



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: Gideon Stephen Mills Wiseman

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 Pacific Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) in the hearing room located in the MFDA offices at 650 West Georgia Street, Suite 1220, Vancouver, British Columbia on May 4, 2011 at 10:00 a.m. (Pacific), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Gideon Stephen Mills Wiseman (the “Respondent”).

DATED this 24th day of March, 2011.

“Jason D. Bennett”

Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-943-7431
Facsimile: 416-361-9781
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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 2002 and July 14, 2006, the Respondent engaged in personal financial dealings with clients by:

- (a) selling, recommending or facilitating the sale of shares in a company, 575954 B.C. Ltd., also known as Granite Mountain Properties Ltd., in which he had a direct or indirect interest, which company was the developer of a real estate project known as the “88 Creekside Project” to at least clients JP, GC and TE; and
- (b) borrowing \$38,000 from client DD.

Allegation #2: Between July 2003 and July 14, 2006, the Respondent engaged in securities related business that was not carried on for the account and through the facilities of the Member by selling, recommending or facilitating the sale of investment products to at least clients JP, GC, TE and RK outside the Member, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #3: The Respondent interfered with the ability of the Member to conduct a reasonable supervisory investigation of the Respondent’s activities and failed to observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 1.1.2 and 2.5.1, and MFDA Rule 2.1.1, by making misleading statements to the Member, as follows:

- (a) in April 2003, by representing to the Member that he had never borrowed money from clients; and
- (b) in July 2006, by representing to the Member that his company, G. Wiseman & Associates Ltd., had not borrowed money from clients;

when he knew those to be incorrect statements at the time and in the circumstances when he made them.

Allegation #4: Commencing March 19, 2009, the Respondent has failed or refused to provide documents and information, and to attend an interview requested by the MFDA 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 British Columbia as a mutual fund salesperson with IPC Investment Corporation (“IPC”) from May 1, 2002 to July 14, 2006, when he resigned.
2. The Respondent was previously registered as a mutual fund salesperson with IPC Investment Corp. (BC) Ltd. from December 5, 2000 to May 1, 2002, and with three other mutual fund dealers beginning in May 1997.
3. IPC has been a member of the MFDA since March 8, 2002.
4. The Respondent is not currently registered in the securities industry in any capacity.

Overview

5. This proceeding concerns allegations that the Respondent, while an Approved Person of IPC, engaged in personal financial dealings with clients and sold securities to clients and other individuals which were not carried on for the account of IPC or processed through the facilities of IPC. Since the Respondent has failed to provide information requested by Staff of the MFDA (“Staff”) relevant to its investigation and has also failed to attend for an interview with Staff, Staff has been limited in its ability to determine the full nature and extent of the Respondent’s misconduct. The allegations and particulars set out in this Notice of Hearing are therefore not intended to be exhaustive and reflect only those allegations that may be established on the basis of the information and documents available to Staff.

Background

July 2006 - The 88 Creekside Project comes to light

6. On or about July 12, 2006, IPC first became aware that the Respondent may have

engaged in personal financial dealings with clients when the Respondent's assistant informed IPC that five clients of IPC, who she identified as clients DD, IS, GC, JP and ST, had invested in limited partnerships with the Respondent's company, G. Wiseman & Associates Ltd., and/or invested in a real estate investment she described as the "88 Creekside Project".

7. The 88 Creekside Project was described as a vacation property in Rossland, British Columbia. The developer of the project was Granite Mountain Properties Ltd. ("Granite"), a company for which the Respondent was the sole officer and director. Granite was originally named 575954 B.C. Ltd and later changed its name to Granite on June 1, 2004.

8. The Respondent had disclosed to IPC that he was a Managing Director of Granite, which business was described as a "development company" since November 2002. The Respondent also disclosed to IPC that he was the owner of G. Wiseman & Associates Ltd., which business was described as "life insurance salesperson" since January 1994. At no time had the Respondent disclosed to IPC that the company(s) had sold or intended to sell shares to clients or other individuals.

