

PRACTICE DIRECTION – SUBMISSIONS WITH PROPOSED SETTLEMENTS UNDER RULE 1.07

INTRODUCTION

The Discipline Tribunal recognizes the importance of settlements and encourages Parties to work together when evaluating a settlement. Where the Parties consent to a resolution of all or part of a matter without a Hearing, the parties shall serve the proposed resolution, along with any written submissions to the Chair of the Discipline Tribunal, who will assign a Reviewing Panel to consider the proposed resolution under Rule 1.07(2) of the Rules of Practice.

When reviewing the proposed resolution, the Reviewing Panel are to determine whether it is in the public interest. The Reviewing Panel would consider, among other things, whether the settlement will act as a specific deterrence, deterrent to other registrants, maintain public trust and rehabilitations and remedial actions. If the proposed disposition is not accepted by the Reviewing Panel, the matter shall proceed to a Public Hearing.

To assist the Reviewing Panel with making this determination, the Discipline Tribunal asks that the Parties consider providing submissions to accompany their proposed settlement. The submissions may be made individually or jointly.

In their submissions, the Parties are encouraged to stipulate all the relevant mitigating and aggravating factors that have led to the proposed resolution.

For example, factors that could be considered as mitigating circumstances are as follows:

- Did the Registrant voluntarily reimburse the consumer for losses caused by the violation?
- Has the Registrant taken any other remedial actions that are not included in the joint submission?
- Has the Registrant implemented any changes in policy or procedures on their own accord in an effort to prevent further breaches of the Code of ethics?

The following may be examples of aggravating factors:

- Are there any previous Disciplinary findings against any of the Registrants named in this proposed settlement? If so, what are the relevant details?
- Have any of the Registrants named in this proposed settlement previously been subjected to any other administrative actions?
- Was there any actual or potential consumer harm?

In addition, the Parties are encouraged to refer to the relevant case law on proposed resolutions.

If the Reviewing Panel accepts the proposed resolution, it will become the final disposition, and any agreement as to facts may be published as part of the decision.