



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: Sean William Maxwell

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 at the MFDA offices, located at 121 King Street West, Suite 1000, Toronto, Ontario on September 12, 2017, at 9:00 a.m. or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Sean William Maxwell (the “Respondent”).

DATED this 11th day of July, 2017.

“Sarah Rickard”

Sarah Rickard
Director of Regional Councils

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario M5H 3T9
Telephone: 416-945-5143
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: On March 9, 2015, the Respondent engaged in discretionary trading when he processed a trade in the account of a client and used his discretion to determine the amount and timing of the trade, contrary to MFDA Rules 2.3.1 and 2.1.1.

Allegation #2: On March 9, 2015, the Respondent created a note on the Member's back office system which falsely indicated that he spoke with a client and obtained the client's authorization for a trade, contrary to MFDA Rule 2.1.1.

Allegation #3: Between February 6, 2015 and March 5, 2015, the Respondent failed to create a record of client trade instructions with respect to four trades that he processed in the account of a client, contrary to the Member's policies and procedures, and MFDA Rules 1.1.2, 2.1.1, 2.10 and 5.1(b).

Allegation #4: Commencing in about June 2016, the Respondent failed to cooperate with MFDA Staff during the course of an investigation into his conduct, contrary to section 22.1 of MFDA By-law No. 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 was registered in the securities industry commencing in January 2011.
2. From October 2012 to September 2015, the Respondent was registered in Ontario as a dealing representative (formerly known as a mutual fund salesperson) with CIBC Securities Inc. ("CIBC Securities"), a Member of the MFDA.
3. On September 10, 2015, CIBC Securities terminated the Respondent.

4. The Respondent is not currently registered in the securities industry.
5. At all material times, the Respondent conducted business in the Guelph, Ontario area.

Background

6. At all material times, CIBC Securities’ policies and procedures prohibited its Approved Persons from engaging in discretionary trading, and required its Approved Persons to create a written record of the details of all client conversations.

7. At all material times, client SEG was a client of CIBC Securities. Client SEG held several Guaranteed Investment Certificates (“GICs”) in her account at CIBC Securities.

8. In about October 2014, client SEG advised the Respondent that she intended to use the proceeds of the GICs to purchase a mutual fund when the GICs matured in 2015.

9. In February and March 2015, four GICs held by client SEG reached maturity. As described in the table below, the Respondent processed trades in client SEG’s account which transferred the balances of the matured GICs (the “GIC Balances”) to the CIBC Money Market Fund (the “Money Market Fund”):

Date of Trade	From	To	Approximate Amount
2/6/2015	Matured GIC	Money Market Fund	\$10,854.03
2/20/2015	Matured GIC	Money Market Fund	\$4,204.11
2/20/2015	Matured GIC	Money Market Fund	\$5,156.31
3/5/2015	Matured GIC	Money Market Fund	\$5,156.20

10. The Respondent failed to create a record of the instructions he received from client SEG with respect to the trades described above.

11. As described in the table below, after transferring the GIC Balances to the Money Market Fund, the Respondent processed additional trades in client SEG’s account which transferred the GIC Balances from the Money Market Fund to the CIBC Managed Income Portfolio Fund (the “Income Portfolio Fund”):

Date of Trade	From	To	Approximate Amount
2/10/2015	Money Market Fund	Income Portfolio Fund	\$10,855.94
2/23/2015	Money Market Fund	Income Portfolio Fund	\$9,360.85
3/9/2015	Money Market Fund	Income Portfolio Fund	\$5,156.50

12. With regard to the trade described above in paragraph 11 that was processed on March 9, 2015, the Respondent used his discretion to determine the amount and timing of the trade, without discussing the trade with client SEG. The Respondent then created a note on CIBC Securities' back office system which falsely indicated that he had discussed the trade with client SEG who had provided authorization for the trade.

