



**CASE SUMMARY # 201225**

February 8, 2016

# MFDA Case Summary

## Enforcement

This case summary was prepared by Staff of the MFDA.

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### **Hearing Panel Imposes Penalties on Robert James Thiessen and Wealth Advisory Services Ltd.**

Robert James Thiessen (“Respondent Thiessen”) and Wealth Advisory Services Ltd. (“Respondent WAS”), collectively (the “Respondents”) were alleged to have engaged in a number of contraventions of MFDA Rules. The contraventions centred around the sale of shares in a non-arm’s length exempt product. The product was shares in Promittere S&P 500 Ltd. (“Promittere”), which was sold to clients purportedly as a means of investing in instruments on the Chicago Mercantile Exchange. The product was eventually discovered to be a fraud and investors in it lost their funds. Respondent Thiessen was a co-creator of Promittere along with Gordon H. Lewis (“Lewis”). Lewis was the principal of G.H. Lewis & Associates, which managed trading in respect of Promittere. Respondent Thiessen was 70% owner of Promittere Capital Group Limited Partnership, which wholly owned Respondent WAS. Respondent Thiessen also owned Promittere.

The Hearing Panel made a number of findings against the Respondents.

First, the Hearing Panel found that between March 4, 2003 and November 1, 2003 (the “Material Time”), the Respondents sold Promittere shares to 48 clients without ensuring a reasonable level of due diligence on the shares and without ensuring they were suitable for sale to the clients, contrary to MFDA Rules 2.2.1(a) and (b) and MFDA Rule 2.1.1(c).

Second, the Hearing Panel found that during the Material Time, Respondent WAS sold Promittere shares to the clients in reliance on accredited investor and closely held issuer exemptions: (i) without ensuring the investments were suitable for clients and in keeping with their investment objectives, contrary to MFDA Rule 2.2.1 (a), (b) and (c), and MFDA Rule 2.1.1(c); (ii) without obtaining documentation to determine if the clients qualified as accredited investors as required by Ontario Securities Commission (“OSC”) Rules, contrary to MFDA Rule 2.1.1(c); and (iii) without complying with requirements set out in OSC Rule 45-501 to provide

clients with a copy of Form 45-501F3 at least four days prior to their purchase of the shares, contrary to MFDA Rule 2.1.1(c).

Third, the Hearing Panel found that during the Material Time the Respondents sold Promittere shares without disclosing to the clients the relationship between Respondent WAS and Promittere, and without disclosing the financial interest of the Respondents in the sale of Promittere shares. This gave rise to a conflict or potential conflict of interest which the Respondents failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of their clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Fourth, the Hearing Panel found that during the Material Time, Respondent Thiessen failed to ensure that Respondent WAS established, implemented, communicated and maintained a compliance program that would carry out a number of functions described in the Reasons for Decision, contrary to MFDA Rules 2.1.1., 2.2.1, 2.5.1 and MFDA Policy No. 2.

Fifth, the Hearing Panel found that between October 2010 and August 2011, while Respondent WAS was designated in Early Warning, the Respondents permitted payments to be made from Respondent WAS to Respondent Thiessen without first obtaining MFDA Staff consent, contrary to MFDA Rules 3.4.2(b)(iv) and 2.1.1.

Sixth, the Hearing Panel found that between October and November 2010 and from January 2011 onward, the Respondents failed to ensure Respondent WAS complied with its financial requirements while designated in early warning, contrary to MFDA Rules 3.4.2 and 2.1.1.

Seventh, the Hearing Panel found that between October and November 2010 and from January 2011 onward, the Respondents failed to consistently maintain Respondent WAS's minimum required capital and risk adjusted capital, contrary to MFDA Rules 3.1.1 and 2.1.1.

The Hearing Panel imposed the following penalties on Respondent Thiessen: (i) a permanent prohibition on conducting securities related business in any capacity while in the employ of or associated with any MFDA Member; (ii) a fine of \$250,000; and (iii) costs of \$10,000.

The Hearing Panel imposed the following penalties on Respondent WAS: (i) termination of the rights and privileges of MFDA Membership; (ii) a fine of \$4,000,000; and (iii) costs of \$50,000.

**NOTICE:** This case summary has been prepared by Staff of the MFDA, based upon the previously published Decision and Reasons of an MFDA Hearing Panel presiding over this matter. Every effort is made to ensure that this case summary accurately reflects the content of the Decision and Reasons. However, where there is a discrepancy between this case summary and the Decision and Reasons, the Decision and Reasons will prevail.

DM #466503