

2011 BCSECCOM 199

Golden Capital Securities Ltd. and Investment Industry Regulatory Organization of Canada (formerly Investment Dealers Association of Canada)

Section 28 of the *Securities Act*, RSBC 1996, c. 418

Hearing and Review

Panel	Brent W. Aitken David J. Smith Suzanne K. Wiltshire	Vice Chair Commissioner Commissioner
Date of Decision	April 21, 2011	
Appearing	Roger McConchie Lorne Herlin	
	For Golden Capital Securities Ltd. For Investment Industry Regulatory Organization of Canada	

Decision

Introduction

- ¶ 1 This is an order by consent of the parties under sections 28 and 165(4) of the *Securities Act*, RSBC 1996, c. 418.

Background

- ¶ 2 In a decision dated November 26, 2007, an Investment Industry Regulatory Organization of Canada Hearing Panel determined that Golden Capital Securities Ltd. (Golden Capital) had breached IIROC Dealer Member Rule 19.6 (then Investment Dealers Association of Canada By-law 19.6) by refusing IIROC staff access to records.
- ¶ 3 In a decision dated April 19, 2008, the IIROC Hearing Panel ordered Golden Capital to pay IIROC a fine of \$75,000 and costs of \$76,760.
- ¶ 4 In a decision dated April 9, 2009 (2009 BCSECCOM 192), the Commission confirmed the November 26, 2007 and the April 19, 2008 decisions of the IIROC Hearing Panel.
- ¶ 5 In a decision dated July 22, 2010 (2010 BCCA 359), the Court of Appeal for British Columbia ruled that the IIROC Hearing Panel and the Commission failed to answer the question of whether the records were reasonably required for the investigations.

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Therefore, the Court of Appeal remitted the matter to the Commission to decide, or to direct IIROC to decide, whether the records were reasonably required for the investigations (the issue).

- ¶ 6 In a decision dated February 18, 2011, the Commission ruled that it would decide the issue.
- ¶ 7 Golden Capital agrees that the records were reasonably required for the investigations, and therefore, it breached IIROC Dealer Member Rule 19.6 by failing to provide IIROC staff with access to them.
- ¶ 8 Golden Capital and IIROC staff both request that the Commission issue an order confirming the November 26, 2007 and April 19, 2008 decisions of the IIROC Hearing Panel.

Order

- ¶ 9 After considering Golden Capital's and IIROC staff's submissions, and their consent, and considering it to be in the public interest, we confirm the November 26, 2007 and April 19, 2008 decisions of the IIROC Hearing Panel.
- ¶ 10 April 21, 2011
- ¶ 11 **For the Commission**

Brent W. Aitken
Vice Chair

David J. Smith
Commissioner

Suzanne K. Wiltshire
Commissioner