence to support a finding of breach of MFDA Rule 2.1.1(b), which states that... each Approved Person of a Member shall observe high standards of ethics and conduct in the transaction of business... While your conduct set out above is a serious matter... the MFDA has decided that it will not initiate formal disciplinary proceedings against you in this case. The MFDA is sending you this letter as a warning to ensure that there will be no similar breaches... in the future... Please note that this letter is being copied to the Ontario Securities Commission.

4. Although the MFDA is responsible for ensuring compliance with its own by-laws and rules, the Commission is responsible for assessing the suitability of mutual fund dealing representatives for registration under the *Securities Act* (Ontario) (Act). After investigation, by letter dated August 14, 2014, Staff advised Reaney that Staff had recommended to the Director that:
 - a. the registration of Reaney be suspended for a period of nine to 12 months,
 - b. should Reaney seek registration in the future, he must first successfully complete the *Conduct and Practices Handbook Course* (CPH), and
 - c. if Reaney is registered in the future, his registration will be subject to prescribed terms and conditions for a period of one year.

Suspension required?

15. During the OTBH, Reaney's counsel referred to Staff's requested period of suspension as being lengthy, not warranted in these circumstances, and "over-the-top" disproportionate to Reaney's admitted misconduct. She also argued that a lengthy period of suspension would be professionally and financially devastating to Reaney. Lastly, she argued that "[T]he errors in judgement were, in [Reaney's] own words, serious, but, again, he was motivated by a desire to assist his clients, to make their lives easier, to bother them less." I believe that the statement made by a hearing panel of what was then the Investment Dealers Association of Canada in the *Re Hugh Cairns Bell* is applicable here:

Forgery is always serious. It is unequivocally condemned because it is a fundamentally dishonest and dangerous. Any act of forgery is a step onto a steep and slippery slope of deception that is always potentially harmful to clients and actually harmful to the... securities industry as a whole.

16. In my view, a period of suspension is appropriate for the misconduct engaged in by Reaney over an extended period of time. I agree with Director Blumberger's words in *Re Anna Pyasetsky* (2012) 35 OSCB 2092 where he stated that "[I]n my view, terms and conditions are not appropriate for cases involving forgery". Reaney's counsel argued that this was a case of false endorsement (where a registrant signs on behalf of a client with the client's knowledge and consent), rather than a forgery case (where a registrant signs on behalf of a client without the client's knowledge and consent). With respect, I disagree. This case involves what was characterised by Reaney's counsel as false endorsement, as well as forgery. It also involves the use of pre-signed forms and false attestations by Reaney to his sponsoring firm. In my view, given all the facts and circumstances of this case, the appropriate sanction for Reaney is a shorter suspension period than recommended by Staff (for the reasons set out in this decision), plus prescribed terms and conditions on his registration should Reaney choose to re-register after his suspension.

Suspension period shortened to six months

17. I shortened the suspension period to six months from the nine to 12 months recommended by Staff. In my view, I was able to distinguish this case from the precedents provided by Staff. For example, in *Re Cyril Obasi* (2011) 34 OSCB 3012, Obasi was found to have forged the signatures of two clients, then asking his clients to cover up for his misconduct by lying to his sponsoring firm. In addition, Obasi lied to Staff when questioned about the forgery. Obasi's registration was suspended for nine months.
18. In *Re Riccardo Alberto Dipronio* (2011) 34 OSCB 6345, Dipronio was found to have opened a mutual fund account for a client and to have used funds to purchase mutual funds for that account, all without his client's consent. Under a settlement agreement with Staff, Dipronio's registration was suspended for a period of nine months.
19. Lastly, in *Re Kevin Duffy* (2014) 37 OSCB 9409, Duffy was found to have used pre-signed forms on numerous occasions. In three reviews of his practice (2008, 2010 and 2013), Duffy's sponsoring firm found him using blank pre-signed forms. Following every review, Duffy signed an undertaking to his firm that he would review all client files and destroy any blank pre-signed forms, and that he would not use pre-signed forms at any time in the future. In addition, the MFDA sent Duffy a warning about using pre-signed forms in 2014. Under a settlement agreement, Duffy agreed not to reapply for the reinstatement of his registration for a minimum period of nine months from the date of his termination with his sponsoring firm.
20. In my view, Reaney's misconduct did not rise to the level of the misconduct in any of these three cases. All but one of Reaney's clients contacted by Staff authorised him to sign various client documents or were aware that Reaney was signing documents on their behalf. While signing clients' names to documents is clearly reckless, lackadaisical and dishonest conduct that clearly seriously impugns Reaney's integrity, in my view, it did not rise to the level of Obasi's misconduct because it did not involve lying to Staff or asking clients to lie on his behalf. Nor did it involve actual client harm as in the Dipronio case or being "caught" three times and still using blank pre-signed forms as in the Duffy case.

General vs. specific deterrence

21. In my view, this decision strikes the appropriate balance between general and specific deterrence.

22. With respect to specific deterrence, Reaney has been suspended for six months and will be subject to strict supervision (and other terms and conditions) on re-registration. Reaney's misconduct occurred over a number of years. MFDA Rule 2.3 prohibits its Members or any approved person from having discretionary trading authority over a client account. Maintaining pre-signed investment instruction forms could facilitate trading on a discretionary basis or could be used to facilitate fraudulent acts. In addition, his sponsoring firm issued a compliance bulletin prohibiting the use of blank, pre-signed and photocopied forms in June 2011 and the sponsoring firm's policies and procedures starting in approximately 2008 had a strict prohibition against blank pre-signed client forms. Lastly, the firm's questionnaire had a specific question regarding the use of blank pre-signed or pre-signed forms, which Reaney responded to incorrectly. In my view, these are aggravating factors which call for specific deterrence sanctions against Reaney. With respect to mitigating factors, Reaney responded truthfully and completely to requests for information from his sponsoring firm, the MFDA and Staff. In addition, he admitted to his misconduct and he appeared to me to be remorseful for his misconduct. In my view, he is unlikely to repeat this misconduct in the future.
23. With respect to general deterrence, I believe the six month suspension will serve as adequate general deterrence for registrants who are considering engaging in similar misconduct. Falsifying client signatures and the use of blank pre-signed forms is misconduct that directly seriously impugns the integrity of registered individuals. In addition, providing incorrect information to the registered individual's sponsoring firm which inhibits the sponsoring firm from effectively supervising the registered individual and from meeting its obligation to report the use of blank, pre-signed or photocopied forms to the MFDA, is also misconduct that seriously impugns the integrity of registered individuals.

Amendment to terms and conditions recommended by Staff on re-instatement of registration

24. I amended the terms and conditions requested by Staff to include a provision that should Reaney apply for registration in the future, provided he complied with the terms I've imposed related to the misconduct described in this decision, Staff would not recommend to the Director that his application be refused unless Staff becomes aware after the date of the OTBH of further misconduct impugning Reaney's suitability for registration. In addition, Reaney's will have strict supervision terms and conditions attached to his registration for a period of one year following his reinstatement of registration. In my view, this amended term and condition was necessary in order to ensure that Reaney's misconduct as described in this decision is not used again to assess his suitability for registration. In my view, this decision adequately deals with the misconduct identified by Staff prior to the date of the OTBH and as outlined in this decision. However, Reaney is on notice that should Staff identify similar misconduct after the date of the OTBH, Staff will use the misconduct identified in this decision, together with any further misconduct identified to assess his suitability for registration.



"Marianne Bridge", FCPA, FCA
Deputy Director, Compliance, Strategy and Risk
Compliance and Registrant Regulation Branch
Ontario Securities Commission
Dated: January 5, 2015