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: Robert James Thiessen and Wealth Advisory Services Ltd.

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a Hearing Panel (the "Hearing Panel") of the Regional Council of the Central Region 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 February 26, 2013 at 10:00 a.m. (Eastern) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Robert James Thiessen ("Thiessen") and Wealth Advisory Services Ltd. ("WAS"), collectively the "Respondents".

DATED this 20th day of December, 2012.

"Bernadette Devine"

Bernadette Devine
Assistant Corporate Secretary

Mutual Fund Dealers Association of Canada
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NOTICE is further given that staff of the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between March 4, 2003 and November 1, 2005, WAS and Thiessen sold shares of a related company of WAS to 48 clients without ensuring a reasonable level of due diligence was conducted on the investment product and without making reasonable inquiries to ensure that the product was suitable for sale to clients of WAS, contrary to MFDA Rules 2.2.1(a) and (b) and MFDA Rule 2.1.1(c).

Allegation #2: Between March 4, 2003 and November 1, 2005, WAS sold shares of a related company to WAS to 48 clients in reliance on the accredited investor and closely held insurer exemptions:

(a) without ensuring that these investments were suitable for the clients and in keeping with the clients' investment objectives, contrary to MFDA Rule 2.2.1 (a), (b) and (c), and MFDA Rule 2.1.1(c);

(b) without obtaining sufficient documentation to determine if the clients qualified as accredited investors in accordance with s. 2.3 of Ontario Securities Commission Rule 45-501 and subsequently s. 2.3 of National Instrument 45-106[1], contrary to MFDA Rule 2.1.1(c); and

(c) without complying with the requirements of the closely held issuer exemption as set out in s. 2.1 of Ontario Securities Commission Rule 45-501, in that the clients were not provided with a copy of Form 45-501F3 at least 4 days prior to their purchase of the shares, thereby engaging the jurisdiction of the Hearing Panel to impose a penalty on the Respondents pursuant to s. 24.1.1(h) and 24.1.2(n) of MFDA By-Law No. 1 and contrary to MFDA Rule 2.1.1(c).

Allegation #3: Between March 4, 2003 and November 1, 2005, WAS and Thiessen sold or facilitated the sale of shares of a related company of WAS to 48 clients without disclosing to the clients:

[1] In September 2005, National Instrument 45-106 came into force. Many of the prospectus and registration exemptions previously available in OSC Rule 45-501 were incorporated into NI 45-106. The "accredited investor" exemption was amended slightly but the amendments are not relevant to the allegations against the Respondents.

(a) the relationship between WAS and the related company; and

(b) the financial interest of WAS and Thiessen in respect of the sales of the shares of the related company;

thereby giving rise to a conflict or potential conflict of interest between the interests of WAS and Thiessen, on the one hand, and the clients on the other hand, which WAS and Thiessen failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #4: Between March 4, 2003 and November 1, 2005, Thiessen, in his capacity as a director of WAS, failed to ensure that WAS established, implemented, communicated and maintained a compliance program to:

(a) ensure that a reasonable level of due diligence was conducted on all investment products prior to their approval for sale;
(b) identify and address conflicts of interest with respect to the sale of the securities of non-arm's length issuers;
(c) identify and address through appropriate supervision and compliance procedures material risks of non-compliance with respect to:
    i. ensuring the suitability of investments in clients' accounts;
    ii. the sale of exempt products and, in particular, reliance by clients on exemptions from the prospectus requirement; and
    iii. ensuring the fees and compensation earned by WAS on the sale of exempt products were adequately disclosed to clients;

contrary to MFDA Rules 2.1.1, 2.2.1 and 2.5.1, and MFDA Policy No. 2.

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 – Wealth Advisory Services Ltd.

2. Since November 20, 2001, the Respondent, Wealth Advisory Services Ltd. ("WAS") has been registered in Ontario as a mutual fund dealer and a limited market dealer. WAS became a Member of the MFDA on March 4, 2003.

3. Prior to November 2001, WAS operated under different names and was registered in Ontario in different categories**.**

4. Effective August 16, 2012, as a result of this pending MFDA disciplinary proceeding and an investigation being conducted by the Registration department of the Ontario Securities Commission, the Ontario Securities Commission placed a term and condition on WAS's registration restricting it from advising or trading in securities. Currently, WAS remains registered as a mutual fund dealer and exempt market dealer pending the approval of its resignation but is prohibited from engaging in registerable activity and no longer has client accounts.

