



**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: ASL Direct Inc. and Adrian Samuel Leemhuis**

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**ORDER**

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**WHEREAS** on October 17, 2008, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 in respect of a disciplinary proceeding commenced against ASL Direct Inc. (“ASL”) and Adrian Samuel Leemhuis (“Mr. Leemhuis”) (collectively referred to as the “Respondents”);

**AND WHEREAS** on September 15, 2009, a hearing panel of the Central Regional Council of the MFDA (the “Hearing Panel”) issued an order setting a schedule for the continuation of the proceeding which, among other things, required that on or before Friday, October 30, 2009:

- (a) Staff of the MFDA (“Staff”) and Mr. Leemhuis shall complete the disclosure process in accordance with Rule 10 of the MFDA Rules of Procedure; and
- (b) Mr. Leemhuis shall identify any documents (including electronic documents) that were obtained by Staff during its investigation of the Respondents over which Leemhuis wishes to assert privilege claims.

**AND WHEREAS** by Notice of Motion dated December 9, 2009, Staff brought a motion for directions from the Hearing Panel in light of the fact that Mr. Leemhuis had

not yet complied with the September 15, 2009 Order of the Hearing Panel and that motion was heard by teleconference on Friday, December 18, 2009;

**AND WHEREAS** by Order dated December 18, 2009, the Hearing Panel set a revised schedule for Mr. Leemhuis to deliver disclosure to Staff and complete the review of forensic images of ASL hard drives that were prepared by a third party service provider called Digital Evidence International Inc. (“DEI”) to identify potentially privileged documents before those hard drives are reviewed by Staff;

**AND WHEREAS** in accordance with the December 18, 2009 Order:

- (a) Mr. Leemhuis completed the review of forensic images of ASL hard drives and informed Staff that he would not be asserting privilege claims over the content of any of the files that were provided to him by DEI; and
- (b) Mr. Leemhuis and Staff filed written submissions concerning which party should pay the costs of services provided by DEI to prepare copies of the forensic images of ASL hard drives on a USB Hard Drive (to replace copies that were previously produced on disks) to facilitate Mr. Leemhuis’s review for privileged documents;

**AND WHEREAS** the Respondents have not yet provided disclosure to Staff in accordance with the MFDA Rules of Procedure and have not produced documents over which claims of spousal privilege were previously asserted and later withdrawn;

**AND WHEREAS** by Notice of Motion dated January 15, 2010, Mr. Leemhuis requested an extension of time until January 22, 2010 to fulfill his disclosure obligations;

**AND WHEREAS** Staff requested certain amendments to the Notice of Hearing issued on October 17, 2008 and Mr. Leemhuis consented to the proposed amendments;

**AND WHEREAS** the Hearing Panel informed the parties that the dates previously scheduled for the hearing on the merits must be postponed;

**AND WHEREAS** on Monday, January 18, 2010, an appearance before the Hearing Panel was held by teleconference;

**AND UPON** reading the Motion Record of Mr. Leemhuis including the Affidavit of Mr. Leemhuis affirmed on January 15, 2010; an e-mail dated January 18, 2010 from Janine Bradley on behalf of KPMG Inc., the court-appointed Receiver for ASL; the written submissions of counsel for Mr. Leemhuis and Staff regarding costs payable to DEI; and the proposed amendments to the Notice of Hearing requested by Staff;

**AND UPON** hearing oral submissions of Staff and Counsel for Mr. Leemhuis;

**AND UPON** informing the parties that the Hearing Panel is reserving its decision on the issue of costs payable to DEI;

**IT IS HEREBY ORDERED THAT:**

1. Leave is granted to Staff to amend the Notice of Hearing in this proceeding in the manner consented to by the Respondent Mr. Leemhuis.
2. On or before Friday, January 22, 2010, Mr. Leemhuis shall:
  - (a) complete the disclosure process in accordance with Rule 10 of the MFDA Rules of Procedure; and
  - (b) provide Staff with copies of all documents over which claims of spousal privilege were previously asserted and later withdrawn.
3. Friday, February 19, 2010 at 10:00 a.m. and March 30, 2010 at 3:00 p.m. are reserved as dates for the hearing of motions or for attendances before the Hearing Panel for any other purpose if required to address any matters which the parties wish to raise prior to the hearing on the merits.
4. On or before Friday, March 19, 2010, Staff and Mr. Leemhuis shall provide:
  - (a) witness lists in accordance with Rule 11.1 of the MFDA Rules of Procedure; and
  - (b) witness statements, transcripts of recorded statements or summaries of the evidence that witnesses are expected to give at the hearing in accordance with Rule 11.2 of the MFDA Rules of Procedure.
5. On or before Wednesday, April 7, 2010, Staff shall serve and file affidavits that Staff intends to rely upon at the hearing on the merits.

6. On or before Wednesday, April 14, 2010, Mr. Leemhuis shall serve and file affidavits that he intends to rely upon at the hearing on the merits.
7. The hearing of this matter on its merits shall take place before the Hearing Panel on the following dates:
  - (a) from Wednesday, April 21, 2010 – Friday, April 23, 2010;
  - (b) from Monday, April 26, 2010 – Friday, April 30, 2010;
  - (c) subject to the availability of counsel for Mr. Leemhuis, the hearing on the merits will continue from Tuesday, May 11, 2010 – Friday, May 14, 2010; and
  - (d) on Tuesday, May 18, 2010, Thursday, May 20, 2010 and Friday, May 21, 2010.
8. Subject to any other Order of the Hearing Panel, all appearances before the Hearing Panel referred to in this Order shall be open to the public, take place in the hearing room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario, and commence at 10:00 a.m. (Toronto), or as soon thereafter as the appearance can be held, except for the appearances scheduled on Monday, April 26, 2010, Thursday, April 29, 2010 and Thursday, May 20, 2010 which shall commence at 2:00 p.m. (Toronto) or as soon thereafter as the appearance can be held.

**DATED** this 18<sup>th</sup> day of January 2010.

Per: “Thomas J. Lockwood”  
Thomas J. Lockwood, Q.C., Chair

Per: “Sandy Grant”  
Sandy Grant, Industry Representative

Per: “Selwyn Kossuth”  
Selwyn Kossuth, Industry Representative