

DISCIPLINARY COMMITTEE
CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

CANADA
PROVINCE OF QUEBEC

N°: CD00-1335

DATE : May 25, 2020

THE COMMITTEE:	M ^e George R. Hendy	President
	M ^{me} Dyan Chevrier, A.V.A., Pl. Fin.	Member
	Mr. Antonio Tiberio	Member

ISABELLE DESMARAIS, in her capacity as assistant syndic of the Chambre de la sécurité financière

Plaintiff

v.

ATUL KAPOOR (certificate 175870, NRD 2132141)

Respondent

DECISION REGARDING GUILT AND SANCTION

IN ACCORDANCE WITH ARTICLE 142 OF THE *PROFESSIONAL CODE*, THE COMMITTEE RENDERS THE FOLLOWING ORDER:

- **Order of non-disclosure, non-publication and non-release of the names of any clients who are contemplated or involved in the Complaint herein, as well as any information which might enable their identification.**

[1] On January 28, 2019, the Disciplinary Committee of the Chambre de la sécurité

financière (the “Committee”) met at the offices of the Tribunal administratif du travail, located at 35 Port Royal Street West, suite 2.35, in Montréal, for the hearing of a disciplinary complaint (the “Complaint”) against the Respondent, the original and translated versions of which read as follows:

THE ORIGINAL VERSION OF THE COMPLAINT

J.M.C.

1. À Montréal, le ou vers le 7 décembre 2009, l'intimé a demandé l'ouverture du compte CÉLI (fonds communs de placement) numéro #1111111 au nom de J.M.C., sur l'instruction d'un tiers, sans obtenir l'autorisation de la cliente et à son insu, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
2. À Montréal, le ou vers le 7 décembre 2009, l'intimé a permis à un tiers de contrefaire la signature de la cliente J.M.C. sur les formulaires « *Demande d'ouverture de compte fonds commun placement* », « *Demande d'ouverture d'un compte d'épargne libre d'impôt* » et « *Instructions du client* » pour l'ouverture du compte CÉLI (fonds communs de placement) numéro #1111111, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
3. À Montréal, le ou vers le 7 décembre 2009, l'intimé a faussement attesté, par sa signature sur le formulaire obligatoire « *Identification et cueillette de renseignements – En vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* », avoir procédé à la vérification de l'identité de J.M.C. en présence de celle-ci à l'aide de deux pièces d'identité originales, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 13.2 du *Règlement 31-103 sur les obligations et dispenses d'inscription* (RLRQ, c. V-1.1, r. 10), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
4. À Montréal, le ou vers le 7 décembre 2009, l'intimé a permis le dépôt par un tiers d'une somme d'environ 9 707,81 \$ au compte CÉLI (fonds communs de placement) numéro #1111111 de J.M.C., à l'insu de celle-ci, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
5. À Montréal, le ou vers le 7 décembre 2009, l'intimé a fait défaut de recueillir auprès de J.M.C. les renseignements relatifs à sa situation financière et personnelle ainsi que ses objectifs de placement pour déterminer son profil d'investisseur et sa tolérance au risque, avant de procéder au placement des sommes déposées à son compte CÉLI (fonds communs de placement) numéro #1111111,

contrevenant ainsi aux articles 13.2 et 13.3 du *Règlement 31-103 sur les obligations et dispenses d'inscription* (RLRQ, c. V-1.1, r. 10), 2, 3 et 4 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);

6. À Montréal, le ou vers les 7 décembre 2009, l'intimé a accepté d'un tiers les instructions de placement et donné les ordres d'achat de parts de fonds communs de placement d'une valeur de 9 594,23 \$ au compte CÉLI numéro #11111111 de J.M.C., sans obtenir l'autorisation de la cliente, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 2, 11 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
7. À Montréal, le ou vers le 7 décembre 2009, l'intimé a faussement déclaré sur le formulaire « *Instructions du client* » avoir reçu à 15h30, de la cliente en personne, les instructions de placement pour le compte CÉLI numéro #11111111 de J.M.C., contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);

F.A.C.

