



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: Brian Somerset Campbell

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 Pacific Region of the Mutual Fund Dealers Association of Canada (the “MFDA”), in the hearing room located at 650 West Georgia Street, Suite 1220, Vancouver, British Columbia on Tuesday, April 22, 2008, at 10:00 a.m. (Vancouver) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Brian Somerset Campbell (the “Respondent”).

DATED at Toronto this 5th day of March, 2008.

“Gregory J. Ljubic”

Gregory J. Ljubic
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-943-5836
Fax: 416-361-9781
E-mail: corporatesecretary@mfd.ca

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: Commencing in or about 2002, the Respondent conducted trades in the accounts of clients of the Member without first obtaining instructions from the clients for each trade made, thereby engaging in discretionary trading beyond the terms of his registration as a mutual fund salesperson, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing in or about 2002, the Respondent collected portfolio management fees from clients of the Member in respect of trades made by the Respondent in the accounts of the clients, thereby accepting remuneration from persons other than the Member in respect of business carried out by the Respondent on behalf of the Member, contrary to MFDA Rule 2.4.1.

Allegation #3: Commencing in or about 2002, the Respondent engaged in discretionary trading in the accounts of clients of the Member and collected portfolio management fees from those clients, thereby engaging in portfolio management activity contrary to the express terms and conditions imposed on his registration as a mutual fund salesperson by the British Columbia Securities Commission, contrary to MFDA Rule 2.1.1.

Allegation #4: On March 13, 2006, the Respondent had in his possession 68 blank pre-signed forms, contrary to MFDA Rule 2.1.1. Specifically:

- (i) 63 blank pre-signed trade execution forms which he obtained and maintained for the purpose of conducting discretionary trading in client accounts; and
- (ii) 5 blank pre-signed new account application forms which he obtained and maintained for the purpose of altering know-your-client information to suit trades he conducted in client accounts.

Allegation #5: On September 26, 2006 and February 14, 2007, the Respondent made false or misleading statements to the MFDA during the course of an investigation,

contrary to MFDA Rule 2.1.1.

Allegation #6: Commencing February 2007, the Respondent failed to produce for inspection and provide copies of documents and other information relevant to matters being investigated by the MFDA, 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. On April 25, 2001, the Respondent was granted registration in British Columbia as a mutual fund salesperson with Sterling Mutuals Inc. (“Sterling”) on the condition that the Respondent “not conduct any portfolio management activity, including any discretionary trading.”
2. Sterling became a Member of the MFDA on March 8, 2002 and is registered as a mutual fund dealer in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario. Sterling is also registered as a limited market dealer in Ontario.
3. On April 3, 2006, the Respondent was placed on ‘close supervision’ by the British Columbia Securities Commission (“BCSC”) as a result of the events described herein.
4. On March 9, 2007, Sterling terminated the Respondent, in part, as a result of the events described herein.
5. The Respondent is not currently registered in the securities industry in any capacity.

Allegations #1 & #2: Discretionary Trading & Portfolio Management Fees

6. The Respondent was, at all material times, the sole founder, owner and operator of a non-registered entity operating under the trade name Campbell Asset Management Ltd. (“CAML”). At no time was CAML registered to conduct securities related business in any capacity in Canada.

7. Commencing in or about 2002, the Respondent conducted trades in the accounts of clients of Sterling without obtaining the client’s prior authorization for the trades, thereby engaging in discretionary trading beyond the terms of his registration as a mutual fund salesperson, contrary to MFDA Rule 2.1.1.

8. Thereafter, the Respondent sent annual invoices to each of the clients on CAML letterhead requesting payment of “portfolio management fees” of up to 3% of the client’s account balance at year end. The invoices stated that payment was due upon receipt and that cheques were to be made payable to CAML.

9. In addition to not being registered to engage in discretionary trading or to provide portfolio management services, the Respondent had not obtained the necessary proficiency required under the *Securities Act* (British Columbia) to perform such services.

10. By engaging in discretionary trading in client accounts, the Respondent engaged in conduct beyond the terms of his registration as a mutual fund salesperson, and thereby failed to observe high standards of ethics and conduct in the transaction of business and engaged in business conduct or practice that was unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1(b) and (c).