Registration History – Robert Thiessen

5. From August 1, 2002 to November 1, 2005, the Respondent Robert Thiessen ("Thiessen") was a director of WAS in the category of a Permitted Person who was not registered to engage in advising or trading activity.

6. Thiessen is currently registered as a Director and the Ultimate Designated Person of WAS.

Thiessen – ownership and control of WAS and Promittere

7. At all material times, WAS was wholly owned by Promittere Capital Group Limited Partnership, which at all material times was owned 70% by Thiessen through wholly-owned corporations. The remaining 30% was at all material times owned directly, indirectly or beneficially by members of Thiessen's family. Thiessen was the controlling mind of WAS.

8. At all material times, Thiessen was also the controlling mind of a related company to WAS, Promittere S&P 500 Ltd. ("Promittere"). Thiessen was the sole director, President and Secretary of Promittere. Promittere was a related company to WAS by virtue of common

ownership by Thiessen, directly or indirectly, at the time the Promittere investment product described herein was launched.

9. WAS was essentially a one-person mutual fund dealer which was operated on a day-to-day basis by Douglas A. Lawson ("Lawson"). At all material times, Lawson was duly registered as the President and Secretary of WAS, its Compliance Officer and its only salesperson. At all material times, Lawson was a salaried employee of WAS who reported directly to and acted under the direction of Thiessen.[2]

10. Thiessen is a chartered accountant. Lawson worked alongside or for Thiessen in various capacities at various companies in the securities industry, including companies owned or controlled by Thiessen, from 1985 until the Ontario Securities Commission approved the transfer of Lawson's registration from WAS to another Member of the MFDA in August 2012 subject to terms and conditions. On the basis of their history together, at all material times Lawson perceived Thiessen to be a skilled professional, specifically with respect to the creation of investment products. Lawson relied on and deferred to Thiessen with respect to the selection and approval of investment products for sale by WAS, including the Promittere investment product described herein.[3]

11. Thiessen and Lawson worked out of the same office (which was shared by WAS and Promittere). Promittere did not have any employees other than the two administrative support personnel that Promittere and WAS shared.

Overview – sales of the Promittere investment product

12. As described in greater detail below, between August 2002 and November 2005, Lawson sold shares of Promittere to clients of WAS as a means of investing in S&P 500 Futures Index

[2] Lawson has been registered in Ontario as a mutual fund salesperson with WAS and its predecessor, Promittere Securities Ltd. from January 1, 1995 until August 2012, at which time the Ontario Securities Commission approved the transfer of Lawson's registration to another member of the MFDA subject to terms and conditions, following the conclusion of a disciplinary proceeding commenced against Lawson by the MFDA in relation to his involvement in the subject matter of this Notice of Hearing. On June 19, 2012, a Hearing Panel of the MFDA approved a settlement of the Lawson proceeding. Under the terms of the settlement, Lawson paid a fine of $20,000 and costs of $5,000, was permanently prohibited from being an officer, director, Ultimate Designated Person, Compliance Officer or Branch Manager of an MFDA Member, was permanently prohibited from selling exempt securities, required to successfully complete the Canadian Securities Course and agreed to appear and give truthful testimony as a witness in this proceeding. See *In the Matter of Douglas A. Lawson*, MFDA Case No. 200907 at www.mfda.ca.

[3] Lawson's failure to discharge his duties and obligations as the President and Compliance Officer of WAS with respect to product due diligence and approval was one of the findings of misconduct, amongst others, that Lawson admitted to in the settlement of his MFDA proceeding.

Contracts and other similar instruments on the Chicago Mercantile Exchange. The trading in respect of Promittere was to be managed by G.H. Lewis & Associates ("G.H. Lewis"). In total, 48 clients of WAS invested $2,883,993 USD (in 39 accounts) in shares of Promittere.

13. In September of 2006, the Respondents were informed that a fraud had occurred and that Promittere could not account for WAS-client funds. The value of the Promittere investment as reported monthly by Gordon H. Lewis ("Lewis"), the principal of G.H. Lewis, to Thiessen, and in turn communicated to investors, had been fabricated and, as a result, was grossly overstated.[4] Lewis was subsequently charged with fraud and theft by the Metropolitan Toronto Police Force. On September 14, 2009, Lewis pled guilty to a fraud charge and was sentenced to 12 months under house arrest.