8. À Montréal, le ou vers le 8 décembre 2009, l'intimé a permis à un tiers de contrefaire la signature du client F.A.C. sur les formulaires « *Demande d'ouverture de compte fonds commun placement* », « *Demande d'ouverture d'un compte d'épargne libre d'impôt* » et « *Instructions du client* » pour l'ouverture du compte CÉLI (fonds commun de placement) numéro #2222222, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
9. À Montréal, le ou vers le 9 décembre 2009, l'intimé a faussement attesté, par sa signature sur le formulaire obligatoire « *Identification et cueillette de renseignements – En vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* », avoir procédé à la vérification de l'identité de F.A.C. en présence de celui-ci à l'aide de deux pièces d'identité originales, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 13.2 du *Règlement 31-103 sur les obligations et dispenses d'inscription* (RLRQ, c. V-1.1, r. 10), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);
10. À Montréal, le ou vers le 8 décembre 2009, l'intimé a faussement déclaré, sur le formulaire « *Instructions du client* », avoir reçu à 14h30, du client en personne, les instructions de placement pour le compte CÉLI (fonds commun de placement) numéro #2222222 de F.A.C., contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);

D.C.

11. À Montréal, le ou vers le 7 décembre 2009, l'intimé a permis à un tiers de contrefaire la signature du client D.C. sur les « *Demande d'ouverture de compte*

fonds commun placement », « *Demande d'ouverture d'un compte d'épargne libre d'impôt* » et « *Instructions du client* » pour l'ouverture du compte CÉLI (fonds commun de placement) numéro #3333333, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1);

12. À Montréal, le ou vers le 7 décembre 2009, l'intimé a faussement attesté, par sa signature sur le formulaire obligatoire « *Identification et cueillette de renseignements – En vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes* », avoir procédé à la vérification de l'identité de D.C. en présence de celui-ci à l'aide de deux pièces d'identité originales, contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 13.2 du *Règlement 31-103 sur les obligations et dispenses d'inscription* (RLRQ, c. V-1.1, r. 10), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1).
13. À Montréal, le ou vers le 7 décembre 2009, l'intimé a faussement déclaré sur le formulaire « *Instructions du client* » avoir reçu à 15h00, du client en personne, les instructions de placement pour le compte CÉLI (fonds commun de placement) numéro #3333333 de D.C., contrevenant ainsi aux articles 160 de la *Loi sur les valeurs mobilières* (RLRQ, c. V-1.1), 10 et 14 du *Règlement sur la déontologie dans les disciplines de valeurs mobilières* (RLRQ, c. D-9.2, r.7.1).

THE TRANSLATED VERSION OF THE COMPLAINT

J.M.C.

1. In Montreal, on or about December 7, 2009, Respondent requested the opening of TFSA account (mutual fund investment) #11111111 in the name of J.M.C. upon the instructions of a third party, without the knowledge or authorization of the client, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
2. In Montreal, on or about December 7, 2009, Respondent permitted a third party to imitate the signature of a client, J.M.C., on the forms entitled "*Demande d'ouverture de compte fonds communs placement*", "*Demande d'ouverture d'un compte d'épargne libre d'impôt*" and "*Instructions du client*" for the opening of TFSA account (mutual funds) #11111111, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
3. In Montreal, on or about December 7, 2009, Respondent falsely attested, by his signature on the mandatory form entitled "*Identification et cueillette de renseignements - En vertu de la Loi sur le recyclage de produits de criminalité et le financement des activités terroristes*", that he verified the identity of J.M.C. in her presence, by way of two original documents confirming her identity, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1), article 13.2, of the *Regulation 31-03 respecting registration requirements, exemptions*

and ongoing registrant obligations (CQLR, c. V-1.1, r. 10) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);

4. In Montreal, on or about December 7, 2009, Respondent permitted the deposit by a third party of the sum of \$9,707.81 in TFSA account (mutual funds investment) #1111111, belonging to J.M.C., without the knowledge of said client, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
5. In Montreal, on or about December 7, 2009, Respondent failed to obtain from J.M.C. the information regarding her personal and financial situation as well as her investment objectives to determine her investor and risk profile before investing the funds deposited in her TFSA account (mutual fund investment) #1111111, thereby contravening articles 13.2 and 13.3 of *Regulation 31-03 respecting registration requirements, exemptions and ongoing registrant obligations* (CQLR, V-1.1, r. 10) and articles 2, 3 and 4 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
6. In Montreal, on or about December 7, 2009, Respondent accepted investment instructions from a third party and issued instructions to purchase mutual funds valued at \$9,594.23 regarding TFSA account #1111111 belonging to J.M.C., without obtaining authorization from the client, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) articles 2, 11 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
7. In Montreal, on or about December 7, 2009, Respondent falsely declared, in a form entitled "*Instructions du client*", having received investment instructions directly from the client at 3:30 p.m. regarding TFSA account #1111111 belonging to J.M.C., thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);

F.A.C.

