



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

**IN THE MATTER OF A DISCIPLINARY HEARING
PURSUANT TO SECTIONS 20 AND 24 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Gerard (Gerry) Andrew Mok

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel of the Central Regional Council (the “Hearing Panel”) of the Mutual Fund Dealers Association of Canada (the “MFDA”) in the hearing room located at 121 King Street West, Suite 1000, Toronto, Ontario on June 10, 2015 at 10:30 a.m. (Eastern), or as soon thereafter as the appearance can be held, concerning a disciplinary proceeding commenced by the MFDA against Gerard (Gerry) Andrew Mok (the “Respondent”).

DATED this 20th day of April, 2015.

“Sarah Rickard”

Sarah Rickard
Director of Regional Councils

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-945-5143
Facsimile: 416-361-9781
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NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between about January 2003 and October 17, 2012, the Respondent misappropriated at least \$835,541 from at least 6 clients, and at least \$245,395 from at least 3 other individuals, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in a business conduct or practice which was unbecoming or detrimental to the public interest, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing on or about March 28, 2013, the Respondent has failed to attend an interview to provide a statement and to produce information, documents and records as requested by MFDA Staff during the course of an investigation, contrary to section 22.1 of MFDA By-law No. 1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. The Respondent has been registered in the mutual fund industry since November 1991.
2. The Respondent was registered with HollisWealth Advisory Services Inc. (“HollisWealth”) and its predecessor firms, Dundee Private Investors Inc. (“Dundee”) or Cartier Partners Financial Services Inc., a Member of the MFDA, as a mutual fund salesperson (now known as a dealing representative), in Ontario from October 2001 to October 17, 2012 and in Newfoundland & Labrador from June 1, 2004 to December 31, 2009.
3. At all material times, the Respondent conducted business in the Mississauga, Ontario area.
4. The Respondent is no longer registered in the securities industry in any capacity.

Allegation #1 – Misappropriation

5. Between about January 2003 and October 17, 2012, the Respondent solicited and accepted at least \$1,210,273 from at least 7 clients, and at least \$385,752 from at least 3 other individuals, which he represented would be advanced to Dundee clients who required personal loans or mortgages but who could not otherwise obtain loans or mortgages from financial institutions (the “Loan Program”).

6. Details of the amounts solicited and accepted by the Respondent as part of the Loan Program are set out below:

Clients of Dundee / HollisWealth		Other individuals	
Name	Amount Invested	Name	Amount Invested
GR ¹	\$522,037	TR	\$185,752
JR	\$82,736	DA	\$34,000
FA	\$203,000	NS	\$166,000
SA	\$66,500		
MS	\$210,500		
JH	\$125,500		
Total	\$1,210,273	Total	\$385,752

7. When soliciting investments in the Loan Program, the Respondent made the following representations, all of which were false:

- (a) Dundee / HollisWealth was in the business of providing loans and/or mortgages to Member clients who could not otherwise obtain loans from financial institutions;
- (b) the Loan Program was approved and authorized by Dundee / HollisWealth;
- (c) the Loan Program would provide better returns than investments in mutual funds;

¹ Client GR’s investment in the Loan Program includes \$27,500 invested through client GR’s numbered company.

(d) the Loan Program offered a rate of return of 10% to 36% per year; and

(e) the Loan Program was a secure, risk-free investment.

8. The Loan Program was not known to, or approved by, Dundee / HollisWealth.

9. In addition, Dundee / HollisWealth was not aware that some clients had redeemed mutual funds in order to fund investments in the Loan Program. Clients GR, JR and MS redeemed \$476,498, \$56,739 and \$173,019 respectively, from their mutual investments held at Dundee / HollisWealth, based upon the Respondent's recommendations to them, and invested these monies in the Loan Program.

10. The Loan Program was not a legitimate investment product and the Respondent did not use any of the monies provided to him by the clients and other individuals to purchase investments for their benefit or for their accounts. Instead, the Respondent, without the knowledge or authorization of the clients and other individuals, deposited the monies in one or more bank accounts under his control and used the monies for his benefit.

11. The Respondent provided the clients and other individuals with promissory notes in respect of their purported investments in the Loan Program. The promissory notes were signed by the Respondent and identified him as the "debtor" in respect of the monies provided by the clients and other individuals.

12. In addition, the Respondent provided, in response to communications received from the clients and other individuals, false confirmations that their monies had been invested or were about to be invested in the Loan Program.

13. Between January 2003 and October 17, 2012, the Respondent made payments to the clients and other individuals identified in paragraphs 5 and 6 above, which the Respondent represented to be payments of interest and portions of the principal amounts due under the terms of the promissory notes. The Respondent made these payments from his personal bank accounts using the monies invested by the clients and other individuals.

14. The Respondent resigned from HollisWealth on October 17, 2012. After that time, the Respondent ceased making regular payments to clients and other individuals who had invested in the Loan Program.

15. The Respondent misappropriated, and continues to owe, at least the following amounts:

Clients of Dundee / HollisWealth		Other individuals	
Name	Balance Owing	Name	Balance Owing
GR	\$342,730	TR	\$73,019
JR	\$31,877	DA	\$6,376
FA	\$103,970	NS	\$166,000
SA	\$20,965		
MS	\$210,500		
JH	\$125,500		
Total	\$835,541	Total	\$245,395

16. Following the Respondent's resignation from HollisWealth, the Member received a number of complaints from, and was named as a defendant in civil claims commenced by, the clients and other individuals who had provided monies to the Respondent to invest in the Loan Program on their behalf.

