



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: Martin Horvath

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 September 23, 2009 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 Martin Horvath (the “Respondent”).

DATED: June 26th, 2009.

“Jason D. Bennett”

Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, Ontario M5H 3T9
Telephone: 416-943-7431
Fax: 416-361-9781
E-mail: 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 approximately September 2006 and September 14, 2007, the Respondent had and continued in another gainful occupation that was not disclosed to and approved by the Member by referring individuals to overseas real estate agents, contrary to MFDA Rule 1.2.1(d).

Allegation #2: Between May 2004 and September 14, 2007, the Respondent engaged in securities related business that was not carried on for the account of the Member and through the facilities of the Member by recommending, referring or facilitating purchases of investment products by individuals outside the Member, contrary to MFDA Rule 1.1.1(a).

Allegation #3: Between May 2004 and September 14, 2007, the Respondent had and continued in another gainful occupation that was not disclosed to and approved by the Member by recommending, referring or facilitating purchases of investment products by individuals outside the Member, contrary to MFDA Rule 1.2.1(d).

Allegation #4: Commencing September 5, 2007, the Respondent has failed or refused to provide documents and information to MFDA Staff during the course of an investigation, contrary to s. 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. The Respondent was registered in Ontario as a mutual fund salesperson with ASL Direct Inc. (“ASL Direct”) from May 2004 until his termination on September 14, 2007.

2. Prior to being registered as a mutual fund salesperson with ASL Direct, the Respondent was registered in Ontario as a mutual fund salesperson with the following mutual fund dealers:

- (a) From March 2003 to May 2004, with Sterling Mutuals Inc.;
- (b) From November 2001 to December 2002, with Canadian Investment Consultants; and
- (c) From July 2000 to July 2001, with Investors Group Financial Services Inc.

3. The Respondent is not currently registered in the securities industry in any capacity.

Allegation #1 – Undisclosed Dual Occupation

4. Between approximately September 2006 and September 14, 2007, the Respondent referred at least three individuals to overseas real estate agents to purchase real estate properties, including properties in the Caribbean (the “Real Estate Referral Activity”).

5. The Respondent was entitled to a referral fee when an individual he referred purchased a property through the real estate agent. As of September 5, 2007, the Respondent claimed he was owed approximately \$20,000 in referral fees.

6. The Respondent did not disclose his involvement in the Real Estate Referral Activity to ASL Direct.

7. By engaging in the conduct described above, the Respondent had and continued in another gainful occupation that was not disclosed to and approved by ASL Direct, contrary to MFDA Rule 1.2.1(d).

Allegation #2 – Securities Related Business Outside the Member

8. Between May 2004 and September 14, 2007, the Respondent engaged in the

following securities related business that was not carried on for the account of ASL Direct and through the facilities of ASL Direct:

- (a) the Respondent recommended, referred or facilitated purchases by individuals of investment products offered by Walton International Group Inc. (“Walton”) and received fees from Walton in respect of this activity;
- (b) the Respondent referred at least one individual to purchase an investment product offered by Mineralfields Group (“Mineralfields”) and received fees from Mineralfields in respect of this activity;
- (c) the Respondent referred at least one individual to purchase an investment product offered by PanFinancial Group (“PanFinancial”) and received fees from PanFinancial in respect of this activity.

9. The investment products offered by Walton, Mineralfields and PanFinancial were not investment products approved by ASL Direct for sale by its Approved Persons, including the Respondent.

10. By engaging in the conduct described above, the Respondent engaged in securities related business that was not carried on for the account of ASL Direct and through the facilities of ASL Direct, contrary to MFDA Rule 1.1.1(a).

Allegation #3 – Undisclosed Dual Occupation

11. In the event that the Respondent’s activities in respect of the investment products offered by Walton, Mineralfields and PanFinancial did not constitute securities related business, then the Respondent had and continued in another gainful occupation that was not disclosed to and approved by ASL Direct, contrary to MFDA Rule 1.2.1(d).

Allegation #4 – Failure to Cooperate

12. On September 5, 2007, MFDA Staff conducted an interview of the Respondent

pursuant to section 22 of MFDA By-law No. 1 (the “Interview”). During the Interview, MFDA Staff requested that the Respondent provide certain documents and information relevant to the MFDA’s investigation into the Respondent’s conduct. The Respondent agreed to either provide the requested documents and information, or provide an explanation for his conduct, by September 19, 2007.

13. By letter dated September 10, 2007, sent by registered and regular mail, MFDA Staff confirmed the request for documents and information and the September 19, 2007 due date for the delivery of a response. The Respondent did not respond or deliver the requested documents and information.

14. By letter dated September 20, 2007, sent by registered and regular mail, MFDA Staff again requested delivery of the documents and information, this time by September 28, 2007. The Respondent did not respond or deliver the requested documents and information.

15. On October 2, 2007, the Respondent contacted MFDA Staff and requested an extension until November 1, 2007 to deliver the requested documents and information. MFDA Staff granted this extension and confirmed the extension by letter dated October 3, 2007, sent by registered and regular mail. The Respondent did not deliver the requested documents and information by November 1, 2007.

16. By letter dated November 5, 2007, sent by registered and regular mail, MFDA Staff reminded the Respondent of his obligation to cooperate with the MFDA’s investigation and the possible penalties for failing to provide the requested documents and information. The letter required a response from the Respondent by November 12, 2007.

17. On November 6, 2007, the Respondent advised MFDA Staff that he was aware his response was overdue and he expected to submit the requested documentation and information “in just a few more days.”

18. By letter dated November 14, 2007, sent by registered mail and by email to the Respondent, MFDA Staff gave the Respondent until November 21, 2007 to deliver the requested documents and information.

19. On November 15, 2007, MFDA Staff received a response from the Respondent in respect of one of the 13 outstanding items arising from the Interview. The Respondent stated that he would provide the documents and information pertaining to one more item, would not be providing responses to eight other items due to privacy concerns, and was unable to provide responses to the three remaining items because he claimed that he could not locate the relevant documentation.

20. By letter dated November 15, 2007, sent by registered mail and by email to the Respondent, MFDA Staff responded to the Respondent's privacy concerns by providing him with a copy of the MFDA's Joint Regulatory Notice on Federal and Provincial Privacy Legislation (the "Notice") regarding the Respondent's obligation to produce the documents and information to the MFDA and requested delivery of all outstanding items by November 21, 2007. The Respondent did not respond.

21. By letter dated November 22, 2007, sent by registered mail and by email to the Respondent, MFDA Staff summarized the sequence of requests for production of the documents and information arising from the Interview.

22. On November 26, 2007, the Respondent advised MFDA Staff by email that he was reviewing the Notice.

23. The Respondent has not communicated with MFDA Staff since his November 26, 2007 email, and he has not provided the MFDA with any further documents and information relating to the items arising at the Interview.

24. As a result of the Respondent's failure to provide the requested documents and information, MFDA Staff were unable to determine the full nature and extent of the Respondent's involvement in the activities described in allegations #1, #2 and #3 above.

25. By virtue of the foregoing conduct, the Respondent has failed to cooperate with an MFDA investigation, contrary to s.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, ON M5H 3T9

Attention: David J. Halasz

Fax: 416-361-9073
Email: dhalasz@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, ON 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.