9. At the time of the Respondent's assistant's disclosure to IPC, the existence and nature of the "limited partnerships" mentioned by the Respondent's assistant were unknown to IPC. The Respondent had not sought nor obtained approval from IPC to sell limited partnership products to clients.

10. In July 2006, in response to the information brought to its attention by the Respondent's assistant, IPC sought information from the Respondent concerning the limited partnerships and the 88 Creekside Project.

11. In response, the Respondent represented to IPC that the activity described by the Respondent's assistant had ceased and led IPC to believe that it was no longer a concern. In particular, the Respondent represented to IPC that, among other things:

- (a) the limited partnerships were sold to the clients prior to the Respondent joining IPC;
- (b) all the clients had been repaid; and
- (c) no IPC clients had lent money to G. Wiseman & Associates Ltd.

12. As a consequence of the Respondent's representations, IPC took no further supervisory steps at that time. Effective July 14, 2006, the Respondent resigned from IPC.

February 2009 - Client RK complains

13. On February 2, 2009, client RK, whose account was formerly serviced by the Respondent, filed a complaint with IPC concerning the Respondent. RK informed IPC that he had invested in an investment he described as "Railpower" through G. Wiseman & Associates Ltd. RK provided IPC with a portfolio statement prepared by the Respondent in 2004 which listed two limited partnership investments RK held with G. Wiseman & Associates Ltd at that time: the "General Hydrogen LP" and the "Railpower LP". RK advised IPC that when the Railpower investment had matured, the Respondent had provided him with a promissory note but had since not returned RK's investment.

14. RK advised IPC that he and other investors had pooled monies together which was given to the Respondent to invest in Railpower. As set out in greater below, RK believed that when the Railpower investment matured, the Respondent used the monies to fund a townhouse development.

15. In February 2009, RK provided IPC with emails he had exchanged with the Respondent describing his investment in Railpower.¹ Portions of these emails are set out below.

16. On April 10, 2005, RK had emailed the Respondent inquiring about his purchase of the Railpower investment, including the total number of shares sold, the date of the wind-up and the total proceeds.

17. On April 15, 2005, the Respondent had responded to RK's inquiries as follows:

"Subject: Re: Railpower

... Your share of the purchase of Units in the Envoy Diversified (sic) Limited Partnership was \$5,000.

*Total investment in Envoy Diversified (sic) Limited Partnership was \$60,000
General Partner was Envoy Capital Management.*

¹ It appears that the "Railpower LP" may also have been known or referred to as the "Envoy Diversified LP".

*Date of acquisition of the LP units was December 2001.
Number of shares distributed was 27,600
Date of wind up of the LP was March 2004.
Date of disposition of the shares was over the second and third week of September 2004.
Total per share retrieval was \$3.85 for total proceeds of \$106,260 of which your portion was \$10,626.00.”*

18. In March 2008, RK had sent another email to the Respondent about the Railpower investment and a further investment which he described as “General Hydrogen”, in which he wrote:

“It is really time to close out the General Hydrogen sale. It has been dragging on for way too long. I need some closure so that I can take the loss on my tax return this year. You mentioned earlier that it was something like four cents on the dollar that would be coming to me.

I would like you to send me the proceeds of the Railpower sale. At the time that (the) sale closed we discussed what to do with the money and you said that you would have another investment opportunity for me to consider soon and so we agreed that you would put the money in a savings account at what was then 2 percent interest. There it has sat ever since. So I have \$10,626 plus interest from March 2004 in your possession. Please send it to me.”

19. In response to RK’s email, the Respondent had written:

“The (General Hydrogen) wind-up is coming along “well’ish”. It has taken quite a bit of leg work to get it sorted out but now should not be long (sic) before the deal is put to bed. I estimate 2-3 weeks.

G. Wiseman & Associated Ltd is currently without cash until Granite Mountain Properties Ltd. has sold the last of the two remaining units at the 88 Creekside development. I have dropped the price on these units significantly in order to get what I hope is a quick sale. As soon as this is through all monies, including outstanding interest, will be couriered to you. I would have hoped to have been able to write you a cheque immediately from reserves but both I personally and the company are without any cash until these deals come through. Please bear with me as I move through this challenge...”