17. On July 14, 2014, the Respondent filed a Notice of Intention To Make A Proposal pursuant to the *Canada Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3. There is little to no prospect of the clients and other individuals who participated in the Loan Program recovering monies from the Respondent.

18. By engaging in the conduct described above, the Respondent misappropriated monies from clients and other individuals, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in a business conduct or practice that was unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1.

Allegation #2 – Failure to cooperate

19. On March 7, 2013, during the course of its investigation into the Respondent's activities, MFDA Staff ("Staff") sent a letter to the Respondent requesting that he provide documents and a statement to Staff, no later than March 28, 2013, responding to complaints that he had misappropriated funds from Dundee / HollisWealth clients.

20. On March 25, 2013, Staff received a letter from the Respondent's counsel stating:

[The Respondent] has asked us for advice concerning your letter of March 7, 2013, which he acknowledges receiving.

He advises us that he resigned in good standing, effective November 1, 2012, and retired from being a mutual fund representative at that time.

Accordingly, we are surprised to see your request. While [the Respondent] is supplying us with information which may be responsive, could you please explain the basis upon which you say he must respond to you? Furthermore, while he has instructed us that he wishes to cooperate with you, would you please explain the consequences if he does not, particularly as he is no longer a member of your corporation?

21. On March 27, 2013, Staff responded to the Respondent's counsel's letter stating, among other things, that should the Respondent fail to respond to Staff's requests for information disciplinary proceedings could be commenced against the Respondent for failing to cooperate with an investigation, pursuant to section 22.1 of MFDA By-law No. 1.

22. Between April 15, 2013 and November 22, 2013, Staff and the Respondent's counsel exchanged correspondence wherein Staff requested that the Respondent provide documents and a statement responding to complaints that he had misappropriated funds from Dundee / HollisWealth clients, and wherein the Respondent's counsel requested extensions of time for the Respondent to respond to Staff.

23. On November 22, 2013, the Respondent's counsel sent a letter to Staff informing that he no longer represented the Respondent.

24. On December 19, 2013, Staff sent a letter to the Respondent requesting that he contact Staff, no later than January 6, 2014, to schedule a time to attend at the MFDA offices to be interviewed.

25. On January 6, 2014, the Respondent left a voice message for Staff informing that he would contact MFDA Staff on or before February 6, 2014 to schedule an interview. Staff did not receive any further communication from the Respondent.

26. To date, the Respondent has not provided a written statement or documents, as requested by Staff, nor has he attended at the MFDA offices to be interviewed.

27. Due to the Respondent's failure to cooperate with Staff's investigation, Staff has been unable to determine the full nature and extent of the Respondent's misconduct and, in particular, whether he misappropriated additional monies from the clients and other individuals identified during the investigation, or from clients and individuals who were not identified during the investigation.

28. By failing to attend at an interview to provide a statement to Staff, and by failing to produce documents, both of which were requested by Staff during the course of an investigation, the Respondent acted contrary to section 22.1 of MFDA By-law No. 1.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be represented by counsel or agent at the hearing and to make submissions, present evidence and call, examine and cross-examine witnesses.

NOTICE is further given that MFDA By-laws provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with the MFDA;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto;

- has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- has engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- is otherwise not qualified whether by integrity, solvency, training or experience,

the Hearing Panel has the power to impose any one or more of the following penalties:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) \$5,000,000.00 per offence; and

(ii) an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation;

(c) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;

(d) revocation of the authority of such person to conduct securities related business;

(e) prohibition of the authority of the person to conduct securities related business in any capacity for any period of time;

(f) such conditions of authority to conduct securities related business as may be considered appropriate by the Hearing Panel;

NOTICE is further given that the Hearing Panel may, in its discretion, require that the Respondent pay the whole or any portion of the costs of the proceedings before the Hearing

Panel and any investigation relating thereto.

NOTICE is further given that the Respondent must **serve** a **Reply** on Enforcement Counsel and **file** a **Reply** with the Office of the Corporate Secretary within twenty (20) days from the date of service of this Notice of Hearing.

A **Reply** shall be **served** upon Enforcement Counsel at:

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Attention: Francis Roy
Fax: 416-361-9073
Email: froy@mfd.ca

A **Reply** shall be **filed** by:

- (a) providing 4 copies of the **Reply** to the Office of the Corporate Secretary by personal delivery, mail or courier to:

The Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Attention: Office of the Corporate Secretary; or

- (b) transmitting one (1) copy of the **Reply** to the Office of the Corporate Secretary by fax to fax number 416-361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Office of the Corporate Secretary permits otherwise; or
- (c) transmitting one (1) electronic copy of the **Reply** to the Office of the Corporate Secretary by e-mail at corporatesecretary@mfd.ca.

A **Reply** may either:

- (i) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on the alleged facts) any or all of the facts alleged or the conclusions drawn by the MFDA in the Notice of

Hearing; or

- (ii) admit the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that the Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the MFDA in the Notice of Hearing that are not specifically denied in the **Reply**.

NOTICE is further given that if the Respondent fails:

- (a) to **serve** and **file** a **Reply**; or
- (b) attend at the hearing specified in the Notice of Hearing, notwithstanding that a **Reply** may have been served,

the Hearing Panel may proceed with the hearing of the matter on the date and the time and place set out in the Notice of Hearing (or on any subsequent date, at any time and place), without any further notice to and in the absence of the Respondent, and the Hearing Panel may accept the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing as having been proven and may impose any of the penalties described in the By-laws.

END.

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