



Notice of Hearing

File No. 200513

**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: Barry James Coleman

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 Regional Council of the Atlantic Region of the Mutual Fund Dealers Association of Canada (the "MFDA"), in the hearing room located at the Barrister's Library, 770 Main Street, Room A-100, Moncton, New Brunswick on Wednesday, February 8, 2006, at 11:00 a.m. (Atlantic Time) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Barry James Coleman (the "Respondent").

DATED at Toronto, Ontario this 19th day of December 2005.

"Gregory J. Ljubic"

Gregory J. Ljubic
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: (416) 943-5836
E-mail: gljubic@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 August 2004 and January 2005, the Respondent misappropriated from client AB the sum of \$28,250, more or less, and thereby failed to deal fairly, honestly and in good faith with a client, contrary to MFDA Rule 2.1.1.

Allegation # 2: Between August 2004 and January 2005, the Respondent performed a series of unauthorized redemptions from the account of client AB, totaling \$31,400, more or less, and thereby failed to deal fairly, honestly and in good faith with a client, contrary to MFDA 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. From December, 2001 to March, 2005, the Respondent was registered in New Brunswick as a mutual fund salesperson with Investors Group Financial Services Limited (“IG”).
2. On March 1, 2005, the Respondent was terminated for cause by IG as a result of a complaint arising from the events described herein. The Respondent is not currently registered in the securities industry in any capacity.

Unauthorized Redemptions from Account of Client AB

3. AB was a client of the Respondent.

4. Between August 4, 2004 and January 19, 2005, the Respondent made 13 separate unauthorized redemptions (the “redemptions”) from the IG registered retirement savings plan account (RRSP) of AB, totaling \$31,473.32. The Respondent misappropriated the net redemption proceeds of \$28,299.98. The Respondent directed that the net redemption proceeds be deposited in bank accounts under his control and for his benefit. AB never authorized or directed the Respondent to make the redemptions. Details of the unauthorized redemptions and amounts misappropriated are provided in the chart below.

Redemption Date	Total Redemption from AB's Account	Redemption Fees	Withholding Tax	Total Amount Misappropriated by the Respondent
5-May-04	\$4,444.44	\$0.00	\$444.44	\$4,000.00
30-June-04	\$2,777.78	\$0.00	\$277.78	\$2,500.00
4-Aug-04	\$5,000.00	\$0.00	\$500.00	\$4,500.00
24-Aug-04	\$4,000.00	\$0.00	\$400.02	\$3,599.98
13-Oct-04	\$4,444.45	\$0.00	\$444.45	\$4,000.00
14-Oct-04	\$2,777.78	\$0.00	\$277.78	\$2,500.00
9-Nov-04	\$1,111.11	\$0.00	\$111.11	\$1,000.00
18-Nov-04	\$1,111.12	\$0.00	\$111.12	\$1,000.00
30-Nov-04	\$1,333.34	\$0.00	\$133.34	\$1,200.00
13-Dec-04	\$1,333.33	\$0.00	\$133.33	\$1,200.00
17-Dec-04	\$891.36	\$2.47	\$88.89	\$800.00
29-Dec-04	\$1,120.80	\$9.69	\$111.11	\$1,000.00
19-Jan-05	\$1,127.81	\$16.71	\$111.10	\$1,000.00
TOTALS	\$31,473.32	\$28.87	\$3,144.47	\$28,299.98

5. The Respondent misappropriated the proceeds of the unauthorized redemptions by taking the following steps:
- a. The Respondent altered a blank cheque from a bank account that he controlled by covering the account holder's name in the top left corner of the document and replacing it with the name of AB.

- b. The Respondent marked the falsified cheque as “VOID”.
 - c. The Respondent prepared an IG standard form “Request to Add New Bank Account” (the IG request form) to request that payment of redemption proceeds from AB’s RRSP account be made by electronic fund transfer to a bank account under the Respondent’s control. The Respondent falsified the signature of AB on the IG request form.
 - d. The Respondent submitted to IG falsified IG request forms and falsified “VOID” cheques in each of the first four redemptions. The Respondent stated on each IG request form that the purpose of the request was a “One Time Redemption”. The Respondent made four separate unauthorized redemptions that were paid into a bank account under his control.
 - e. For the last nine redemptions, the Respondent submitted to IG a falsified IG request form and a falsified “VOID” cheque. The Respondent stated on the IG request form that the purpose of the request was “Redemption” transactions generally. The Respondent then made nine separate unauthorized redemptions that were paid into a bank account under his control.
 - f. The Respondent made the unauthorized redemptions from AB’s account using IG’s electronic trading system.
 - g. The Respondent received the redemption proceeds by way of an electronic fund transfer to a bank account under his control.
6. Subsequent to the discovery of the redemptions by AB, and a complaint by AB to IG, the Respondent paid to IG, for the account of AB, the sum of \$30,000 on account of the misappropriated redemption proceeds. The payment was made on February 25, 2005.
 7. The Respondent failed to deal fairly, honestly and in good faith with a client, contrary to MFDA Rule 2.1.1, by misappropriating monies from a client account and by making unauthorized redemptions from a client account.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be accompanied by counsel or agent at the hearing and to 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 has twenty (20) days from the date of service of this Notice of Hearing to serve a **Reply** upon:

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, ON
M5H 3T9
Attention: William Donegan

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 the Respondent is required to file the **Reply** within twenty (20) days from the date of service of this Notice of Hearing. The **Reply** shall be filed by:

- (a) providing 4 copies of the **Reply** to the Secretary by personal delivery, mail or courier; or
- (b) transmitting 1 copy of the **Reply** to the Secretary by fax, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Secretary permits otherwise.

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.