



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: Reginald Jens Roskaft

AMENDED NOTICE OF HEARING ¹

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 August 19, 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 Reginald Jens Roskaft (the “Respondent”).

DATED this 4th day of June, 2013. Amended on the 14th day of April, 2014.

“Jason D. Bennett”

Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
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¹ Notice of Hearing amended by Hearing Panel Order dated April 14, 2014.

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

Allegation #1: Between June 2010 and January 2011, the Respondent misappropriated \$2,200 from client AD, and between 2009 and 2010, the Respondent misappropriated \$109,599 from clients HF and BL, thereby failing to deal fairly, honestly and in good faith with client AD, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing November 2011, the Respondent failed to cooperate with an MFDA investigation by failing to comply with requests by MFDA Staff (“Staff”) that he provide a written statement concerning the matters under 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. From September 5, 2007 to June 24, 2011, the Respondent was registered in Ontario as a mutual fund salesperson with Sterling Mutuals Inc. (“Sterling”), a Member of the MFDA. At all material times, the Respondent was employed at a sub-branch of Sterling located in Barrie, Ontario.
2. Prior to being registered with Sterling, the Respondent was registered as a mutual fund salesperson with several other mutual fund dealers since June 1993.
3. On or about June 24, 2011, the Respondent ~~was terminated by~~ resigned from Sterling.
4. The Respondent is currently not registered in the securities industry in any capacity.

Allegation #1 – Misappropriation

Client AD

5. At all material times, AD was a client of Sterling whose account was serviced by the Respondent. Client AD was retired.

6. At all material times, in addition to being a mutual fund salesperson employed by Sterling, the Respondent prepared income tax returns for clients of Sterling and other individuals.

7. The Respondent had previously sought and obtained approval from Sterling to provide the tax preparation services. In the course of seeking the approval, the Respondent had not identified a company through which he would be providing the services. As it turned out, the Respondent provided the services through a company of his that he sometimes referred as Corporate Receivables Agency – or “CRA” for short.

8. The Respondent prepared client AD’s income tax returns for the tax years 2008, 2009 and 2010 and each year charged her a nominal fee for this service which she paid in cash.

9. On or about June 2, 2010, client AD instructed the Respondent to redeem \$5,000 net from her RRSP account. The Respondent processed a gross redemption of \$7,677 from client AD’s account; the withholding tax applied was \$1,525, resulting in a net redemption of \$6,152.

10. On or about June 14, 2010, the Respondent asked client AD to provide him with a cheque in the amount of \$1,100 made payable to “CRA”. By his representations or omissions, the Respondent led or allowed client AD to believe that the cheque was required to pay taxes owing on the redemption from her RRSP account. Client AD complied with the Respondent’s request on the understanding that she was paying taxes to the Canada Revenue Agency.

11. On or about January 3, 2011, client AD instructed the Respondent to redeem \$5,000 net from her RRSP account. The Respondent processed a gross redemption of \$8,000 from AD’s

account; the withholding tax applied was \$1,567, resulting in a net redemption of \$6,433.

12. On or about January 13, 2011, the Respondent asked client AD to provide him with a cheque in the amount of \$1,100 made payable to “CRA”. By his representations or omissions, the Respondent led or allowed client AD to believe the cheque was required to pay taxes owing on the redemption from her RRSP account. Client AD complied with the Respondent’s request on the understanding that she was paying taxes to the Canada Revenue Agency.

13. The Respondent did not remit any amounts to the Canada Revenue Agency on client AD’s behalf and there is no evidence that any such amounts were owing. Rather, the Respondent deposited both of client AD’s cheques in an account belonging to a company for which the Respondent was the signing officer without client AD’s knowledge or consent, thereby misappropriating the monies.

14. On June 24, 2011, the Respondent ~~was terminated by~~ resigned from Sterling.

15. In or about August 2011, client AD instructed the Respondent to redeem \$5,000 net from her RRSP account. The Respondent asked client AD to provide him with a cheque for \$2,665 made payable to “CRA” prior to him doing so.² Client AD again complied with this request on the understanding that she was paying taxes to the Canada Revenue Agency owing on the requested redemption from her RRSP account.

16. In or about August or September 2011, client AD contacted the Respondent because she had not received the \$5,000 she had requested. The Respondent told client AD he would follow up and disclosed to client AD at that time that he was no longer employed by Sterling.

17. On or about September 28, 2011, client AD met with OM, the new Approved Person assigned to her accounts at Sterling. OM was concerned about the cheques client AD had made payable to “CRA”, and assisted client AD to confirm that these cheques were not received by

² Since the Respondent was no longer registered with Sterling, he was incapable of processing such a redemption in client AD’s account and he did not in fact do so.

Canada Revenue Agency. Subsequently, client AD stopped payment on the \$2,665 cheque she had previously provided to the Respondent.

18. On or about October 5, 2011, with the assistance of Sterling, client AD sent the Respondent a letter by registered mail asking that he return \$2,200 to her, being the sum of the two previous cheques she had provided to the Respondent payable to "CRA".

19. On or about December 2011, the Respondent repaid \$2,200 to client AD.

Clients HF and BL

20. At all material times, HF and BL were clients of Sterling whose accounts were serviced by the Respondent. Clients HF and BL were retired.

