

APPLICATION FOR HEARING AND REVIEW

IN THE MATTER OF

JOSEPH DEBUS

APPLICATION

(For Hearing and Review of a Decision Under Section 21.7 of the *Securities Act*, RSO 1990, c S. 5)

A. ORDERS SOUGHT

The Applicant, JOSEPH DEBUS, requests that the Ontario Securities Commission (“the Commission”) make the following order(s):

1. An Order that The Commission conducts a hearing to review the decision of the Hearing Panel (the “Panel”) at the Investment Industry Regulatory Organization of Canada (IIROC) in regards to the following allegations and findings:
 - a. The Applicant improperly recommended that two clients purchase shares in My Screen outside their firm accounts without disclosing these recommendations to his firm (contrary to Rule 29.1 – Business Conduct);
 - b. Applicant effected unauthorized trades in two clients’ accounts (contrary to Rule 29.1 – Business Conduct);
 - c. The Applicant engaged in discretionary trading in a client’s non-discretionary account (contrary to Rule 1300.4(c) – Supervision of Accounts); and
 - d. The Applicant failed to use due diligence to ensure recommendations were suitable for a particular client (contrary to Rule 1300.1 (q) – Suitability Determination).

2. An Order that that The Commission conducts a hearing to review the decision of the Hearing Panel (the “Panel”) at the Investment Industry Regulatory Organization of Canada (IIROC) in regards to the penalty sanctions:
 - a. a fine of \$40,000.00 in relation to Contravention 1;
 - b. a fine of \$20,000.00 in relation to Contraventions 2 and 3;
 - c. disgorgement to IIROC of \$10,000.00 in relation to the net profit arising from Contraventions 2 and 3;
 - d. a fine of \$5,000.00 in relation to Contravention 4;

- e. a suspension of nine months from approval by, or registration with, IIROC in all categories anywhere in the industry;
- f. the Respondent shall re-write and pass the Conduct and Practices Handbook examination within six months of re-registration with IIROC;
- g. the Respondent pay to IIROC costs in the amount of \$30,000.00; and
- h. the Respondent further requests an immediate stay of the Penalty Sanctions of the Panel until the outcome of the hearing before the Commission.

B. GROUNDS

The grounds for the request and the reasons for seeking a hearing and review are:

1. The Panel made numerous errors of law and findings of fact in arriving at their decision;
2. The Panel ignored and misconstrued critical evidence, including evidence of financial hardship;
3. The Panel made adverse findings of credibility without proper evidence to support their findings, and also relied on erroneous and improper evidence in support of their credibility findings;
4. The Panel erred in finding that the Applicant recommended that clients purchase shares upon the recommendation of the Applicant when the Applicant did not disclose this to his firm. The Panel's finding is unsupported by the evidence;
5. The Panel erred in finding that the Applicant engaged in unauthorized and discretionary trading in contravention of Rule 29.1 – Business Conduct and Rule 1300.4(c) – Supervision of Accounts. These findings by the Panel are unsupported by evidence;
6. The Panel made egregious errors in regard to the issue of suitability in contravention of Rule 1300.1 (q) – Suitability Determination including accepting IIROC's position instead of relying on the evidence of what the member firm's determination of suitability in the circumstances;
7. There were serious breaches of natural justice and procedural fairness at the hearing that prevented the Applicant from having a fair hearing. These include untimely disclosure of critical and voluminous evidence to the Applicant, denying the Applicant access to all relevant evidence which prevented him from being able to fully respond to the allegations, as well as denying the Applicant sufficient time in order to review and respond to voluminous disclosure produced during the hearing;

8. The Applicant received ineffective assistance of previous counsel, a paralegal who did not have the experience nor expertise to represent the Applicant at the hearing;
9. The sanctions imposed are inappropriate and excessive and did not take into consideration the personal financial and other circumstances of the Applicant;
10. The Applicant does not present a threat to investors in the community;
11. The Applicant is under supervision and has been for the past several years without incident;
12. The Applicant will suffer grave harm and prejudice if he is unable to provide financially for his young family that includes three children in school; and
13. Such other and further grounds as the Applicant may advise.

C. DOCUMENTS AND EVIDENCE

The Applicant intends to rely on the following documents and evidence at the hearing:

1. The decision that is the subject of the request for a hearing and review and the related reasons;
2. The application or other documents by which the original proceeding was commenced;
3. Any interim orders made in the original proceedings;
4. Any documentary evidence filed in the original proceedings, subject to any limitation expressly imposed by any statute, regulation or rules;
5. Any other relevant documents in the original proceedings;
6. Any transcript of the oral evidence given at the original hearing; and
7. Other evidence that may assist the Commission in reviewing the decision including evidence from a fresh evidence application.

DATED this 27th day of August, 2019

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