



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: Edgar Mahilum

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 August 9, 2012 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 Edgar Mahilum (the “Respondent”).

DATED this 22nd day of June, 2012.

“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
Email: 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 January 1, 2004 and December 31, 2008, the Respondent engaged in securities related business that was not carried on for the account and through the facilities of the Member by recommending, selling or facilitating the sale of investments in the total amount of approximately \$375,000 to client PS and individuals BR and GB outside the Member, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #2: On or about September 5, 2008, the Respondent provided false and misleading information to the Member in response to the Member's inquiry regarding a client redemption, thereby failing to observe high standards of ethics and conduct in the transaction of business and be of such character and business repute as is consistent with the standards prescribed by MFDA Rule 2.1.1.

Allegation #3: Commencing on or about October 19, 2011, the Respondent has failed to provide documents and information as requested by MFDA Staff during the course of an investigation, contrary to section 22 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. Between October 30, 2006, and on or about October 7, 2010, the Respondent was registered in Ontario as a mutual fund salesperson with Investors Group Financial Services Inc. ("Investors Group"), a Member of the MFDA.
2. On or about October 7, 2010, the Respondent was terminated by Investors Group as a result of the events described herein.

3. The Respondent was previously registered in Ontario:
 - (a) between January 2006 and October 2006 as a mutual fund representative with BMO Nesbitt Burns Inc.;¹
 - (b) between October 2003 and November 2005 as a mutual fund salesperson with BMO Investments Inc. (“BMOII”), a Member of the MFDA; and
 - (c) between December 1995 and June 2003 as a mutual fund salesperson with another mutual fund dealer.

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

Allegation #1 – Securities Related Business Outside the Member

5. In or around June 2010, during the course of an investigation by the Ontario Securities Commission (the “OSC”) concerning an alleged illegal distribution of securities carried out through an entity known as Hillcorp International Services (“Hillcorp”), the OSC identified the Respondent as a participant in the distribution and referred the matter of his involvement to the MFDA.

6. MFDA Staff commenced an investigation of the Respondent, which included conducting an interview of the Respondent. During the interview, the Respondent described the Hillcorp investment in the following terms:

- (a) an investor was required to make a minimum investment of \$100,000, which was purportedly guaranteed;
- (b) the investment paid the investor a monthly payment of between \$500 and \$1,000 over either a three-year or five-year term; and
- (c) at the end of the term, the investor elected to either renew their investment or have their principal returned.

7. The Respondent stated that a representative of Hillcorp known to the Respondent only as “Paul” provided the Respondent with a brochure for Hillcorp. The brochure stated that proceeds

¹ BMO Nesbitt Burns Inc. is a Member of the Investment Industry Regulatory Organization of Canada.

raised from investments in Hillcorp were used, *inter alia*, to purchase shares of oil and real estate companies.

Individual BR

8. In or around 2004, while an Approved Person with BMOII, the Respondent approached BR about investing in Hillcorp. BR was not a client of BMOII but had an account with the Bank of Montreal (“BMO”).

9. The Respondent recommended that BR invest \$100,000 in Hillcorp. BR provided the Respondent with a certified cheque in the amount of \$100,000 payable to Hillcorp drawn on her BMO bank account.

10. The Respondent provided BR’s certified cheque to Paul. In return, Paul provided the Respondent with post-dated Hillcorp cheques payable to BR for the monthly payments. Paul also provided the Respondent with a letter on Hillcorp letterhead confirming BR’s investment.

Individual GB

11. In or around April 2004, while an Approved Person with BMOII, the Respondent recommended Hillcorp to GB. GB was not a client of BMOII but had an account with BMO.

12. The Respondent stated that GB was having difficulty meeting his monthly expenses, including the costs of his wife’s cancer treatment.

13. The Respondent recommended that GB invest in Hillcorp. GB provided the Respondent with \$100,000 to invest in Hillcorp for a five-year term. The Respondent represented to GB that GB would receive monthly payments of \$2,000 over the course of the five-year term.

Client PS

14. In or around July 2008, while an approved person with Investors Group, the Respondent recommended Hillcorp to client PS.

15. PS, his wife IS and his sister-in law HK, were formerly clients of BMOII and later moved their accounts to Investors Group when the Respondent transferred to Investors Group.

16. The Respondent met PS, IS and HK at their family home regularly. The Respondent stated that on one such occasion PS advised him that he required funds for a family wedding and other expenses.

17. The Respondent recommended that PS invest in Hillcorp. On July 25, 2008, PS redeemed \$84,348.42 in mutual funds from an account at Investors Group to invest in Hillcorp (the “Redemption”).

18. The Respondent advised PS that \$100,000 was the minimum investment required by Hillcorp.

19. As a result, in addition to the proceeds of the Redemption, PS obtained a \$100,000 home equity line of credit to invest in Hillcorp. In total, PS provided the Respondent \$185,000 to invest in Hillcorp.

