

# Re Hodge

IN THE MATTER OF:

**The By-Laws of the Investment Dealers Association of Canada (IDA)**

**and**

**The Dealer Member Rules of the  
Investment Industry Regulatory Organization of Canada (IIROC)**

**and**

**Craig Hodge**

2013 IIROC 31

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

Heard: May 7, 2103

Decision: May 18, 2013

**Hearing Panel:**

Terrance Sweeney – Chair, Mary Savona and Terry Bourne

**Appearances:**

Kathryn Andrews, Senior Enforcement Counsel, IIROC

Kenneth Lo, Investigator, IIROC

Mr. Craig Hodge did not appear nor was he represented by Counsel

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## DECISION OF THE HEARING PANEL

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### **BACKGROUND**

¶ 1 We were constituted as a Hearing Panel of the Ontario District Hearing Committee of the Investment Industry Regulatory Organization of Canada (IIROC) to consider a complaint against Craig Hodge (the “Respondent”).

¶ 2 By a Notice of Hearing dated February 7, 2013, IIROC alleged that the Respondent had contravened IIROC Rules as follows:

COUNT 1: From January 2003 to November 2009, while a Registered Representative and Branch Manager at Assante Capital Management Ltd., Craig Hodge engaged in outside business activities without the prior knowledge or consent of his Member firm, thereby engaging in conduct unbecoming or detrimental to the public interest, contrary to IIROC Dealer Member Rule 29.1 (IDA By law 29.1 prior to June 1, 2008.)

COUNT 2: From December 2009 to April 2011, while a Registered Representative and Supervisor at IPC Securities Corporation, Craig Hodge engaged in outside business activities without the prior knowledge or consent of his Member firm, thereby engaging in conduct unbecoming or detrimental to the public interest, contrary to IIROC Dealer Member Rule 29.1.

COUNT 3: In 2008 Craig Hodge offered compensation to EM, thereby engaging in conduct unbecoming or detrimental to the public interest, contrary to IIROC Dealer Member Rule 29.1 (IDA By law 29.1 prior to June 1, 2008.)

¶ 3 The Respondent was duly served with the Notice of Hearing<sup>1</sup> but did not file a Response or appear at the hearing on May 7, 2013.

¶ 4 In these circumstances,<sup>2</sup> the Hearing Panel may accept as proven the facts alleged and conclusions drawn by IIROC Staff in the Notice of Hearing. Those facts and conclusions are set out fully in the Notice of Hearing and will not be repeated here.

¶ 5 Accordingly, the Chair advised Counsel for IIROC that she had proven her case against the Respondent, on a balance of probabilities, and invited her to submit recommendations as to the appropriate penalty against the Respondent.

### **PENALTY SUBMISSIONS**

¶ 6 Counsel for IIROC filed a Brief of Authorities which included IIROC's Disciplinary Sanction Guidelines. She referred to the Guidelines in addressing the Hearing Panel as to the appropriate penalty which should be levied.

¶ 7 Ms. Andrews listed and grouped the relevant factors which should be considered as follows:

A. Aggravating Factors:

- i. Mr. Hodge was a Registered Representative and a Branch Manager at Assante. He was a Registered Representative and a Supervisor at IPC. He knew, therefore, that it was wrong of him to effect trades on behalf of EM at outside discount brokers. Moreover, he deceived the Member firms by hiding his activities from them.
- ii. The Respondent's activities on behalf of EM extended over a long period of time and resulted in at least \$430,000.00 in losses for EM from January 2007 to April 2011.
- iii. The Respondent did not demonstrate any remorse.
- iv. The Respondent used the computer of IPC during its business hours to make his trades when he should have been supervising others.
- v. The Respondent engaged in options trading and short sales at the discount brokers when he was not licensed to do so and when he knew that Assante did not permit short selling.

B. Mitigating Factors:

- i. The Respondent received no financial benefit from his trading activities on behalf of EM.
- ii. The Respondent attended two meetings with IIROC Staff during which he admitted to the three counts against him and generally cooperated with Staff.
- iii. The Respondent had no prior disciplinary record.

¶ 8 Counsel requested that the following penalties be imposed against the Respondent:

- (1) A fine of \$45,000 with respect to Count 1;
- (2) A fine of \$30,000 with respect to Count 2;
- (3) A fine of \$10,000 with respect to Count 3;
- (4) The Respondent shall be suspended from registration with IIROC in all capacities for one year;

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<sup>1</sup> Exhibit 1

<sup>2</sup> IIROC Rules 7.2 and 13.5

- (5) The Respondent shall be subject to a 12 month period of strict supervision, upon any return to the industry;
- (6) The Respondent shall rewrite the Conduct and Practices Handbook examination, upon any return to the industry;
- (7) The Respondent shall pay a portion of the costs of the investigation and prosecution, in the amount of \$5,000.<sup>3</sup>

¶ 9 After Counsel had completed her submissions, the Hearing Panel retired to consider its verdict. On its return to the hearing room, the Chair advised Counsel that the Hearing Panel had acceded to her request and would sign an Order to that effect. The Chair advised that brief Reasons would follow.

### **REASONS**

¶ 10 The Hearing Panel is acutely aware of the need to protect the investing public, IIROC's processes, its Members, and the integrity of the securities markets.

¶ 11 It must fashion a penalty which reflects its disdain for such behavior and will deter others who might engage in the type of activities which the Respondent did.

¶ 12 The Respondent knew what he did was wrong. Yet he continued to flaunt IIROC's Rules for years. He deceived the Member firms about his activities and robbed them of the ability to monitor him. This undermines public confidence in the securities markets.

¶ 13 The Hearing Panel noted the mitigating factors. It is important that the penalty punish the Respondent but not deprive him of the possibility of reentering the securities business, if he so wishes. If he were to do so, he has to be stringently supervised for a period of time.

¶ 14 Accordingly, the members of the Hearing Panel agreed that the suggested penalties were in the realm of appropriateness in this case and we so informed Counsel.

Dated at Toronto, Ontario this 18<sup>th</sup> day of May 2013.

Terrance A. Sweeney, Chair

Mary Savona, Panel Member

Terry Bourne, Panel Member

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<sup>3</sup> Exhibit 5, Affidavit of Ricki Ann Newmarch