14. Investors in Promittere lost almost the entirety of their investment. To date, the investors have been unable to recover their investment and there is no reasonable prospect of them doing so.[5]

History and Features of the Promittere investment product

15. In early 2002, Thiessen and Lewis created the Promittere investment product. G.H. Lewis was retained to manage the investment of funds raised by the sale of shares of Promittere through trading in S&P Futures Index Contracts and other similar instruments on the Chicago Mercantile Exchange. On June 25, 2002, Thiessen changed the name of a company he had incorporated in October 1992 (1003686 Ontario Limited) to Promittere S & P 500 Limited (the company defined above as "Promittere").

16. As stated above, Thiessen was, at all material times, the sole director, President and Secretary of Promittere, and its controlling mind.

17. Thiessen presented and recommended the Promittere product to Lawson for sale to WAS clients. WAS approved the product for sale and, on August 1, 2002, Lawson began selling shares of Promittere to WAS clients.

18. Between August 1, 2002 and November 1, 2005, 48 clients of WAS invested $2,883,993 USD in shares of Promittere. WAS directed clients to make their cheques payable to Promittere

[4] See paragraph 26 below.
[5] It appears a few investors may have been able to recover slightly more than most. See paragraph 27 below.

in US funds. Thiessen forwarded these funds from Promittere's US dollar bank account to a US dollar bank account over which Lewis had sole signing authority. Lewis then allegedly transferred the funds to a trading account held by Lewis or G.H. Lewis at ED & F Man International Inc., a broker for exchange-listed futures and options.

19. Upon receipt of funds from Promittere, Promittere was issued units of a trust established as part of the Promittere product that Lewis and Thiessen had created. Corresponding shares of Promittere were then issued to clients of WAS who had invested in the product.

20. Once WAS-client investment funds were relinquished to Lewis or G.H. Lewis, the alleged performance of the trust units was reported to Thiessen by Lewis daily by email. The email contained a single figure which Lewis described as the closing value for the trust units for the day.

21. Thiessen provided investors in Promittere with a monthly update on the value of their shares. Each investor also received an annual statement from Promittere. Lawson and/or Thiessen periodically provided some investors with a copy of a monthly newsletter which Lewis provided to Promittere to describe his alleged trading activities.

22. At the time of investment, clients were asked to complete a Promittere share subscription agreement and a New Account Application Form. Clients were also provided with a current version of a 2-page share offering summary for Promittere, (the "Promittere Summaries"). The Promittere Summaries contained the following representations, with returns reported up to the most recent year-end:

(a) Promittere was created to permit shareholders to participate in the managed trading of S&P 500 Futures Index Contracts;

(b) Lewis' net return to investors to date has been: 77% in 1999 (six months), 163% in 2000, 169% in 2001, 230% in 2002, 102.6% in 2003, and 70.5% in 2004. The Promittere Summary noted that these returns were calculated net of management fees, trading costs and currency conversions;

(c) G.H. Lewis would receive an incentive-based fee equal to 50% of the amount by which the percentage increase in the value of the investment exceeded an annual return of 20% (the "Management Fee"). The percentage increase in the value of

the investment was to be calculated net of commissions. To the extent that the 20% threshold was not reached, the amount of such shortfall would be carried forward and deducted from the increase in the value of the investment in future years;

(d) Promittere's investment objectives and risk management strategies included the active use of limit price and stop loss orders, the closure of all contracts at the end of the day resulting in 100% cash position, and a 15-20% limit of asset exposure on any one trade hence the risk of large losses as a percentage of assets was negligible;[6] and

(e) Redemptions would only be processed once per year, on the last business day of December.

Regulatory Investigations, Proceedings and Fraud Charges

a. Compliance Review – Conflict of Interest

23. As described above, in return for managing the trading activities of Promittere, G.H. Lewis received the Management Fee. G.H. Lewis then paid one of Thiessen's Promittere companies a fee equal to 20% of the Management Fee collected, on an annual basis, in either cash or trust units (the "Promittere Fee"). Thiessen then paid Lawson, through WAS, a percentage of the Promittere Fee as a fee for his role in selling shares of Promittere to WAS-clients.

24. In September 2005, MFDA Compliance Staff conducted a compliance examination (the "Compliance Examination") of WAS during which Staff advised Lawson that Staff was concerned with, among other things, the accuracy of WAS' disclosure to clients regarding its relationship with Promittere and Thiessen. At that time, clients had only been advised that Promittere was created by Thiessen to allow shareholders to participate in Lewis' trading activities. Written disclosure of the compensation payable to WAS, Thiessen and Lawson as a result of the sale of shares of Promittere, as well as the fact that Thiessen was a director and controlling mind of both WAS and Promittere, had not been provided to clients of WAS.

