

# ALBERTA SECURITIES COMMISSION

## ORDER

**Citation: Re O'Brien, 2020 ABASC 76**

**Date: 20200604**

**Michael Francis O'Brien**

### **Appeal of Investment Industry Regulatory Organization of Canada Decision**

#### **Background**

1. On May 27, 2020, the Alberta Securities Commission held a hearing by videoconference of an appeal (the **Appeal**) filed by Michael Francis O'Brien (**O'Brien**) on January 27, 2020 (amended March 31, 2020) from decisions of the Investment Industry Regulatory Organization of Canada (**IIROC**) dated December 31, 2019 (amended January 15, 2020) (the **IIROC Liability Decision**) and March 26, 2020 (the **IIROC Penalty Decision**).
2. For the reasons set out in the IIROC Liability Decision, O'Brien was found to have contravened two IIROC Dealer Member Rules as alleged by IIROC enforcement staff in a Notice of Hearing and Statement of Allegations issued on February 21, 2019:

#### **Contravention 1**

Between May and September of 2017, [O'Brien] engaged in personal financial dealings with a client, without the knowledge or approval of his firm, contrary to Dealer Member Rule 43.

#### **Contravention 2**

In September 2017 and April 2018, [O'Brien] made misleading representations regarding client dealings, contrary to Dealer Member Consolidated Rule 1400.

3. For the reasons set out in the IIROC Penalty Decision, IIROC:
  - (a) prohibited O'Brien's registration with an IIROC Dealer Member firm for two years (the **Suspension**);
  - (b) ordered O'Brien to pay IIROC a fine of \$100,000 (the **Fine**) and costs of \$20,000;
  - (c) ordered O'Brien to rewrite and pass the Conduct and Practices Handbook examination following the conclusion of the Suspension; and

- (d) ordered that O'Brien be subject to strict supervision for the first 18 months following his re-entry to the investment industry

(collectively, the **IIROC Penalty Order**).

**Order**

4. On reading the record of the proceedings before IIROC, the IIROC Liability Decision, the IIROC Penalty Decision, and the written submissions of the parties on this Appeal, and on hearing the oral submissions of the parties at the hearing of this Appeal, pursuant to ss. 36 and 73 of the *Securities Act* (Alberta), it is ordered that:

- (a) the Appeal is allowed in part for reasons to be issued in writing;
- (b) the IIROC Penalty Order is varied as follows:
  - (i) the Suspension is reduced from a period of two years to a period of nine months commencing March 26, 2020 and ending December 26, 2020; and
  - (ii) the Fine is reduced from \$100,000 to \$50,000; and
- (c) all other aspects of the IIROC Penalty Order are confirmed.

June 4, 2020

**For the Commission:**

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"original signed by"  
Tom Cotter

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"original signed by"  
Kari Horn