



**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: Sanjeev Kumar Duggal**

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**NOTICE OF HEARING**

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**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 February 3, 2015 at 12:30 p.m. (Eastern), or as soon thereafter as the appearance can be held, concerning a disciplinary proceeding commenced by the MFDA against Sanjeev Kumar Duggal (the “Respondent”). The Hearing on the Merits will take place in Toronto, Ontario.

**DATED** this 19<sup>th</sup> day of December, 2014.

“Sarah Rickard”

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Sarah Rickard  
Director of Regional Councils

Mutual Fund Dealers Association of Canada  
121 King Street West, Suite 1000  
Toronto, Ontario  
M5H 3T9  
Telephone: 416-945-5134  
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Email: [corporatesecretary@mfd.ca](mailto: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 in or about December 2009 and June 2011, the Respondent referred one client to a company that sold mortgage investment products and received \$60,500 in referral fees for doing so, thereby participating in a referral arrangement to which the Member was not a party and which did not otherwise comply with:

- a) sections 13.7 to 13.10 of National Instrument 31-103; and
- b) MFDA Rule 2.4.2.

### **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 has been registered in the securities industry since April 1990.
2. Since December 20, 2010, the Respondent has been registered in Ontario as a mutual fund salesperson with FundEX Investments Inc. (“FundEX”).
3. Prior to FundEX, the Respondent was registered as a mutual fund salesperson with IPC Investment Corporation (“IPC”) from April 3, 2000 until December 20, 2010.
4. At all material times, the Respondent has conducted business in the Oakville, Ontario area.

#### **Undisclosed referral arrangement**

5. In May 2012, the Ontario Securities Commissions advised Staff that the Respondent had received payments from Waterview Capital Corp. (“Waterview”) in connection with a referral by the Respondent of an investor to purchase investments in Waterview.

6. Waterview was an exempt market dealer whose registration, as well as its principal’s, was suspended by the Ontario Securities Commission (“OSC”) on April 25, 2011 following a compliance examination by OSC Staff which identified numerous violations, including that Waterview did not maintain know-your-client forms for some investors, traded without registration while suspended, and sold investments to a non-accredited investor.

7. Prior to its suspension, Waterview sold investments that included interests in mortgage securities on certain properties.

8. In or about December 2008, a representative of Waterview advised the Respondent that he was raising money for real estate investments. Subsequently, client AS, whose accounts the Respondent serviced at IPC, advised the Respondent that he was interested in investing in real estate. The Respondent provided client AS with the contact information of the Waterview representative.

9. There is no evidence that the Respondent acted in any further capacity as an intermediary between client AS and Waterview.

10. Over a period of approximately one and a half years, Client AS invested a total of \$850,000 in Waterview on three occasions, and Waterview made payments to the Respondent in the total amount of \$60,500 for referring client AS to Waterview, as follows:

<i>Amount client AS invested in Waterview</i>	<i>Referral fee paid to the Respondent</i>	<i>Date of referral fee payment to Respondent</i>	<i>Respondent registered with Member</i>
\$100,000	\$8,000	December 29, 2009	IPC
\$250,000	\$12,500	May 4, 2010	IPC

<i>Amount client AS invested in Waterview</i>	<i>Referral fee paid to the Respondent</i>	<i>Date of referral fee payment to Respondent</i>	<i>Respondent registered with Member</i>
\$500,000	\$40,000	June 29, 2011	FundEX
<b>Total: \$850,000</b>	<b>Total: \$60,500</b>		

11. Waterview was not an investment approved by IPC or FundEX for sale by its Approved Persons, including the Respondent. The transactions involving Waterview were not processed for the account or through the facilities of IPC or FundEX.

12. The Respondent did not disclose to IPC or FundEX that he was making referrals in respect of Waterview. IPC and FundEX did not have a referral arrangement with Waterview.

13. During the material time, IPC and FundEX each had written policies and procedures that prohibited their Approved Persons from, among other things, entering into a referral arrangement directly with another person or entity.

14. The Respondent knew or ought to have known that the policies and procedures of IPC and of FundEX prohibited him from engaging in the conduct described herein.

15. FundEX issued a letter of reprimand to the Respondent on May 28, 2012 for the undisclosed referral arrangement and commission payment. FundEX placed the Respondent on strict supervision which expired in January 2013. A total of approximately \$27,934 was deducted from the Respondent's commissions in respect of the strict supervision.

16. By engaging in the conduct described above, the Respondent referred one client to a company that sold mortgage investment products and received \$60,500 in referral fees for doing so, thereby participating in a referral arrangement to which the Member was not a party and which did not otherwise comply with:

- a) sections 13.7 to 13.10 of National Instrument 31-103; and
- b) MFDA Rule 2.4.2.

**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.**

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