

**Notice of Hearing**

**File No. 2017111**



**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: Isaac Muhima**

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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 (“Hearing Panel”) of the Mutual Fund Dealers Association of Canada (“MFDA”) in the hearing room at the MFDA offices, located at 121 King Street West, Suite 1000, Toronto, Ontario on January 25, 2018 at 9:00 a.m. (Eastern), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Isaac Muhima (“Respondent”).

**DATED** this 6<sup>th</sup> day of November, 2017.

“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, ON M5H 3T9  
Telephone: 416-945-5143  
Facsimile: 416-361-9781  
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:** On or about June 20, 2016, the Respondent signed the signature of a client on an account form, and submitted the account form for processing, contrary to MFDA Rule 2.1.1.

**Allegation #2:** On or about June 20, 2016, the Respondent failed to comply with a Member directive to contact a client to review the suitability of the holdings in a client account, contrary to MFDA Rule 2.1.1.

**Allegation #3:** On or about June 20, 2016, the Respondent failed to use due diligence to learn the essential facts of the client when he completed Know-Your-Client information without having met with or discussed the information with the client, contrary to MFDA Rules 2.2.1 and 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. Between March 2016 and August 2016, the Respondent was registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with BMO Investments Inc. (“BMO”), a Member of the MFDA.
2. At all material times, the Respondent conducted business in the Kingston, Ontario area.
3. On August 11, 2016, BMO terminated the Respondent’s registration as a result of the conduct described herein.

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

## **Facts**

5. At all material times, client BS was a client of BMO whose Tax Free Savings account (“TFSA Account”) was serviced by the Respondent.

6. On June 7, 2016, the Respondent met with client BS, who completed and signed an account form in order to process a redemption in the TFSA Account (“Redemption Form”). On the Redemption Form, client BS changed her account investment objective to “fixed income”.

7. The Respondent submitted the Redemption Form to BMO for processing.

8. On June 8, 2016, the Respondent’s branch compliance officer reviewed the Redemption Form and identified that, as a result of changing the account investment objective to “fixed income”, the mutual fund that client BS held in the TFSA Account was now unsuitable for client BS.

9. As a result, the branch compliance officer directed the Respondent to have client BS attend at the branch to review her investment objectives.

10. On or about June 20, 2016, rather than contact client BS as directed by the branch compliance officer, the Respondent prepared an account amendment form (“Account Form”) as follows:

- a) he selected the account investment objective of “conservative balanced”, which was consistent with the risk ranking of the mutual fund held in client BS’ account; and
- b) he signed client BS’s signature on the Account Form.

11. The Respondent then submitted the Account Form to the branch compliance officer for processing.

**Allegation #1: The Respondent Signed Client's Signature on Account Form**

12. By signing the signature of client BS on the Account Form as described above, the Respondent failed to observe a high standard of ethics in the transaction of business and engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

**Allegation #2: The Respondent failed to Comply with Member Directive**

13. By failing to comply with BMO's directive to contact a client to review the suitability of the holdings of client BS as described above, the Respondent failed to observe a high standard of ethics in the transaction of business and engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

**Allegation #3: The Respondent Failed to use Due Diligence to Learn Essential Facts Relative to a Client**

14. By completing Know-Your-Client information without having met or discussed the information with client BS as described above, the Respondent failed to use due diligence to learn the essential facts of the client, and failed to observe a high standard of ethics in the transaction of business and engaged in conduct unbecoming an Approved Person, contrary to MFDA Rules 2.2.1 and 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; and
- 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: Sarah Glickman  
Fax: 416-361-9073  
Email: [sglickman@mfd.ca](mailto:sglickman@mfd.ca)

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

- a) providing four (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 one (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 one (1) electronic copy of the **Reply** to the Office of the Corporate Secretary by e-mail at [corporatesecretary@mfd.ca](mailto: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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