[6] Note that the Promittere Summary for 2002 identified 25-30% of asset exposure on any one trade as opposed to 15-20%.

25. Following the Compliance Examination, WAS provided clients with written disclosure that Thiessen was a director of both WAS and Promittere. The compensation payable to WAS, Thiessen and Lawson for the sale of shares of Promittere was not disclosed to clients.

26. In September 2006, Thiessen and Lawson advised MFDA Staff that they had just learned that the investment returns provided by Lewis appeared to have been fabricated such that the value of the investment was greatly overstated. They further advised Staff that they had been advised that the actual amount remaining in the bank and trading accounts was approximately $40,000 USD. This represented a shortfall of approximately $5,760,000 USD based on Lewis' reported value of Promittere in the amount of $5,800,000 USD at that time.

27. In 2008, a handful of WAS-clients appear to have received payments directly from Promittere on account of their shares in Promittere in the cumulative amount of approximately $63,000, in exchange for the provision of full and final releases. To date, no other clients have been compensated for the losses they have incurred as a result of their investment in shares of Promittere. Accordingly, these clients appear to have lost their entire investment in Promittere with no reasonable prospect of recovery.

b. MFDA Investigation

28. In September of 2006, at the request of MFDA Staff and as a result of the investigation of this matter, WAS agreed to accept terms and conditions on its membership in the MFDA which included a requirement to cease trading in all exempt securities and related issuers, as well as increased financial reporting requirements to the MFDA. While these terms and conditions expired on March 31, 2007, WAS agreed to continue to abide by them on a voluntary basis. The second and third round compliance examinations conducted by MFDA Compliance Staff confirmed that WAS had continued to comply with the terms and conditions.

29. On September 15, 2006, the Manitoba Securities Commission ("MSC") issued a temporary cease trade order against Promittere in relation to the distribution of its shares to the public allegedly in reliance on the accredited investor exemption to the applicable statutory prospectus and registration requirements. An order was also made removing the availability of any trading registration exemptions from Thiessen. On August 3, 2007, the MSC extended the cease trade order against Promittere until a hearing could be held to examine the allegations against Promittere. The MSC's order against Thiessen lapsed effective July 18, 2007.

c. Fraud Charges against Lewis

30. On June 20, 2007, Lewis was arrested and charged with two counts of Fraud Over $5,000 and Theft Over $5,000 by the Metropolitan Toronto Police Force. On September 14, 2009, Lewis pled guilty to a fraud charge and has served a sentence of 12 months under house arrest.

Allegation #1: Failure to Conduct Adequate Due Diligence

31. As a product being offered to investors in reliance upon exemptions from the prospectus requirement under Ontario securities law, the Promittere product should have been subjected to a heightened level of due diligence by WAS to ensure that the features, nature and risks of the investment were fully examined and understood before it was offered for sale to clients for the following reasons, among others:

(a) Promittere had never previously been sold by WAS (or by anyone else);

(b) As a newly created investment, Promittere had no prior track record to be used to assess the performance of Promittere in varying market conditions;

(c) Promittere employed a sophisticated strategy of trading in S&P Futures Contracts and other similar interests listed on the Chicago Mercantile Exchange Index with which Lawson had only a basic familiarity. The specifics of the strategy were not fully disclosed in the Promittere Summary or otherwise made available in writing to investors. There were also no controls on Lewis' ability to vary or change altogether the strategy employed by Promittere;

(d) Promittere was not required by regulators to disclose the specific securities it held, the extent of its leveraging, or the extent of its short selling. Promittere had no obligation to make periodic or annual regulatory filings in respect of its performance and operations;

(e) It was difficult to identify comparable investments, classes of investments or published benchmarks for investments of Promittere's nature against which to evaluate its actual performance going forward; and

(f) A conflict or potential conflict of interest existed by virtue of Thiessen's common ownership and control of WAS and Promittere and the compensation scheme relating to sales of Promittere.

32. Thiessen, in his capacity as a director of WAS, failed to ensure that WAS had established, implemented, communicated and maintained a compliance program to ensure that a reasonable level of due diligence was conducted on all investment products, including Promittere, prior to their approval for sale.

