

**IN THE MATTER OF
ALVIN JONES (APPLICANT)**

APPLICATION

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

A. ORDER SOUGHT

The Applicant, Alvin Jones, request(s) that the Ontario Securities Commission make the following order(s):

1. The setting aside of the penalty imposed on the Applicant by the IIROC Hearing Panel (Ontario District) made on December 10, 2020, whereby the Applicant was fined \$17,500.00, his license as a broker suspended for 2 months, disgorgement of \$500.00, a requirement to rewrite CPH Examination or any reregistration, and costs of \$5,000.00.

B. GROUNDS

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

2. The Applicant's employment with Manulife was terminated as of April 17, 2018, being the date Manulife determined unilaterally that the Applicant had not reported an outside business activity to its principals, being Manulife. Manulife then offered the complainant, Ms. Mulligan, \$100,000.00 to settle her matter, which she accepted, and Mr. Rosso \$50,000.00 to settle his matter with Manulife, which he did not accept.
3. Mr. Jones, at 65 years old, having no prospect of gainful employment and left impecunious because of the employment termination, was fined by the Tribunal Hearing in this matter in an amount, together with costs, which would put him into bankruptcy if he was compelled to pay the same. The finding of guilt for not having reported on a one-time basis over a 15 plus year career in the financial services industry is an extremely rare occurrence, and in fact there are no similar cases that have been tried in the past by IIROC with this one-off situation.
4. In fact, IIROC's counsel on the penalty submissions quoted from cases that

involved more than one alleged transaction, including not reporting, and had factual patterns that usually entailed losses to the clients of substantial monies which they never recovered, which is not the case in this situation. In fact, the Applicant submits there is no precedent or case of this kind where there was one act of non-reporting which was pursued to conviction and sentenced accordingly thereafter. Certainly, IIROC's counsel did not refer to such a case in making submissions to the panel.

5. The Applicant has now been punished twice for his non-reporting action. The first time, he was unilaterally terminated from employment of 15 years without any opportunity to defend himself or to address the issue of mitigating his losses. This termination resulted in the Applicant becoming unemployed and unemployable. The second being found having failed to report an outside activity for which he has been fined.
6. The Panel acknowledged the Applicant's inpecuniosity because they were given financial material which substantiated the Applicant's only source of income was his government pension and he had no other savings or sources of income. Yet the Applicant was penalized in an amount which basically more than tripled his basic income level if costs are included.
7. There was little or no reason to punish the Applicant in the manner and fashion meted out by the Tribunal Panel, given his financial circumstances and the activity complained of. There is nowhere it is written that if a person has been driven into poverty because of his inappropriate actions, such as the Applicant, he should be treated by the Tribunal hearing the matter harshly and punished severely; notwithstanding he is inpecunious.
8. The Applicant was not given an opportunity to cross-examine any of the complainants as they refused to give testimony, so that all of the evidence in its entirety was hearsay evidence, which of course meant that there could not possibly have been a process one could call "a fair hearing". The Applicant makes this point only to indicate that the whole process had an air of unfairness and unreasonableness in terms of allowing the Applicant the opportunity to have a fair hearing. He accepts the determination of the panel with respect to his guilt, but not as to the sentence imposed by way of fines and costs.

C. DOCUMENTS AND EVIDENCE

The Applicant intend(s) to rely on the following documents and evidence at the hearing:

9. The Applicant intends to rely on the following documents and evidence:
 - (a) the decision that is the subject of the request for a hearing and review and the related reasons;
 - (b) the Statement of Allegations, dated June 17, 2019, by which the original proceeding was commenced;
 - (c) Affidavit of Alvin Rupert Jones sworn November 4, 2020; and
 - (d) Notice of Termination from Manulife, dated April 17, 2018;
 - (e)
 - (f)
 - (g)
 - (h)
 - (i)

DATED this 24 day of December, 2020.

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