20. On March 26, 2008, RK emailed the following response to the Respondent’s email:

You and I agreed at the time of the Railpower closure that the \$10,626 would be put into a savings account for a little while until a suitable investment opportunity could be presented to me to consider. No suitable investment opportunity was ever presented to me so I assumed that my money was safe and secure in a cash savings account earning 2 percent interest.

Now you are telling me that you used my money without my consent or knowledge to provide a mortgage to your 88 Creekside development project. That’s highly unethical. If this was the suitable investment opportunity that you had in mind then you needed to get my consent before proceeding. Any such consent would have included an agreement for

me to provide you with the money at a much higher rate of return, and would have included some security for me such as a mortgage on the property.

What is the going rate these days for unsecured mortgage money? I have funds invested in secured building mortgages that returns a steady 11-12 percent annually and is MUCH safer than you have done with my money.

I want you to agree to pay 12 percent interest on the \$10,626 from the date of windup of the railpower investment which was in March 2004. Or else send the money to me today with 2 percent interest from March 2004. Your choice.”

21. On March 28, 2008, the Respondent emailed the following response to RK:

“... I thank you for your solution. I shall have the documents drawn up over the weekend for the 12% note”.

February 2009 – The IPC Review

22. On February 3, 2009, in response to RK’s complaint, IPC questioned the Respondent’s assistant, who informed IPC that RK had invested in a limited partnership through the Respondent, the proceeds of which had been invested in the Respondent’s company, Granite², and then subsequently, the Respondent provided RK with a promissory note paying 12% interest.

23. On February 10, 2009, IPC sent a letter to the Respondent (who had ceased to be an Approved Person of IPC effective July 14, 2006), requesting that he provide information concerning RK’s complaint to IPC by February 17, 2009. Having not received a response to its letter, IPC emailed the Respondent on February 19, 2009 making a further request for the information sought.

24. On February 23, 2009, the Respondent emailed IPC and advised that he had forwarded IPC’s letter to his lawyer. On March 6, 2009, the Respondent further emailed IPC to advise that he was meeting with his lawyer on March 10, 2009, and would provide a response to IPC thereafter. The Respondent did not provide IPC with a response.

25. On April 1, 2009, RK advised IPC that he wished to retract his complaint against the Respondent because purportedly it had been made in error. RK did not describe the nature or substance of the error.

² The date that the Respondent invested RK’s monies in the Respondent’s company is unknown.

i) The 88 Creekside Project

26. On or about May 15, 2009, IPC conducted a review of the files of the clients that the Respondent had previously serviced when he was registered with IPC. As described in greater detail below, IPC found within these client files documents indicating that the Respondent had engaged in personal financial dealings with clients.³

27. On July 29, 2003, the Respondent's assistant had sent clients GC and JP a share subscription and shareholders agreement (the "Shareholder Agreement") pertaining to 575954 B.C. Ltd., the developer of the 88 Creekside Project, for their signature.

28. The Shareholder Agreement stated that 575954 B.C. Ltd. "had acquired undeveloped land in Rossland, B.C. and was in the process of developing a multifamily and hotel development on the lands with a view to sell condominium units to the public"..

29. The Shareholder Agreement further indicated that JP and GC would each receive 220 shares of 575954 B.C. Ltd. for an investment of \$22,000 each.

30. The Shareholder Agreement listed additional clients and other individuals as shareholders of 575954 B.C. Ltd., and set out the amount of each shareholder's investment, as follows:⁴

Shareholder	Amount of investment	Number of Shares	Member Client
G. Wiseman & Associates Ltd.	\$502,333.00	4944	No
TE	\$110,000.00	1100	Yes
GC	\$22,000.00	220	Yes
JP	\$22,000.00	220	Yes
ST	\$22,000.00	220	Yes
IS	\$51,500.00	412	Yes
GC2	\$44,000.00	440	No

³ The matters identified in the Notice of Hearing are not intended to be exhaustive. Since the Respondent did not respond to either IPC's or the MFDA's requests for additional information, the full nature and extent of his personal financial dealings with clients is not known.