33. As a result, or in any event, WAS and Thiessen failed to ensure that a reasonable level of due diligence was conducted on Promittere, Lewis and G.H. Lewis before approving sales of shares of Promittere to clients. Among other things, WAS and Thiessen failed to ensure that a reasonable level of due diligence was conducted with respect to the following essential or fundamental matters:

(a) ***Conduct a review of G.H. Lewis' corporate status –*** G.H. Lewis' corporate status was cancelled in 1992.

(b) ***Confirm the registration status of Lewis and G.H. Lewis –*** Neither Lewis nor G.H. Lewis was registered to advise or trade in securities in Canada or the US.

(c) ***Conduct an assessment of G.H. Lewis' and Lewis' management qualifications and track record*** – A copy of Lewis' *curriculum vitae* was not reviewed and references were not contacted.

(d) ***Review the financial position and trading history of G.H. Lewis*** - The historic returns reported by Lewis, which were exceptionally high and ought to have raised a red flag on their face, were not verified.[7]

34. Had WAS and Thiessen ensured that a reasonable level of due diligence was conducted with respect to Promittere, they would have discovered extensive and fatal deficiencies with the investment product that made it unsuitable for any investor.

35. By engaging in the conduct described above, WAS and Thiessen sold shares of Promittere, a related company of WAS, to 48 clients without ensuring a reasonable level of due

[7] See paragraph 22(b) above.

diligence was conducted on the product and without making reasonable inquiries to ensure that the product was suitable for sale to clients of WAS, contrary to MFDA Rules 2.2.1(a) and (b) and MFDA Rule 2.1.1(c).

Allegation #2: Suitability of Investments and Reliance on Exemptions

36. Promittere was presented to clients of WAS as a medium to high-risk product. It was in fact a high risk product having regard to, among other things, the lack of verified historic trading results for Promittere, the limited liquidity of the product and the lack of internal controls to monitor G.H. Lewis' trading activities and the handling of client monies. Further, clients were provided with the Promittere Summaries, which understated the risk of the Promittere product by describing the risk of large losses as a percentage of assets as negligible.

37. For 34 clients of WAS who invested in shares of Promittere, a risk tolerance of moderate or lower had been recorded on their existing Know Your Client ("KYC") information. Promittere was therefore an unsuitable investment for those clients. Sufficient KYC information for 8 other WAS-clients who invested in shares of Promittere had not been and was not collected in order to enable WAS to determine whether the investment in Promittere was suitable for them.

38. WAS relied, or purported to rely, on the closely held issuer or the accredited investor exemptions then available under Ontario securities law in respect of the sale of shares of Promittere to clients.

39. Clients were not provided with a copy of Form 45-501F3 at least 4 days before their purchase of shares in Promittere, as then required pursuant to Ontario securities law in order to rely on the closely held insurer exemption.[8] Accordingly, WAS was unable to rely on this exemption in respect of these sales.

40. Form 45-501F3 describes investments in small businesses as "inherently risky" and makes the following statement with respect to them, "NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY." As set out above, at the time of sale, the Promittere product was presented to clients as a medium to high

[8] In September of 2005, pursuant to National Instrument 45-106, the closely held issuer exemption (which had been provided for in s. 2.1 of Ontario Securities Commission Rule 45-501), was replaced with the private issuer exemption. Given the nature of the changes made to the exemption, the requirement to provide investors with a copy of Form 45-501F3 ceased. Lawson sold shares of Promittere to one client of WAS after this amendment.

risk product and clients were provided with the Promittere Summaries which described the risk of large losses as a percentage of assets as "negligible."

41. In addition, WAS failed to ensure that adequate documentation evidencing the qualification of some of the clients to whom WAS sold shares of Promittere as accredited investors was collected.

42. By engaging in the conduct described above, WAS sold shares of Promittere to 48 clients in reliance on the accredited investor and closely held insurer exemptions without:

(a) ensuring that these investments were suitable for the clients and in keeping with the clients' investment objectives, contrary to MFDA Rule 2.2.1 (a), (b) and (c), and MFDA Rule 2.1.1(c);

(b) obtaining sufficient documentation to determine if the clients qualified as accredited investors in accordance with s. 2.3 of Ontario Securities Commission Rule 45-501 and subsequently s. 2.3 of National Instrument 45-106[9], contrary to MFDA Rule 2.1.1(c); and

(c) Without complying with the requirements of the closely held issuer exemption as set out in s. 2.1 of Ontario Securities Commission Rule 45-501, in that the clients were not provided with a copy of Form 45-501F3 at least 4 days prior to their purchase of the shares, contrary to MFDA Rule 2.1.1(c).