11. By collecting portfolio management fees from clients of Sterling, the Respondent accepted remuneration from persons other than Sterling in respect of business carried out by the Respondent on behalf of Sterling, contrary to MFDA Rule 2.4.1.

Allegation #3: Breach of Terms & Conditions of Registration

12. As stated in paragraph 1 above, on April 25, 2001 the BCSC granted the Respondent's registration as a mutual fund salesperson with Sterling on the condition that he "not conduct any portfolio management activity, including any discretionary trading".

13. Commencing in or about 2002, the Respondent engaged in discretionary trading in the accounts of clients of Sterling and collected portfolio management fees from those clients, thereby engaging in portfolio management activity contrary to the express terms and conditions imposed on his registration by the BCSC, contrary to MFDA Rule 2.1.1.

Allegation #4: Blank Pre-Signed Forms

14. On March 13, 2006, MFDA investigators conducted an on-site inspection of the Respondent's office during which they found 63 blank pre-signed trade execution forms and 5 blank pre-signed new account application forms in respect of 19 different client accounts.

15. The Respondent obtained and maintained the blank signed forms to facilitate the provision of his portfolio management services, contrary to MFDA Rule 2.1.1. The Respondent had clients sign blank trade execution forms in order to conduct discretionary trades in the clients' accounts. The Respondent had clients sign blank new account application forms for the purpose of altering know-your-client information to suit trades he conducted in client accounts.

16. By obtaining and maintaining the blank pre-signed forms, the Respondent engaged in conduct contrary to MFDA Rule 2.1.1.

Allegation #5: False or Misleading Statements

17. The Respondent was interviewed by MFDA investigators on September 26, 2006

and February 14, 2007, during which he made false or misleading statements concerning his conduct in relation to these matters, as described below:

- (i) On September 26, 2006, the Respondent acknowledged having the 68 blank pre-signed forms in his home office, but denied having used pre-signed forms to effect transactions in client accounts. On February 14, 2007, the Respondent admitted that he had used blank pre-signed forms to process redemptions from client accounts; and
- (ii) On February 14, 2007, the Respondent stated that he had not been in contact with client HK after the September 26, 2006 interview. The Respondent subsequently admitted to MFDA investigators that he had contacted HK immediately after his interview on September 26, 2006.

18. By making false or misleading statements to the MFDA in the course of an investigation, the Respondent failed to observe high standards of ethics and conduct in the transaction of business and engaged in business conduct or practice that was unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1(b) and (c).

Allegation #6: Failure to Produce Documents

19. During the interviews of September 26, 2006 and February 14, 2007, the Respondent undertook to provide the MFDA with certain documents, including correspondence, notes and personal and corporate income tax returns.

20. On February 16, 2007, MFDA Staff sent a letter to the Respondent listing four undertakings that he had given at his interview on February 14, 2007 and two undertakings that were still outstanding from his interview on September 26, 2006. MFDA Staff asked the Respondent to answer the six undertakings by March 31, 2007, in accordance with his obligations under section 22.1 of MFDA By-law No. 1.

21. The Respondent did not respond to the February 16, 2007 letter.
22. On April 2, 2007, MFDA Staff sent a second letter to the Respondent requesting that he answer his outstanding undertakings by April 9, 2007 in accordance with his obligations under section 22.1 of MFDA By-law No. 1.
23. The Respondent did not respond to the April 2, 2007 letter.
24. On April 10, 2007, MFDA Staff sent a final letter to the Respondent requesting that he answer his undertakings by April 13, 2007. The Respondent was reminded of his obligation to cooperate with an MFDA investigation. The Respondent was also advised that Staff would seek authorization to commence disciplinary proceedings against him under section 22.1 of MFDA By-law No. 1 in respect of his failure to cooperate if the undertakings were not answered by April 13, 2007.
25. To date, the Respondent has failed to produce the documents requested by the MFDA during the course of its 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: Jason D. Bennett
Fax: 416-943-7431
Email: jbennett@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.