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Former member escapes the IDA's grasp

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In its recent decision in *Taub v. Investment Dealers Association of Canada*, Ontario's Divisional Court reined in an attempt by the Investment Dealers Association of Canada (now known as the Investment Industry Regulatory Organization of Canada, or IIROC) to discipline a former investment advisor, despite the fact that he had not been an IDA member for more than a year.

All IDA members enter into an agreement with the IDA to adhere to all its by-laws and rules, including a bylaw stipulating the IDA's power to discipline former members for up to five years after their membership ceased. The IDA relied upon this bylaw in commencing disciplinary proceedings against Mr. Taub for breaches of its rules and bylaws after he ceased to be a member. Mr. Taub unsuccessfully challenged the IDA's jurisdiction to bring such proceedings before the Ontario Securities Commission, which exercises statutory oversight over the IDA and then brought a further appeal to the Divisional Court.

In overturning the OSC's decision as unreasonable, the Divisional Court relied upon the statutory authority for self-regulatory organizations found in s.21.1(3) of the *Securities Act* and, in particular, the Act's recognition that a self-regulatory organization such as the IDA may only "regulate high standards of business conduct among its members." Quite simply, the IDA may not contract with its members for greater authority than it is given by statute.



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