Allegation #3: Undisclosed Conflict of Interest

43. Until MFDA Compliance Staff conducted the Compliance Examination in September of 2005, clients of WAS had only been advised that Promittere was created to permit shareholders to participate in Lewis' trading activities.

44. Following the Compliance Examination, WAS provided clients with written disclosure that Thiessen was a director of Promittere and WAS. WAS still did not disclose the compensation payable to WAS, Thiessen and Lawson in respect of sales of Promittere.

[9] In September 2005, National Instrument 45-106 came into force. Many of the prospectus and registration exemptions previously available in OSC Rule 45-501 were incorporated into NI 45-106. The "accredited investor" exemption was amended slightly but the amendments are not relevant to the allegations against the Respondents.

45. By failing to provide written disclosure to clients of the relationship between WAS and Promittere and by failing to provide written disclosure to clients of the financial interest of WAS, Thiessen and Lawson in sales of Promittere, the actions of WAS and Thiessen gave rise to a conflict or potential conflict of interest between WAS and Thiessen, on the one hand, and the clients, on the other hand, which WAS and Thiessen failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #4: Failure to ensure adequate compliance program (Thiessen)

46. As stated above, at all material times Thiessen was a director and the controlling mind of WAS. In his capacity as a director of WAS, Thiessen had a regulatory obligation to ensure that an adequate compliance program was established, implemented, maintained and communicated by WAS, which program was required to identify and address material risks of non-compliance and to ensure that appropriate supervision and compliance procedures were in place to manage those risks.

47. By engaging in the conduct described above, Thiessen failed to ensure that WAS established, implemented, communicated and maintained a compliance program to, among other things:

(a) ensure that a reasonable level of due diligence was conducted on all investment products prior to their approval for sale;
(b) identify and address conflicts of interest with respect to the sale of the securities of non-arm's length issuers;
(c) identify and address through appropriate supervision and compliance procedures material risks of non-compliance with respect to:
    i. ensuring the suitability of investments in clients' accounts;
    ii. the sale of exempt products and, in particular, reliance by clients on exemptions from the prospectus requirement; and
    iii. ensuring the fees and compensation earned by WAS on the sale of exempt products were adequately disclosed to clients;

contrary to MFDA Rules 2.1.1, 2.2.1 and 2.5.1, and MFDA Policy No. 2.

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, WAS:

- has failed to carry out any agreement with the MFDA;
- has failed to meet any liabilities to another Member or to the public;
- has engaged in any business conduct or practice which the Hearing Panel in its discretion considers unbecoming a Member or not in the public interest;
- has ceased to be qualified as a Member by reason of the ownership, integrity, solvency, training or experience of the Member or any of its Approved Persons or other employees or agents, or any person having an ownership interest in the capital or indebtedness of the Member;
- has failed to comply with or carry out the provisions of any of the By-laws, Rules or Policies of the MFDA; or
- has failed to comply with or carry out the provisions of any applicable federal or provincial statute relating to its business or of any regulation or policy made pursuant thereto;

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 the Member as a result of committing the violation;

(c) suspension of the rights and privileges of the Member (and such suspension may include a direction to the Member to cease conducting securities related business) for such specific period and upon such terms as such Hearing Panel may determine, or, if the rights and privileges have already been suspended under Section 24.3, the continuation of such suspension (including a prohibition on the Member conducting securities related business) for such specified period and upon such terms as such Hearing Panel may determine;

(d) termination of the rights, privileges and Membership of the Member;

(e) expulsion of the Member from the MFDA;

(f) such terms and conditions on Membership of the Member as may be considered appropriate by the Hearing Panel;

(g) imposition of a monitor to oversee and/or report on the Member's activities; and

(h) directions for the orderly transfer of client accounts from the Member.

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

- 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 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:

Crawley Meredith Brush MacKewn LLP
Suite 800 – 179 John Street
Toronto, Ontario
M5T 1X4
Attention: Melissa MacKewn
Fax: 416-217-0220
Email: mmackewn@cmblaw.ca

Reply shall be **filed** by:

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

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

(b) transmitting 1 copy of the **Reply** to 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 Corporate Secretary permits otherwise; or

(c) transmitting 1 electronic copy of the **Reply** to the Corporate Secretary by e-mail at CorporateSecretary@mfda.ca.

A **Reply** may either:

(a) 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

(b) 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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