8. In Montreal, on or about December 8, 2009, Respondent permitted a third party to forge the signature of his client, F.A.C., on forms entitled "*Demande d'ouverture de compte fonds commun placement*", "*Demande d'ouverture d'un compte d'épargne libre d'impôt*" and "*Instructions du client*" for the opening of TFSA account (mutual fund investment) #2222222, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
9. In Montreal, on or about December 9, 2009, Respondent falsely attested, by signing the mandatory form entitled "*Identification et cueillette de renseignements - En vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*", having verified the identity of F.A.C. in his presence, by way of two original documents confirming identity, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1), article 13.2 of *Regulation 31-03*

respecting registration requirements, exemptions and ongoing registrant obligations (CQLR, c. V-1.1, r. 10) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);

10. In Montreal, on or about December 8, 2009, Respondent falsely declared, in a form entitled "*Instructions du client*", having received investment instructions directly from his client, F.A.C., at 2:30 p.m., regarding TFSA account (mutual funds) # 2222222, thereby contravening article 160 of the *Québec Securities Act* (CQLR, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);

D.C.

11. In Montreal, on or about December 7, 2009, Respondent permitted a third party to imitate the signature of client, D.C., on the forms entitled "*Demande d'ouverture de compte de fonds commun placement*", "*Demande d'ouverture d'un compte d'épargne libre d'impôt*" et "*Instructions du client*" for the opening of TFSA account (mutual fund investment) #3333333, thereby contravening article 160 of the *Québec Securities Act* (CLRQ, c. V-1.1) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CLRQ, c. D-9.2, r. 7.1);
12. In Montreal, on or about December 7, 2009, Respondent falsely attested, by signing the mandatory form entitled "*Identification et cueillette de renseignements - En vertu de la Loi sur le recyclage des produits de la criminalité et le financement des activités terroristes*", having verified the identity of D.C. in his presence, by way of two original documents confirming his identity, thereby contravening article 160 of the *Québec Securities Act* (CLRQ, c. V-1.1), article 13.2 of *Regulation 31-03 respecting registration requirements, exemptions and ongoing registrant obligations* (CLRQ, c. V-1.1, r. 10) and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CLRQ, c. D-9.2, r. 7.1);
13. In Montreal, on or about December 7, 2009, Respondent falsely declared, in a form entitled "*Instructions du client*", having received investment instructions, at 3:00 p.m., from his client, D.C., for his TFSA account (mutual funds investment) #3333333, thereby contravening article 160 of the *Québec Securities Act* (CLRQ, c. V-1.1), and articles 10 and 14 of the *Regulation respecting the rules of ethics in the securities sector* (CLRQ, c. D-9.2, r. 7.1).

[2] At the Respondent's request, the Committee drafted this decision in English, as Respondent is more comfortable with the English language.

[3] The Plaintiff was represented at the hearing by M^e Sylvie Poirier, while the Respondent represented himself.

GUILTY PLEA

[4] The Respondent filed a detailed guilty plea dated January 24, 2019 (Exhibit P-24) regarding the 13 counts of the Complaint, which acknowledges the truth of the underlying facts relating to the 13 counts (summarized below) and Respondent's consent to the jointly recommended sanctions which are also more fully enunciated below.

[5] Under questioning by the Committee, Respondent confirmed that he was pleading guilty with full knowledge and appreciation of the consequences, and that he had consulted an attorney before signing the aforesaid guilty plea.

[6] The Committee accepted Respondent's plea of guilt and declared him guilty of all 13 counts of the Complaint. Considering the principle prohibiting multiple convictions for the same conduct, the Committee hereby declares Respondent guilty as follows, and will order a conditional stay of proceedings regarding the legal provisions cited in the Complaint, other than those cited below:

- a) as regards Counts 1, 2, 4, 6, 7, 8, 10, 11 and 13, pursuant to article 160 of the *Québec Securities Act* (CQLR, c. V-1.1);
- b) as regards Counts 3, 9 and 12, pursuant to article 13.2 of *Regulation 31-03 respecting registration requirements, exemptions and ongoing registrant obligations* (CQLR, c. V-1.1, r. 10);
- c) as regards Count 5, pursuant to article 3 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);
- d) the above-cited provisions being the most directly applicable to the offences committed by Respondent.

