



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: Ronald Bruce Brinson

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 Atlantic Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) on November 7, 2013 at 10:00 a.m. (Atlantic) concerning a disciplinary proceeding commenced by the MFDA against Ronald Bruce Brinson (the “Respondent”). Members of the public who would like to listen to the teleconference should contact the Hearings Coordinator at 416-945-5146 or mwynnyckyj@mfd.ca to obtain particulars. The Hearing on the Merits will take place in Halifax, Nova Scotia at a time and venue to be announced.

DATED this 9th day of September, 2013.

“Bernadette Devine”

Bernadette Devine
Assistant Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario, M5H 3T9
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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 in or about February 2007 and June 2009, the Respondent, while designated as co-Branch Manager or alternate Branch Manager, received information on at least five occasions that Bruce Schriver, a licensed insurance agent of an affiliate of the Member who conducted business from the location for which the Respondent was the co-Branch Manager or alternate Branch Manager, had borrowed monies from clients and other individuals which he had not repaid, which information the Respondent failed to report to the Member's head office compliance staff, as a result of which the Member was not made aware of the circumstances and was unable to conduct a reasonable supervisory investigation and take such other supervisory measures as may have been warranted in the circumstances, contrary to MFDA Rules 2.5.3(b)¹ and 2.1.1(c) and MFDA Policy No. 3.

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. Brinson has been a mutual fund salesperson since 1979, and registered as a mutual fund salesperson with Desjardins Financial Security Investments Inc. ("Desjardins") since October 30, 2002. He has been registered with Desjardins as co-Branch Manager or alternate Branch Manager since November 7, 2005.

2. Desjardins is registered as a mutual fund dealer and exempt market dealer in the provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, and is also registered as a restricted dealer in the province of Quebec.

¹ On December 3, 2010, MFDA Rule 2.5.3(b) was amended and renumbered to 2.5.5(d).

3. Beginning in or about May 2007, Desjardins became licensed to sell life insurance in Nova Scotia. Desjardins facilitated the sale of life insurance products, including segregated funds, by licensed insurance agents and used its back office system to facilitate trades of segregated funds and the flow of commissions between insurance companies and licensed insurance agents.

Allegation #1 – Failure to fulfill duties and obligations

Background

4. At all material times, Brinson was the designated co-Branch Manager or alternate Branch Manager of a Desjardins branch located at Suite 312, 7001 Mumford Rd., Halifax, Nova Scotia (the “Branch”). Brinson also had the title of “managing director” for the Branch.²

5. Brinson was also licensed as a life insurance agent with Desjardins Financial Security Independent Network (“DFSIN”), which was an affiliate of the Member, Desjardins, and which maintained an office within the same premises as the Branch. Brinson shared the supervisory responsibilities over the life insurance agents located within the Branch with Gabriele Gentile (“Gentile”), the designated Branch Manager of the Member³.

6. As the designated Branch Manager and co-Branch Manager (or alternate Branch Manager), respectively, Gentile and Brinson agreed to be responsible and were responsible for supervising activity at the Branch to ensure compliance with MFDA requirements. This supervisory responsibility included, among other things, reporting supervisory and compliance concerns to Desjardins’ head office for review and investigation so that appropriate follow-up action could be taken where circumstances warranted.

7. Bruce Schriver (“Schriver”) was licensed as a life insurance agent who operated out of the Branch until July 5, 2009, when he was terminated. Prior to being registered as a life insurance agent operating out of the Branch, Schriver was registered in Nova Scotia as a mutual fund salesperson with MFDA Member Select Money Strategies Incorporated (“Select”) until

² The position of managing director is not a category of registration under local securities legislation, nor is it a requirement under MFDA Rules.

³ Gabriele Gentile is the Respondent in the related MFDA proceeding File No. 201042, *In the matter of Gabriele Gentile*.

June 2004, when he was terminated by Select for selling securities outside the accounts and facilities of Select.