21. In 2009, the Respondent prepared income tax returns for clients HF and BL for the tax year 2008 and did not charge them a fee for this service. The Respondent advised clients HF and BL to expect a tax refund for the tax year 2008, and they subsequently did receive a refund by direct deposit to their bank account.

22. From 2010 to 2012 inclusive, clients HF and BL gave all their relevant documents to the Respondent in order for him to prepare their tax returns. Each year, the Respondent represented to clients HF and BL that he had prepared and submitted income tax returns on their behalf, and further represented to them that they could expect annual tax refunds; however, they received no such refunds.

23. In or about 2009, the Respondent requested that clients HF and BL loan monies to him using advances from their credit cards, which the Respondent represented he would invest on their behalf, and provide them with an unspecified profit on their investment.

24. Clients HF and BL loaned the Respondent a total of at least \$34,599, using advances on their credit cards. On or about December 9, 2009, the Respondent provided clients HF and BL

with a Loan Agreement stating that BL had loaned the Respondent's numbered company \$34,599, that the loan had no maturity date, and that it was interest free until 2014.

25. The Respondent has not repaid clients HF and BL any of the principal or the interest owing on the \$34,599 he borrowed from them.

26. In or about June 2010, clients HF and BL were expecting proceeds in the amount of \$75,000, and the Respondent recommended to them that they invest the anticipated \$75,000 in their Sterling accounts.

27. On or about June 2, 2010, the Respondent directed clients HF and BL to have a cheque drawn up in the amount of \$75,000 and payable to one of the Respondent's numbered companies. Clients HF and BL followed the Respondent's instructions, on or about the next day, the cheque was cashed by the Respondent's numbered company.

28. In or about a short while later, the Respondent represented to clients HF and BL that he had used \$25,000 of the \$75,000 (all of which clients HF and BL had been led to believe by the Respondent was invested in their Sterling accounts) in order to pay taxes to CRA on their behalf. The Respondent did not provide clients HF and BL any documentation showing that there was a requirement to pay an amount of \$25,000 to CRA, or showing that such a payment had in fact been made.

29. When clients HF and BL periodically questioned the Respondent as to the status of their Sterling accounts, the Respondent showed them screenshots on his computer purporting to be their accounts, such that clients HF and BL did not realize that some of their funds had not been invested in their Sterling accounts.

30. In or about 2012, clients HF and BL received some payments from the Respondent on account of the funds owing to them; however, the Respondent has failed to return or account for the majority of their funds.

31. By misappropriating clients HF and BL's funds, the Respondent has not dealt fairly, honestly and in good faith with the clients, contrary to MFDA Rule 2.1.1.

Allegation # 2 – Failure to Cooperate

20. 32. As set out in chart below, the Respondent has failed to cooperate with Staff's investigation into the matters alleged herein, notwithstanding that Staff has made a number of attempts to contact the Respondent:

Date	Communication	Method of Delivery	Result
November 11, 2011	Staff requested the Respondent provide a written response concerning AD's complaint. Deadline: December 12, 2011	Ordinary and registered mail	Respondent did not respond. Registered mail copy was unclaimed and returned to Staff. Ordinary mail copy was not returned.
December 15, 2011	Staff reiterated their request for a written response to AD's complaint and advised the matter could be escalated to MFDA Investigations. Deadline: December 30, 2011	Ordinary and registered mail	Respondent did not respond. Registered mail copy was unclaimed and returned to Staff. Ordinary mail copy was not returned.
January 18, 2012	Respondent sent Staff an e-mail indicating he was responding to Staff's letter of November 2011.	e-mail	The Respondent did not answer the majority of questions outlined in the November and December letters.
January 24, 2012	Staff requested the Respondent provide further information. Deadline: February 7, 2012	e-mail	Respondent did not respond.
February 2, 2012	Staff advised the Respondent the matter was reassigned to a different MFDA Staff member and reminded him to provide a response to AD's complaint. Deadline: February 7, 2012	e-mail	Respondent did not respond.

February 14, 2012	Matter escalated to MFDA Investigations group.	Ordinary and registered mail	Respondent did not respond. Registered mail copy was unclaimed and returned to Staff. Ordinary mail copy was not returned.
February 21, 2012	Staff outlined the Respondent's failure to respond to Staff's requests and reiterated their request to respond to AD's complaint. Staff advised the matter could be escalated to MFDA Enforcement. Deadline: March 7, 2012	Process server	Personal service effected February 26, 2012. The Respondent did not respond.
August 7, 2012	Matter escalated to MFDA Enforcement branch.	Ordinary mail	Respondent did not respond.

~~24.~~ 33. To date, the Respondent has not provided Staff with a response to AD's complaint and other requested information.

~~22.~~ 34. Due to the Respondent's failure to cooperate with the MFDA's investigation, Staff has not been able to determine the full nature and extent of the Respondent's conduct in relation to client AD, and possibly other clients.

~~23.~~ 35. Commencing November 2011, by failing to comply with Staff's requests that he provide a written response concerning the matters under investigation, the Respondent has failed to cooperate with an MFDA investigation, 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 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: Lyla Simon
Fax: 416-361-9073
Email: lsimon@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.

DM-342899-v2

DM 376243 v1