Hillcorp

20. On July 21, 2009, the OSC issued a temporary cease trade order against Hillcorp and its principals (the “Cease Trade Order”). On July 24, 2009, the Cease Trade Order was amended to include corporate respondent Suncorp Holdings (“Suncorp”), an entity related to Hillcorp.

21. Between December 1, 2010 and January 7, 2011, two principals of Hillcorp, Steven John Hill (“Hill”) and Danny De Melo (“De Melo”) entered guilty pleas in the Ontario Court of Justice to one count each of breaching the Cease Trade Order. On April 18, 2011, as part of the sentence imposed upon them in the Ontario Court of Justice, Hill and De Melo were ordered to pay restitution totaling \$993,089.67 to 22 Ontario investors.²

² Individuals BR and GB and client PS were not parties to the restitution order.

22. On June 21, 2011, the OSC issued a Statement of Allegations and Notice of Hearing alleging, *inter alia*, that Hillcorp, Suncorp, Hill and De Melo engaged in unregistered trading and the illegal distribution of securities.

23. On July 15, 2011, the OSC convened a hearing into the matter and ordered, *inter alia*, that Hillcorp, Suncorp, Hill and De Melo permanently cease trading in securities and that Hill and De Melo be reprimanded.

24. Hillcorp was not an investment approved by Investors Group or BMOII for sale by its Approved Persons, including the Respondent. All of the above-described transactions involving BR, GB and client PS were not processed for the account or through the facilities of either Investors Group or BMOII.

25. By facilitating the sale of investments in Hillcorp to BR, GB and client PS, the Respondent engaged in securities related business that was not carried on for the account and through the facilities of the Member between January 1, 2004 and December 31, 2008, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #2 – Providing False and Misleading Information to the Member

26. On or about September 4, 2008, Investors Group queried the Respondent about the Redemption and the applicable \$4,710 in deferred sales charges.

27. On or about September 4, 2008, in response to the query, the Respondent informed Investors Group, *inter alia*, of the following: PS required funds for expenses related to a family wedding; the Respondent advised PS to redeem investments in his account to pay the expenses; and the Respondent advised PS to obtain a home equity line of credit and replace the investment.

28. As stated previously herein, PS did not use the proceeds of the Redemption to pay expenses related to a family wedding. PS used the Redemption proceeds to invest in Hillcorp.

29. By advising Investors Group that PS used the Redemption proceeds to pay for a family wedding when the Respondent knew that the proceeds were used to invest in Hillcorp, the

Respondent provided false and misleading information to the Member, thereby failing to observe high standards of ethics and conduct in the transaction of business and be of such character and business repute as is consistent with the standards prescribed by MFDA Rule 2.1.1.

Allegation #3 – Failure to Cooperate with the MFDA’s Investigation

30. During his interview with MFDA Staff, the Respondent claimed that he did not receive any fees or commissions for his role in facilitating the sale of investments in Hillcorp. MFDA Staff asked the Respondent to provide copies of his bank statements. The Respondent undertook to provide copies of his bank statements for all bank accounts in which he had a beneficial interest for the periods January 1, 2004 to December 31, 2005 and January 1, 2008 to December 31, 2008 (the “Bank Statements”). The Respondent also undertook during the course of his interview to provide certain other documents related to the matters under investigation. To date, the Respondent has failed to fulfill these undertakings.

31. MFDA Staff made the following attempts to contact the Respondent in order to obtain the Bank Statements and the other documents that the Respondent undertook to produce:

Date	Content of Letter	Method of Delivery	Outcome
December 1, 2011	Respondent requested to provide answers to undertakings: (1) copy of the Bank Statements (2) copy of most recent resume (3) copy of termination letter from CIBC (4) names and badge numbers of police officers to whom the Respondent says he provided a statement about Paul Deadline: December 14, 2011	Regular and registered mail and e-mail	On December 14, 2011 Respondent advised by e-mail that he was in the process of obtaining the documents and referred to delay in obtaining documents from the banks
December 15, 2011	Respondent’s reply acknowledged and Respondent requested to provide documents in relation to undertakings items (1) to (3) above	e-mail	No response
December 21, 2011	Respondent again requested to provide answers to undertakings Deadline – January 6, 2012	e-mail	On January 31, 2012 Respondent provided answer to undertaking item (4) above Respondent did not provide answers to

Date	Content of Letter	Method of Delivery	Outcome
			undertaking items (1) (2) and (3)

32. By failing to fulfill his undertakings to provide copies of the Bank Statements and the other documents requested by Staff, the Respondent has failed to provide documents and information requested by MFDA Staff during the course of an investigation contrary to section 22 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: Rohit Kumar, Enforcement Counsel
Fax: 416-361-9073
Email: rkumar@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.

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