8. Following his termination by Select, the MFDA commenced two disciplinary proceedings against Schriver. The first proceeding was commenced on March 12, 2009 (MFDA Hearing File No. 200901), and the second proceeding was commenced on May 19, 2009 (MFDA Hearing File No. 200918). Both matters proceeded to a hearing on the merits on October 6, 2009, where Schriver admitted, among other things, that he borrowed a total of \$40,000 from two clients, redeemed monies from a third client's account, and never repaid the redemption proceeds to the third client. A Hearing Panel of the MFDA imposed a permanent prohibition against Schriver from conducting any securities related business in any capacity while in the employ of or associated with any MFDA Member, and ordered the payment of a fine of \$200,000 and costs of \$10,000.⁴

Information Brinson and Gentile received about Schriver's activities

9. As described below, between approximately February 2007 and June 2009, Brinson and Gentile received information on at least five occasions that alerted them or ought to have alerted them that Schriver was borrowing monies from clients of Desjardins and other individuals and not repaying them.⁵

First Occurrence - February 2007

10. In or around February 2007, Brinson and Gentile participated in a meeting held at the Branch during which the prohibition against Branch personnel (both mutual fund salespersons and insurance agents) borrowing money from clients was discussed. The prohibition was discussed at this time as there had previously been an occurrence where a mutual fund salesperson at the Branch was discovered to have borrowed money from clients and was terminated.

11. Shortly after this meeting, CB, a life insurance agent at the Branch who worked with Schriver and had an office at the Branch, advised Schriver that clients had told him (CB) that Schriver had borrowed money from the clients and failed to repay them. CB told Schriver that

⁴ The Decision and Reasons *In the Matter of Schriver* is available on the MFDA's website www.mfda.ca.

⁵ These clients and other individuals were different than the clients and individuals identified in the proceedings described in paragraph eight above, from which Schriver borrowed monies.

he planned to advise Brinson and Gentile of what the clients had told him. Prior to CB speaking to Brinson and Gentile, Schriver spoke to Brinson and Gentile, and represented to them that the loans were merely a hypothetical scenario which had not in fact taken place.

12. CB then reported to Brinson and Gentile that two clients had contacted him (CB) to advise that they had lent monies to Schriver and had not been repaid by him. CB told Brinson and Gentile the names of the clients (CL and MM). Gentile states that CB did not tell him the names of these clients (Gentile states they wanted to remain anonymous), and further states that CB told him that the clients did not wish to come forward to meet in person with Gentile and did not want CB to disclose their dealings with Schriver until they advised CB that he could do so.

13. Brinson and Gentile told CB that Schriver had represented to them that the loans from the clients had not yet occurred, to which CB responded that the loans had indeed occurred and had not been repaid.

14. Brinson states that he and Gentile approached Schriver and asked him whether he had borrowed monies from clients, which Schriver denied. At or around this same time, Gentile states that he started to monitor activity in the accounts of Schriver's insurance clients.

15. Brinson and Gentile did not escalate the matter to Desjardins' head office, and did not take any further steps to investigate the matter, including determining the identities of the clients who had complained to CB (who they state CB did not identify), and whether they were clients of the Member.

Second Occurrence - March 2007

16. In March 2007, MM, a client of Desjardins, contacted Brinson and informed Brinson that he had lent money to and not been repaid by Schriver. Brinson advised MM to come in to the Branch and discuss it with Gentile. Brinson states that MM advised him he did not want any actions taken against Schriver but wanted Brinson to pressure Schriver to pay MM back. Brinson passed along the information he had learned from MM to Gentile.

17. Brinson and Gentile did not report to Desjardins' head office the information they had received from MM that Schriver had borrowed monies from, and had not repaid, MM.

18. After receiving this latest information about Schriver borrowing monies from MM and failing to repay him, Gentile and Brinson met with Schriver personally for a second time and asked him whether he had borrowed monies from MM. Schriver forcefully denied borrowing monies from MM. Gentile states that he became highly suspicious of Schriver's denial and as a consequence re-reviewed activity in Schriver's insurance clients' accounts for the previous eight to nine months.

19. Brinson and Gentile did not report their growing suspicions concerning Schriver to Desjardins, nor did they re-evaluate and escalate the information they had received to date concerning Schriver in light of the new information they had received concerning MM. Apart from the "re-review" noted above, there is no evidence they took any steps to address the growing concerns that clients may be at risk.

Third Occurrence – December 2007

20. In December 2007, RS, an Approved Person with Desjardins, informed both Brinson and Gentile that RG, a client of Desjardins, had told RS on December 9, 2007 that RG, and two other individuals, RA (also a Desjardins client), and KK (a non-client), had each lent monies to Schriver and had not been repaid.⁶

21. In particular, on December 9, 2007, RS advised Brinson that Schriver had borrowed monies from RG and failed to repay him, and that RG was having difficulty contacting Schriver. RS advised Brinson that RG wanted to meet with Schriver. RS arranged the meeting, with Brinson's knowledge, for a few days later. At the meeting, Schriver, RA, RG, and KK discussed repayment of the monies borrowed by Schriver. RS's understanding was that Schriver had agreed to repay them within a couple months of the meeting (i.e. by February 2008). Neither Brinson nor Gentile attended the meeting, although as stated above, at least Brinson was aware of it.