[7] Following Respondent's guilty plea, the Plaintiff presented the documentary evidence reviewed below detailing the impugned conduct of the Respondent.

PLAINTIFF'S EVIDENCE

[8] The 13 counts herein involved one family and resulted from Respondent's opening of TFSA accounts in December 2009 for three persons (J.M.C., F.A.C. and D.C.) at the request of their father (B.C.), who signed the required forms and issued investment instructions on their behalf, all with the intention of making surprise gifts to his said children, who were not aware of the foregoing, as confirmed in the letter from LBC Financial Services Inc. dated January 12, 2018 (Exhibit P-19). There was no intention whatsoever to defraud the children or to appropriate their funds.

[9] Exhibit P-1 (provided by Plaintiff at the conclusion of the hearing) is the "*Attestation de droit de pratique*" of the Respondent and shows that Respondent was duly registered under the *Québec Securities Act*, through LBC Financial Services Inc., from January 25, 2009 until May 6, 2016, and was therefore subject to the jurisdiction of the *Chambre de la sécurité financière* during that period. He resigned from LBC Financial Services Inc. on May 6, 2016 (Exhibit P-2, page 000004 and P-4), and was re-inscribed as a broker with Desjardins Financial Services Firm Inc. as of February 22, 2017 and remained so until the date of hearing in this case.

Count 1

[10] Exhibit P-5 is the account opening form for TFSA account #11111111 opened for J.M.C., which was signed and initialled (in her name) by her father and countersigned by Respondent on December 7, 2009. Respondent admits that J.M.C. was unaware of the

opening of this account. It appears that J.M.C. was a non-resident of Canada from 2002 to 2012 (Exhibit P-19, page 000133, para. 3).

Count 2

[11] Exhibits P-5 (page 000036) and P-6 (pages 000039 and 000041) are the three forms mentioned in this count and the signatures and initials of J.M.C. therein were in fact inscribed by her father and countersigned by the Respondent on December 7, 2009, as admitted by Respondent.

Count 3

[12] In Exhibit P-7, Respondent falsely attested, by his signature on page 000044, having verified J.M.C.'s social insurance card and driver's permit in her presence.

Count 4

[13] Exhibit P-8 is a record of the deposit of \$9,594.23, on December 7, 2009, by the father of J.M.C., in the account he opened in her name, all without her knowledge. Reference to this deposit also appears in Exhibit P-6, at page 000040.

[14] As this account was opened while J.M.C. was a non-resident of Canada, she received an assessment from the Canada Revenue Agency in March 2016, for the years 2010 and 2011, as appears from Exhibit P-9. The investigation into Respondent's opening of the three accounts started when J.M.C. received the foregoing assessment and learned for the first time about the TFSA account which had been opened in her name by her father and the Respondent (Exhibit P-19, page 000133, para. 3).

Count 5

[15] In opening an account for J.M.C., Respondent neglected to collect relevant information regarding her personal financial situation and her risk profile, as required by the legal provisions cited in this count.

Count 6

[16] Exhibit P-8 refers to the investment in TFSA account #1111111 of \$9,594.23, between December 7 and December 11, 2009, the instructions for same having emanated from someone other than J.M.C. (presumably her father), as she was unaware of the existence of the account on that date, as established above.

Count 7

[17] On page 000040 of Exhibit P-6, Respondent falsely confirmed having been personally instructed by J.M.C. ("*en personne*"), at 3:30 p.m. on December 7, 2009, to invest the sum of \$9,594.23 in a mutual fund entitled "*Portefeuille Prudent Dist.*", whereas in fact J.M.C. was unaware of the existence of the account on that date.

Count 8

[18] On December 8, 2009, Respondent opened TFSA account #2222222 account for F.A.C., unbeknownst to him, as appears from Exhibits P-10 and P-11, all three forms therein having been signed for F.A.C. by his father.

Count 9

[19] In Exhibit P-12, by his signature at page 000072, Respondent falsely attested, on December 9, 2009, having seen the social insurance card and driver's permit of F.A.C. in

the latter's presence, whereas F.A.C. was not present and was completely unaware of the opening the TFSA account in his name, at his father's request.