Allegation #1 – Discretionary Trading

13. By virtue of the foregoing, on March 9, 2015, the Respondent engaged in discretionary trading when he processed a trade in the account of a client and used his discretion to determine the amount and timing of the trade, contrary to MFDA Rules 2.3.1 and 2.1.1.

Allegation #2 – Falsification of Client Instructions

14. By virtue of the foregoing, on March 9, 2015, the Respondent created a note on the Member's back office system which falsely indicated that he spoke with a client and obtained the client's authorization for a trade, contrary to MFDA Rule 2.1.1.

Allegation #3 – Failure to Record Client Instructions

15. By virtue of the foregoing, between February 6, 2015 and March 5, 2015, the Respondent failed to create a record of client trade instructions with respect to four trades that he processed in the account of a client, contrary to the Member's policies and procedures, and MFDA Rules 1.1.2, 2.1.1, 2.10 and 5.1(b).

Allegation #4 – Failure to Cooperate

16. In addition to the misconduct described above, commencing in about June 2016, the Respondent failed to cooperate with Staff's investigation into his misconduct. As set out in the

table below, Staff has made a number of attempts to arrange for the Respondent to attend an interview with Staff, and the Respondent has failed to attend or schedule an interview:

Date	Communication	Method of Delivery	Result
6/8/2016	Staff sent a letter requesting that the Respondent contact Staff within 10 business days to schedule an interview.	Registered and regular mail	Registered mail marked as “unclaimed” and returned to Staff. Regular mail not returned. The Respondent did not respond within 10 business days.
7/12/2016	Staff sent a letter requesting that the Respondent contact Staff by July 28, 2016 to schedule an interview.	Personal service, registered mail and regular mail	Process server was unable to locate the Respondent. Registered mail marked as “unclaimed” and returned to Staff. Regular mail not returned. The Respondent did not respond by July 28, 2016.
8/17/2016	Telephone conversation between Staff and the Respondent.	Telephone conversation	The Respondent advised Staff that he would be unable to attend an interview until late October 2016. Staff advised the Respondent that the interview could not be postponed until October 2016, but that Staff was willing to accommodate the Respondent and conduct the interview by telephone. The Respondent stated that he would contact Staff to provide his availability for a telephone interview. The Respondent did not contact Staff.
8/18/2016	Staff requested that the Respondent contact Staff to schedule a telephone interview.	Email	The Respondent did not respond.

Date	Communication	Method of Delivery	Result
8/19/2016	Staff requested that the Respondent respond to Staff's email dated August 18, 2016 by August 24, 2016.	Email	The Respondent did not respond.
8/26/2016	Staff sent a letter requesting that the Respondent contact Staff to schedule an interview. In the letter, Staff advised the Respondent that if he failed to contact Staff by September 5, 2016, he would be required to attend an interview with Staff on September 15, 2016.	Personal service and email (the email was sent on August 30, 2016)	Respondent personally served on August 30, 2016. The Respondent did not respond and he did not attend the scheduled interview.

17. The Respondent has not communicated with Staff since he advised Staff on August 17, 2016 that he would contact Staff to provide his availability for a telephone interview.

18. The Respondent has failed to attend or schedule an interview with Staff.

19. As a result of the Respondent's failure to cooperate with Staff's investigation, Staff has been unable to determine the full nature and extent of the Respondent's conduct including whether the Respondent obtained the authorization of client SEG to process the trades described above in paragraphs 9 and 11.

20. By virtue of the foregoing, the Respondent failed to cooperate with Staff's investigation into his conduct, contrary to section 22.1 of MFDA By-law No. 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 Director of Regional Councils 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: Paul Blasiak
Fax: 416-361-9073
Email: pblasiak@mfd.ca

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

- (a) providing 4 copies of the **Reply** to the Director of Regional Councils 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 Director of Regional Councils by fax to fax number 416-361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Director of Regional Councils permits otherwise; or
- (c) transmitting 1 electronic copy of the **Reply** to the Director of Regional Councils 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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