⁴ Allegation #1 concerning the Respondent's personal financial dealings with clients in respect of the sale of shares of 575954 B.C. Ltd. (subsequently named Granite) has been confined to clients TE, GC and JP. Although clients ST and IS are also listed as shareholders of 575954 B.C. Ltd., the information available to Staff was inconclusive as to whether they had actually made investments in 575954 B.C. Ltd. This issue, among others, presumably would have been resolved had the Respondent cooperated with Staff's investigation.

LM	\$11,000.00	110	No
SS	\$12,500.00	100	No
KE	\$12,500.00	100	No
DT	\$55,000.00	440	No

31. The Shareholder Agreement lists client TE as a shareholder of 575994 B.C. Ltd., holding 1100 shares purchased for \$110,000.

32. On October 18, 2002, client TE redeemed the mutual fund investments in her IPC account. On October 28, 2002, client TE loaned G. Wiseman & Associates Ltd. \$110,000.

33. TE's loan to G. Wiseman & Associates Ltd. was subsequently converted into shares of 575954 B.C. Ltd. April 7, 2004. A share certificate for client TE for 13,750 Class "B" Preference shares of 575954 B.C. Ltd. was issued on April 7, 2004.

34. On November 28, 2003, the Respondent's assistant had sent a memo to IPC c/o B2B Trust with instructions for it to deposit a cheque for \$50,000 endorsed by clients GC and JP into the cash management account of 575954 BC Ltd., carrying on business as Granite Mountain Properties.

35. On January 28, 2005, the Respondent's assistant had sent a facsimile to CI Funds enclosing Order Entry Forms signed by JP and GC to redeem \$25,000 US from each of their CI accounts. The facsimile instructed CI to make the redemption cheques payable to Granite Mountain Properties Ltd. in trust for JP and GC. (575954 B.C. Ltd. subsequently changed its name to Granite in June 2004.)

ii) Loan to G. Wiseman & Associates Ltd.

36. On August 1, 2002, client DD loaned \$38,000 to G. Wiseman & Associates Ltd. with a rate of return fluctuating between 2.15% and 2.5%. (The proceeds of this loan may have subsequently been converted by the Respondent into shares or units of an investment on DD's behalf, see: paragraph 6 above. The information available to Staff is inconclusive.)

Allegation #1 – Personal financial dealings with clients

37. Due to the Respondent's failure to cooperate with Staff's investigation, the full nature and extent of the Respondent's personal financial dealings with clients is unknown. Based on the information and documents available to Staff, the Respondent engaged in at least the following personal financial dealings with clients between August 2002 and July 14, 2006:

- (i) the Respondent sold, recommended or facilitated the sale of shares in a company, 575954 B.C. Ltd., also known as Granite Mountain Properties Ltd., in which he had a direct or indirect interest, which company was the developer of a real estate project known as the "88 Creekside Project" to at least clients JP, GC and TE; and
- (ii) the Respondent borrowed \$38,000 from client DD,

thereby giving rise to a conflict or potential conflict of interest that the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #2 - Securities Related Business Outside the Member

38. The 88 Creekside Project, 575954 B.C. Ltd, Granite, Railpower LP and General Hydrogen LP investments were not investments known to or approved for sale by IPC.

39. By selling, recommending or facilitating the sale of shares or units in 575954 B.C. Ltd., subsequently renamed Granite Mountain Properties Ltd., for the "88 Creekside Project"; the Railpower LP; and the General Hydrogen LP, to at least clients JP, GC, TE and RK as described above, the Respondent engaged in securities related business that was not carried on for the account and through the facilities of the IPC, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #3 - Misleading the Member

40. On April 17, 2003, the Respondent completed IPC's Representative Questionnaire, and responded in the affirmative to the statement:

“I have never borrowed money/securities from or lend money/securities to clients.”

41. In July 2006, when IPC became aware of the Respondent’s involvement of outside business activities, the Respondent led IPC to believe that the limited partnerships were sold to clients prior to the Respondent joining IPC, and that no IPC clients had lent money to G. Wiseman & Associates Ltd.⁵

42. These representations were misleading. As described above in Allegation #1:

(a) Client DD loaned G. Wiseman & Associates Ltd. \$38,000 on August 1, 2002; and

(b) Client TE redeemed mutual funds held with IPC on October 18, 2002, and on October 28, 2002 loaned G. Wiseman & Associates Ltd. \$110,000.00.

