



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: Richard J. Dhur

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 February 23, 2015 at 10:00 a.m. (Eastern), or as soon thereafter as the appearance can be held, concerning a disciplinary proceeding commenced by the MFDA against Richard J. Dhur (the “Respondent”).

DATED this 19th day of December, 2014.

“Paige L. Ward”

Paige L. Ward
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-943-5838
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 about July 2008 and May 2013, while acting in the capacity of a Branch Manager, the Respondent reviewed and approved 24 account forms or photocopies of account forms in respect of 10 clients, which he knew were blank or only partially complete at the time the clients signed the account forms or were previously-used account forms which had been altered in order to process transactions, contrary to MFDA Rules 2.5.5(d) (now Rule 2.5.5(f)) and Rule 2.1.1.

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 has been registered in the mutual fund industry since November 1995.
2. Since November 1999, the Respondent has been registered in Ontario and Quebec as a mutual fund salesperson (now known as a Dealing Representative) with WFG Securities Inc.¹ (“WFG”), a Member of the MFDA.
3. Commencing in November 2006, the Respondent was registered in Ontario and Quebec as a Branch Manager with WFG. At all material times, the Respondent acted as the alternate Branch Manager at his branch office, and reviewed and approved the trades submitted by the designated Branch Manager, Frank K. Shaw (“Shaw”).
4. On April 10, 2014, WFG suspended the Respondent from acting as a Branch Manager (but not as a mutual fund salesperson) as a result of the events described below.

¹ Previously, named WFG Securities Canada Inc. and Transamerica Securities Inc.

5. At all material times, the Respondent conducted business in the Orleans, Ontario area.

The Respondent Approved Shaw's Use of Blank Pre-Signed and Photocopied Trade Forms

6. Between about July 2008 and May 2013, Shaw obtained, maintained and used to process transactions, 24 account forms or photocopies of account forms in respect of 10 clients, which were blank or only partially complete at the time the clients signed the account forms or were previously-used account forms which Shaw altered in order to process transactions. In particular, Shaw:

- (a) obtained, altered and used to process trades, 19 Trade Tickets or photocopies of Trade Tickets, which were blank or only partially complete at the time the clients signed the Trade Tickets or were previously-used Trade Tickets;
- (b) added Know-Your-Client information contained in 4 New Account Application Forms ("NAAFs") after the clients had signed the NAAFs; and
- (c) obtained, and maintained in the client file, 1 photocopy of a blank pre-signed Trade Ticket.

7. Shaw's conduct is the subject of an MFDA proceeding against him.

8. The Respondent, while acting as alternate Branch Manager, reviewed and approved each of the 24 account forms or photocopies of account forms in respect of the 10 clients submitted by Shaw as described in paragraph 6 above, which the Respondent knew were blank or only partially complete at the time the clients signed the account forms or were previously-used account forms which Shaw had altered in order to process transactions.

9. WFG's compliance staff detected the conduct described in this Notice of Hearing during a routine audit of the Respondent's branch office in March and April 2014, and immediately commenced an investigation.

10. In response to WFG's investigation, the Respondent provided the following statement to explain why he had approved transactions where Shaw had used blank or partially complete pre-signed account forms or photocopies of account forms:

At the clients' verbal requests that we maintain a supply of authorized trade tickets to assist in their redemptions I agreed to the various requests. In these cases it was often distance that was the prime factor. None of these situations resulted in a misuse or misappropriation of the clients (*sic*) funds. No malice was intended. All trades were executed with the clients (*sic*) specific direction.

11. By approving transactions where he knew that Shaw had used blank or only partially complete pre-signed account forms or photocopies of previously-used account forms which Shaw had altered, the Respondent engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

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 Office of 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: Shelly Feld
Fax: 416-361-9073
Email: sfeld@mfd.ca

A **Reply** shall be **filed** by:

- (a) providing 4 copies of the **Reply** to the Office of 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 Office of 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 Office of the Corporate Secretary permits otherwise; or
- (c) transmitting 1 electronic copy of the **Reply** to the Office of 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.

s

DM 407619 v2