Count 10

[20] In Exhibit P-11, at page 000075, Respondent falsely attested having received investment instructions regarding TFSA account #2222222 directly from F.A.C. ("*en personne*") on December 8, 2009, at 2:30 p.m.

Count 11

[21] On December 7, 2009, Respondent opened a TFSA account #3333333 in the name of D.C., unbeknownst to him and upon the instructions of his father, as appears from the three forms in Exhibits P-14 and P-15, all of which were signed by the father on behalf of D.C.

Count 12

[22] In Exhibit P-16, by his signature on page 000122, Respondent falsely attested, on December 7, 2009, having seen the social insurance card and driver's permit of D.C. in the latter's presence, whereas D.C. was not present and was completely unaware of the opening of the TFSA account in his name, at his father's request.

Count 13

[23] In Exhibit P-15, at page 000118, Respondent falsely attested having received investment instructions regarding TFSA account #3333333 directly from D.C. ("*en personne*"), on December 7, 2009, at 3:00 p.m.

RESPONDENT'S EVIDENCE

[24] Respondent admitted that his above-described conduct was mistaken and resulted from a lack of proper judgment on his part, in cooperating with B.C. to set up investments for his three children. He pointed out that he has no prior disciplinary record and he claims to have received better training from his new employer regarding the applicable ethical rules.

JOINT RECOMMENDATION REGARDING SANCTION

[25] The parties agreed upon the following joint recommendations regarding the sanction to be imposed in view of Respondent's guilty plea herein, as set forth in Respondent's guilty plea (Exhibit P-24), M^e Poirier having also stressed the need for dissuasive suspensions because of Respondent's serious misconduct in this case:

- a) as regards Counts 1, 3, 4, 6, 7, 9, 10, 12 and 13, a temporary striking off the roll for three months;
- b) as regards Counts 2, 8 and 11, a temporary striking off the roll for two months;
- c) as regards Count 5, a fine of \$5,000;
- d) said temporary striking off the roll for to run concurrently, with a condemnation to pay the costs of publication pursuant to section 156 of the *Professional Code*.

[26] As regards the aggravating factors, Plaintiff referred to the objective gravity of Respondent's misconduct (accepting forged client signatures, failing to properly verify the clients' identity in their physical presence, and accepting investment instructions on behalf

of each of them from a person not holding an appropriate power of attorney), the fact that the impugned conduct strikes at the core values of the profession and tarnishes the public image of the profession, the number of clients involved and the prejudice caused to one of them (J.M.C.).

[27] As for the attenuating factors, Plaintiff referred to Respondent's inexperience (he was 23 years old in 2009), the fact that his conduct was not motivated by bad faith, but a genuine belief that he was acting in the interests of the three clients, that the 13 counts were all related to benefitting the members of the same family, the Respondent's cooperation with the investigation and his guilty plea, his sincere regret for his misconduct, his lack of a prior disciplinary record and the fact that the impugned conduct occurred several years ago, with no infractions since then.

[28] Plaintiff referred the Committee to the following precedents, which imposed sentences consistent with the joint recommendations in cases involving similar facts:

- a) *Chambre de la sécurité financière c. Di Maio*, 2012 CanLII 97186 (QC CDCSF);
- b) *Chambre de la sécurité financière c. Larose*, 2013 CanLII 40560 (QC CDCSF);
- c) *Chambre de la sécurité financière c. Couture*, 2014 CanLII 46614 (QC CDCSF);
- d) *Chambre de la sécurité financière c. Cantin*, 2014 CanLII 38588 (QC CDCSF);
- e) *Chambre de la sécurité financière c. Magueny*, 2018 QCCDCSF 54;
- f) *Chambre de la sécurité financière c. Lessard-Dion*, 2017 QCCDCSF 50;
- g) *Chambre de la sécurité financière c. Boucher*, 2015 CanLII 80781 (QC CDCSF);
- h) *Brazeau c. Chambre de la sécurité financière*, 2006 QCCQ 11715;