22. The day after the meeting, RS told Brinson and Gentile what had transpired at the meeting. Brinson and Gentile advised RS not to pursue the matter further in order to see what

⁶ In April 2009 and January 2012, RA advised MFDA Staff that he had lent Schriver monies on two occasions: (1) \$40,000 in or around May or June 2007; and (2) approximately \$50,000 in August 2007, the proceeds of which RA redeemed from a segregated funds account held at the Member.

would transpire by February 2008. Brinson and Gentile also advised RS to monitor Schriver's actions when working with him in respect of clients jointly serviced by Schriver and RS.

23. On January 23, 2008, RS, RG, RA, and KK met. RS learned that Schriver had not made any significant repayment to any of them.

24. Gentile claims that on or about January 24, 2008, he told RS to have the clients call him (Gentile), and RS told him that RG, RA, and KK did not wish to speak further with Gentile about having lent Schriver monies.

25. On or about January 24, 2008, RS documented his discussions with Brinson and Gentile about client RG. Brinson, Gentile, and RS signed a memorandum prepared by RS which documented their discussion as follows:

On the day of December 9, 2007, I received a telephone call from client [RG], He indicated to me that he had entered into a loan arrangement with my associate [Schriver] where [Schriver] was the borrower. He informed me that [Schriver] had not paid him according to the schedule laid out by he and [Schriver] and was greatly concerned over this.

[RG] continued to state that [Schriver] had also borrowed money from two other individuals, [RA] and [KK]. These two individuals also had not received payment.

Once I had finished my conversation with [RG] I immediately informed my Managing Director, [Brinson] who then immediately put me in touch with the office compliance officer, [Gentile].

At the request of the individuals involved I have closely monitored the situation and have not been instructed to approach the Insurance Industry regulators.

*<signed>
[RS]*

*<signed>
[Brinson]*

*<signed>
[Gentile]*

26. Brinson questioned Schriver about the information that RS had received from client RG about clients RG and RA, as well as KK, and Schriver denied to Brinson borrowing monies from these individuals.

27. Brinson and Gentile did not report the information they had received from Approved Person RS concerning clients RG and RA, as well as KK, to Desjardins' head office, nor did they take any further steps to investigate the matter. Brinson and Gentile also failed, or chose not to re-evaluate and escalate the information they had received from (insurance agent) CB in February 2007 in light of the information they had subsequently received from Approved Person RS concerning Schriver's borrowing activities.

28. Brinson did not resolve the contradiction between Schriver's denials to him and to Gentile, on the one hand, and the further information he was receiving that Schriver had borrowed and failed to repay monies from several individuals, including at least three Desjardins clients at the Branch, on the other hand.

Fourth Occurrence – May 2008

29. In or about May 2008, IL, a non-client of Desjardins, met with Brinson and Gentile and informed them that IL had lent money to Schriver and had not been repaid. IL provided Brinson and Gentile with a letter of complaint that outlined the circumstances of the loan IL gave to Schriver. Gentile states that IL told him (Gentile) that he did not wish to escalate the matter, as IL hoped that Schriver would repay IL his money. IL advised Gentile that he was bringing the matter to his and Brinson's attention in order to put pressure on Schriver to repay the monies owed to him.

30. Gentile states that after having met with IL, he approached Schriver, who admitted that he had borrowed monies from IL and used the monies to pay legal expenses. Gentile informed Brinson that Schriver had admitted borrowing monies from IL.

31. Despite having Schriver's admission that he had borrowed monies from IL in respect of a loan which IL claimed now was in default, Brinson and Gentile did not re-evaluate and escalate the information they had previously been made aware of concerning Schriver's borrowing

activities and, in particular, the credibility of Schriver's three prior denials with respect to having engaged in borrowing activity.

32. Brinson and Gentile did not report the information they received from IL (or any of the information that they had received to date, including the evidence that at least three Desjardins clients had lent money to Schriver and not been repaid) to Desjardins' head office. Brinson and Gentile did not take any further steps to investigate the situation, or to ensure that clients were not put at continuing risk.

33. In March 2009, IL advised MFDA Staff that he had lent Schriver monies on two occasions as follows: (1) \$43,000 in 2007; and (2) \$34,000 in or around February 2008.

