



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: Blair Addison

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 October 23, 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 Blair Addison (the “Respondent”).

DATED this 20th day of August, 2013.

“Bernadette Devine”

Bernadette Devine
Assistant Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario, M5H 3T9
Telephone: 416-943-7436
Facsimile: 416-361-9781
Email: corporatesecretary@mfd.ca

NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between August 2009 and March 2012, the Respondent engaged in personal financial dealings with client DH by recommending and facilitating an investment by client DH in the amount of \$120,000 in a rental property owned by the Respondent by way of a second mortgage secured against the property, thereby creating a conflict or potential conflict of interest between the interests of the Respondent and the interests of client DH which the Respondent failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #2: Between at least March 30, 2011 and July 4, 2011, the Respondent failed to comply with his reporting obligations to the Member in respect of complaints made by client DH concerning his investment in the Respondent's rental property, contrary to MFDA Rule 1.2.2 and subsections 4.1(a) and (b)(v) of MFDA Policy No. 6.

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 Ontario as a mutual fund salesperson with Desjardins Financial Security Investments Inc. ("Desjardins") since May 26, 2005. At the material time, the Respondent carried on business in Brampton, Ontario.
2. Desjardins has been an MFDA Member since November 15, 2002.

Allegation #1: Personal Financial Dealings With Client DH

3. In 2008, DH became a client of Desjardins. The Respondent was the mutual fund salesperson responsible for servicing the DH's account. Prior to DH becoming a Desjardins client, DH and the Respondent had been friends for approximately 20 years.

4. In or about September 2009, the Respondent approached client DH about investing \$120,000 in a rental property owned by the Respondent in Vaughan, Ontario by way of a second mortgage secured against the rental property.
5. Client DH agreed to proceed with the investment. The investment was for a term of one year with a maturity date of September 24, 2010 and interest payable at the rate of 7.8% per annum due on the 24th day of each month, commencing on October 24, 2009 and concluding on September 24, 2010. The Respondent assured client DH that there would be no issues with repayment since the investment was only for a short period of time and he (the Respondent) had sufficient capital and resources to repay the second mortgage in full at maturity.
6. At all material times, Desjardins' Policies and Procedures Manual ("PPM"), dated October 2007, addressed, among other things, conflicts and potential conflicts of interest between Approved Persons and clients. The PPM provided that any transaction giving rise to a conflict or potential conflict of interest between an Approved Person and a client must be immediately reported to the Member prior to the transaction in question taking place.
7. The Respondent failed to report the second mortgage arrangement with client DH prior to entering into the transaction or at any time thereafter. As a consequence, Desjardins was unable to take appropriate supervisory action, including prohibiting the Respondent from proceeding with the second mortgage.
8. The Respondent directed client DH to transfer the mortgage proceeds from his Desjardins RSP account (the "Desjardins account") to a B2B Trust Self-Directed RSP account set up in client DH's name (the "B2B account") in order to facilitate the transaction.
9. On August 27, 2009, client DH transferred \$131,495.36 from his Desjardins account to the B2B account.
10. On September 23, 2009, client DH invested \$120,000 of the monies from the B2B account in a one year second mortgage secured against the Respondent's rental property on the terms described above.
11. The Respondent made the monthly interest payments owing under the terms of the second mortgage but at the end of the one-year term, in September 2010, the Respondent was

unable to repay the principal amount owing. Client DH requested repayment of the principal according to the terms of the mortgage but the Respondent was either unable or unwilling to do so.

12. On October 7, 2010, the Respondent asked client DH for a 12 month extension to repay the principal owing under the second mortgage. Client DH declined to grant a twelve month extension but did agree to provide the Respondent two additional months (to November 24, 2010) in which to attempt to secure additional financing to pay out client DH's second mortgage (the "Interim Agreement").

13. The Interim Agreement entered into between the Respondent and client DH stipulated, among other things, that should the full amount owing under the second mortgage not be repaid within the two month period, then at least \$75,000 of the principal amount would be repaid by November 24, 2010, with the remaining \$45,000 to be paid in two payments of \$20,000 and \$25,000 due on March 24, 2011 and April 24, 2011 respectively.