- i) *Chambre de la sécurité financière c. Prieur*, 2017 QCCDCSF 54;
- j) *Chambre de la sécurité financière c. El Ghiati*, 2018 QCCDCSF 10;
- k) *Chambre de la sécurité financière c. Ywan*, 2018 QCCDCSF 60;
- l) *Chambre de la sécurité financière c. Duchesne*, 2017 QCCDCSF 41;
- m) *Chambre de la sécurité financière c. Charbonneau-Desjardins*, 2017 QCCDCSF 4;
- n) *Chambre de la sécurité financière c. Provost*, 2015 QCCDCSF 51;
- o) *Chambre de la sécurité financière c. Goulet*, 2018 QCCDCSF 19;
- p) *Chambre de la sécurité financière c. Olejnik Benedetti*, 2018 QCCDCSF 36;
- q) *Chambre de la sécurité financière c. Lachance*, 2016 CanLII 32445 (QC CDCSF);
- r) *Chambre de la sécurité financière c. Rochon*, 2015 CanLII 80862 (QC CDCSF);
- s) *Chambre de la sécurité financière c. Scurti*, 2014 CanLII 80007 (QC CDCSF);
- t) *Chambre de la sécurité financière c. Gilbert*, 2013 CanLII 43415 (QC CDCSF).

ANALYSIS AND REASONS

[29] The Committee accepts the joint recommendations of the parties for the following reasons :

- a) the misconduct of the Respondent calls for the imposition of serious sanctions, given the nature of the infractions and his flagrant disregard for the relevant ethical rules;
- b) however, the sanctions must be tempered somewhat by a recognition of the fact that Respondent acted without bad faith, in furtherance of his client's instructions, at an early stage of his career, and the fact that Respondent

has no prior disciplinary record, cooperated fully with the investigation, pleaded guilty, expressed sincere remorse for his misdeeds and is unlikely to repeat them;

- c) the joint recommendations regarding the sanctions to impose upon Respondent appear to be consistent with the jurisprudence in similar cases.

[30] Considering the foregoing, and after reviewing the relevant facts and aforesaid aggravating and attenuating factors, the Committee is of the view that the sanctions proposed by the parties are just and appropriate, adapted to the infractions alleged in the Complaint herein, in conformity with the foregoing jurisprudential precedents and respectful of the principles of exemplarity and deterrence which must guide the Committee in the exercise of its discretion.

[31] As regards costs, as no reasons have been given which would justify an exception to the general rule, the Respondent will also be condemned to pay costs applicable pursuant to section 151 of the *Professional Code*.

FOR THESE REASONS, the Disciplinary Committee:

REITERATES the order of non-disclosure, non-publication and non-release of the names of any clients who are contemplated or involved in the Complaint herein, as well as any information which might enable their identification;

TAKES ACT of Respondent's guilty plea herein;

DECLARES Respondent guilty as follows:

- a) under Counts 1, 2, 4, 6, 7, 8, 10, 11 and 13 of the Complaint, pursuant to article 160 of the *Québec Securities Act* (CQLR, c. V-1.1);
- b) under Counts 3, 9 and 12 of the Complaint, pursuant to article 13.2 of *Regulation 31-03 respecting registration requirements, exemptions and ongoing registrant obligations* (CQLR, c. v-1.1, r. 10);
- c) under Count 5 of the Complaint, pursuant to article 3 of the *Regulation respecting the rules of ethics in the securities sector* (CQLR, c. D-9.2, r. 7.1);

ORDERS the conditional stay of proceedings regarding the legal provisions cited in the Complaint, other than those cited in the preceding conclusion;

CONDEMNS the Respondent to the following sanctions:

- a) as regards Counts 1, 3, 4, 6, 7, 9, 10, 12 and 13, a temporary striking off the roll for three months;
- b) as regards Counts 2, 8 and 11, a temporary striking off the roll for two months;
- c) said temporary radiations to run concurrently;
- d) as regards Count 5, a fine of \$5,000;

ORDERS the Secretary of the Committee to publish, at Respondent's expense, a notice of the present decision in a newspaper circulating in the place where Respondent has his professional domicile or where he has exercised or may exercise her profession, in conformity with article 156 (7) of the *Professional Code* (CQLR, c. C-26);

CONDEMNNS the Respondent to pay all costs, including the registration fees, pursuant to article 151 of the *Professional Code* (CQLR, c. C-26).

(s) George R. Hendy
M^e George R. Hendy
President of the Disciplinary Committee

(s) Dyan Chevrier
M^{me} Dyan Chevrier, A.V.A., Plan. Fin.
Member of the Disciplinary Committee

(s) Antonio Tiberio
Mr. Antonio Tiberio
Member of the Disciplinary Committee

M^e Sylvie Poirier
CDNP AVOCATS INC.
Attorneys for the Plaintiff

Respondent represented himself

Date of hearing : January 28, 2019

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