Fifth Occurrence – August 2008

34. In August 2008, client RA, whose situation was first brought to Brinson's attention by Approved Person RS as described in paragraph 20 above, contacted Gentile and advised Gentile that he (RA) had lent money to Schriver and not been repaid. Gentile states that client RA declined to meet with him in order to discuss the matter further, because client RA wished to discuss the matter with his counsel. Gentile advised Brinson that client RA had contacted him. Brinson and Gentile did not report the information they received from client RA to Desjardins' head office or take any further steps to address the Schriver situation.

35. Approximately two months later in October 2008, client RA's lawyer wrote a demand letter to Gentile seeking repayment from Desjardins of the monies that Schriver had borrowed from client RA and failed to repay. Gentile forwarded the demand letter to Desjardins' head office, which was the first notice that Desjardins received that Schriver was borrowing monies from Desjardins clients and other individuals and failing to repay them.

June 2009 Complaint by client VM

36. In June 2009, client VM met with Gentile and provided him with a complaint letter addressed to Brinson setting out, amongst other things, the details of a \$155,000 loan that he (VM) had provided to Schriver in March 2007 that Schriver had failed to repay. In his letter, client VM alleged that Schriver's business dealings were not properly managed, and sought compensation.

37. Client VM handed the complaint letter to Gentile who accepted the letter and said to client VM that he would review the letter and respond to him.

38. Client VM did not receive a response to his complaint letter from Gentile or anyone else at Desjardins.

39. In or about March 2012, client VM submitted another complaint to Desjardins pertaining to excessive trading, and referred to the loan he had provided to Schriver. In or about March 2012, Desjardins denied client VM's request for compensation for the excessive trading. In or about May 2012, Desjardins denied client VM's request for compensation for the loan he had provided to Schriver.

Reasonable Supervisory Investigation

40. Brinson and Gentile should have reported the information they had received on at least five occasions concerning Schriver's borrowing activities to Desjardins' head office compliance staff. Desjardins had a regulatory obligation to conduct a reasonable supervisory investigation in response to such information, all or parts of which investigation Desjardins could have elected to delegate to Brinson and Gentile to perform as the designated co-Branch Manager or alternate Branch Manager and Branch Manager respectively. Such a reasonable supervisory investigation should have included, at a minimum, the following things:

- a) documenting the information received from the clients and other individuals who came forward about Schriver's borrowing activities;
- b) confirming in writing with clients and other individuals the information they provided about Schriver's activities;
- c) confirming in writing with Schriver his response to the clients' claims that he had borrowed monies from the clients and failed to repay them;
- d) attempting to obtain documentary and other corroboration of the information provided by Schriver, the clients and other individuals concerning Schriver's activities;

- e) speaking to other Approved Persons, employees and agents of the Member at the Branch to determine if they were aware of Schriver's borrowing activities;
- f) determining whether Schriver was using Member information or taking advantage of his access to the Branch to identify clients from whom to borrow money or to facilitate his borrowing activities;
- g) conducting a review of the client files at the Branch belonging to the clients who had come forward claiming that Schriver had borrowed monies from them to see if the client files contained any relevant documents or records (i.e. loan agreements);
- h) determining whether the borrowing was being presented to the clients as an investment opportunity and, if so, whether the Approved Persons responsible for servicing the clients' accounts were aware of, facilitating, or possibly had an interest in, the borrowing activity;
- i) reviewing redemption activity in client accounts at the Branch to identify instances where significant redemption proceeds were not reinvested at Desjardins, and where such redemptions were identified, confirming with the clients the reasons for the redemptions; and
- j) taking appropriate steps to ascertain whether any other clients at the branch had lent monies to Schriver, including contacting clients by phone or letter if necessary.

41. As a result of Brinson's and Gentile's failure to report the information they received on at least five occasions between February 2007 and August 2008 concerning Schriver's borrowing activities to Desjardins, Desjardins did not become aware of the borrowing activity until October 2008 and therefore was unable to conduct a reasonable supervisory investigation and take such other supervisory measures as may have been warranted in the circumstances prior to that date.

42. As a result of the conduct described above, between February 2007 and June 2009, Brinson in his capacity as co-Branch Manager or alternate Branch Manager acted contrary to MFDA Rules 2.5.3(b) (now 2.5.5(d)) and 2.1.1(c) and MFDA Policy No. 3.

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: David 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, 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.