14. The Respondent failed to find additional financing to replace the second mortgage and did not personally qualify for additional mortgage funds. Client DH refused to take a third mortgage position and the Respondent missed each of the extended repayment deadlines.

15. On March 30, 2011, client DH, through his legal counsel, sent a letter to the Respondent demanding repayment of the second mortgage. The letter requested that the Respondent contact client DH to arrange for repayment within 14 days of the date of the letter. The letter further advised the Respondent that if full payment was not received within 14 days, then client DH would commence legal action to recover all amounts owing under the second mortgage without further notice to the Respondent, including accrued interest, legal fees and court costs.

16. The Respondent did not report receipt of client DH's demand letter to Desjardins.

17. On July 4, 2011, client DH sent a letter to the Respondent's Branch Manager at Desjardins advising him of the Respondent's failure to repay the amounts secured by the second mortgage and client DH's subsequent attempts to resolve the matter with the Respondent. Client DH also requested that Desjardins reassign his mutual fund account to another mutual fund salesperson.

18. On July 11, 2011, Desjardins filed a report in respect of the Respondent's personal financial dealings with client DH through the MFDA's electronic Member Event Tracking System ("METS").
19. On July 19, 2011, the Respondent wrote to client DH requesting that he take no further action to collect his monies if he (the Respondent) was able to repay the outstanding amount on or before August 24, 2011. The Respondent further advised client DH that he would obtain the monies for repayment through the sale of the property. Client DH agreed to allow the Respondent until August 24, 2011 to repay the amount owing under the second mortgage.
20. On August 24, 2011, the Respondent failed to repay amount owing under the second mortgage.
21. On December 15, 2011, the Respondent and client DH agreed to a further extension to April 24, 2012 for the Respondent to repay the amount owing under the second mortgage.
22. On or about February 21, 2012, the Respondent sold his rental property.
23. On March 28, 2012, client DH was repaid in full and B2B Trust provided a "statement of discharge" in respect of the second mortgage.
24. On March 29, 2012, client DH and the Respondent signed a document acknowledging the repayment of the second mortgage and all interest, costs and other obligations between them.
25. During the course of MFDA Staff's investigation, the Respondent acknowledged that it had been necessary for him to sell the rental property in order to repay client DH, that he had realized a significant gain from the sale of the property and that he was aware that his activities created a conflict or potential conflict of interest between himself and client DH.
26. By engaging in the conduct described above, the Respondent engaged in personal financial dealings with client DH which gave rise to a conflict or potential conflict of interest between the Respondent and client DH that the Respondent failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of client DH, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #2: Information Reporting Requirements

27. MFDA Rule 1.2.2(b) and subsections 4.1(a) and (b)(v) of MFDA Policy No. 6 provide that an Approved Person must report to the Member, within two business days, when the Approved Person is, among other things, the subject of a client complaint in writing and when the Approved Person is aware of any complaint (in any form) against him or her involving allegations of, among other things, personal financial dealings with clients.

28. The Respondent failed to notify Desjardins at any time of client DH's demands for repayment of the principal amount owing under the second mortgage and, in particular, failed to report his receipt of the March 30, 2011 demand letter from counsel for client DH.

29. Desjardins was not made aware of the existence of the personal financial dealings between the Respondent and client DH until client DH wrote directly to the Respondent's Branch Manager by way of letter dated July 4, 2011.

30. By engaging in the conduct described above, from at least March 30, 2011 to July 4, 2011 the Respondent failed to comply with his reporting obligations to the Member in respect of complaints made by client DH concerning his investment in the Respondent's rental property, contrary to MFDA Rule 1.2.2 and subsections 4.1(a) and (b)(v) of MFDA Policy No. 6.

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 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, Ontario
M5H 3T9
Attention: Maria L. Abate
Fax: 416-361-9073
Email: mabate@mfd.ca

A **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@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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