This loan was subsequently converted into shares of 575954 B.C. Ltd., the developer of the 88 Creekside Project.

43. The Respondent therefore misled IPC:

(a) in April 2003, by representing that he had never borrowed money from clients; and

(b) in July 2006 by representing that his company, G. Wiseman & Associates Ltd., had not borrowed money from clients,

when he knew those to be incorrect statements at the time and in the circumstances when he made them.

44. By misleading IPC in the manner described above, the Respondent interfered with IPC’s ability to conduct a reasonable supervisory investigation of the Respondent’s activities and failed to observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 1.1.2 and 2.5.1, and MFDA Rule 2.1.1.

⁵ The Respondent also led IPC to believe that all of the clients had been repaid. The information available to Staff is inconclusive on this point due to the Respondent’s failure to cooperate with Staff’s investigation.

Allegation #4 - Failure to Cooperate

45. By letter dated March 2, 2009, sent by registered and regular mail, Staff requested that the Respondent provide a written statement with respect to an investigation that Staff was conducting following a report from IPC that the Respondent had engaged in personal financial dealings with an IPC client and conducted securities related business outside IPC. Staff requested that the Respondent provide a response to its request by March 19, 2009. The letter sent by registered mail was received and signed for by the Respondent on March 5, 2009.

46. Counsel for the Respondent contacted Staff on March 10, 2009, and inquired about the consequences for the Respondent if he did not respond to Staff's request for information. Staff advised Respondent's counsel that if the Respondent did not Respond to Staff's letter that Staff would send a further letter to the Respondent outlining his failure to cooperate with Staff.

47. On March 24, 2009, Staff called and left a voice mail message with Respondent's counsel requesting the Respondent provide a response to Staff's letter.

48. On March 26, 2009, Staff sent a further letter to the Respondent via registered mail, requesting that he provide the information and documents previously requested by Staff by April 9, 2009, failing which the matter would be referred for possible commencement of disciplinary proceedings against the Respondent for failing to cooperate with Staff. The letter was received and signed for by the Respondent on March 31, 2009.

49. On April 1, 2009, Respondent's counsel contacted Staff and indicated that RK had retracted his complaint and had received full repayment of his investments. Staff advised Respondent's counsel that the Respondent was still required to respond to Staff's request for information and documentation.

50. On August 6, 2009 Staff sent a further letter to the Respondent by registered mail, advising him of his obligation to respond to Staff and requesting that he provide documents to assist in the investigation no later than August 24, 2009. The letter also requested that the Respondent contact Staff to arrange an interview. The Canada Post tracking sheet indicates that the letter was refused by the recipient on August 13, 2009, and was returned to Staff.

51. On August 26, 2009 Staff sent a further letter to the Respondent again advising him of his obligation to respond to Staff and requesting that he provide documents to assist in the investigation no later than September 8, 2009. The letter also requested that the Respondent contact Staff to arrange an interview. The letter was sent by registered mail and by ordinary mail. The registered letter was returned to Staff marked “unclaimed”. The letter sent by ordinary mail was not returned.

52. On September 29, 2009, Staff sent a further letter to the Respondent again advising him of his obligation to respond to Staff and requesting that he immediately provide the documents to assist in the investigation. The letter also requested that the Respondent contact Staff to arrange an interview. Delivery of the letter was attempted by personal service; however the Respondent could not be located.

53. The Respondent has failed to provide the information and documents requested by Staff, and has failed to contact Staff to arrange an interview.

54. As a result of the Respondent’s conduct, Staff have been unable to determine the full nature and extent of the Respondent’s activities described in the Allegations above.

55. By virtue of the foregoing conduct, the Respondent has failed to cooperate with Staff’s investigation, contrary to s.22.1 of MFDA By-Law No. 1.

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: David Halasz, Enforcement Counsel
Facsimile: 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:

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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