

Notice of Hearing

File No. 201824



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: Brenda Marie Douglas

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 (“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 April 23, 2018 at 9:30 a.m. (Eastern), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Brenda Marie Douglas (“Respondent”).

DATED this 15th day of February, 2018.

“Sarah Rickard”

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

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 November 2011 and April 2012, the Respondent misappropriated approximately \$31,636.78 from a client, thereby failing to deal fairly, honestly and in good faith with the client, and engaging in business conduct which is unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing in February 2017, the Respondent failed to cooperate with MFDA Staff during the course of an investigation into her 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 2007.
2. From October 2010 to June 3, 2014, the Respondent was registered in Ontario as a dealing representative and Approved Person with Scotia Securities Inc. (“SSI”), a Member of the MFDA.
3. On June 3, 2014, the Respondent was terminated by SSI and she is not currently registered in the securities industry in any capacity.
4. At all material times, the Respondent conducted business at a bank branch in Waterloo, Ontario.

Background

5. At all material times, BH was a client of SSI (“Client BH”).

6. Client BH is the Respondent’s father. According to the account documentation at SSI, Client BH was born on August 25, 1941. He is a retired firefighter. At the time when the conduct described below occurred, Client BH was approximately 70 years old.

7. Prior to the death of Client BH’s wife in 2006, Client BH’s wife handled all of the banking and financial affairs for the couple. After his wife passed away, Client BH accepted the Respondent’s assistance to look after his financial affairs.

8. By virtue of the fact that Client BH was elderly, financially unsophisticated and reliant on the judgment and good faith of the Respondent with respect to the management of his financial affairs, Client BH was a vulnerable client.

Allegation #1 – Misappropriation

9. On or about January 14, 2011, without the knowledge, authorization or approval of Client BH, the Respondent opened a joint bank account in the names of the Respondent and Client BH (the “Joint Bank Account”) and listed the Respondent’s address as the only address on file for the Joint Bank Account.

10. Prior to the events described below, the Respondent worked at another mutual fund dealer that is also a Member of the MFDA. During the time when she worked at that dealer, she arranged for a Registered Retirement Income Fund (“RRIF”) account (the “Existing RRIF Account”) to be opened in the name of Client BH with that Member.

11. At all material times, JG was an Approved Person registered with SSI, who conducted mutual fund business at the same bank branch as the Respondent.

12. On or about August 3, 2011, the Respondent asked her colleague JG to open a new RRIF account at SSI for her father, Client BH (the “New RRIF Account”) and asked JG to process two transfers of mutual funds totaling \$30,932.16 from the Existing RRIF Account to the New RRIF Account. The mailing address and phone number that was recorded on the account opening forms in order to open the New RRIF Account was the Respondent’s mailing address and phone number. JG did not meet Client BH or contact Client BH prior to opening the New RRIF Account and processing the transfers of investments from the Existing RRIF Account into the New RRIF Account.

13. Between November 23, 2011 and March 5, 2012, the Respondent asked JG to process three additional redemption transactions (the “Redemptions”) in Client BH’s New RRIF Account and to arrange for the proceeds from the Redemptions to be deposited into the Joint Bank Account.

14. Unbeknownst to JG, the Respondent’s requests to JG to have the Redemptions processed in the New RRIF Account were made without the knowledge, authorization or approval of Client BH. JG did not meet with Client BH or contact him directly to confirm his instructions before processing the Redemptions that were requested by the Respondent.

15. Based upon the requests of the Respondent but without the knowledge, authorization or approval of Client BH, JG processed the Redemptions summarized in the table below:

Redemption No.	Approximate Redemption Date	From	To	Approximate Redemption Amount
1	November 23, 2011	New RRIF Account	Joint Bank Account	\$2,500
2	November 23, 2011	New RRIF Account	Joint Bank Account	\$2,500
3	March 5, 2012	New RRIF Account	Joint Bank Account	\$12,433.39

16. On April 17, 2012, based upon instructions communicated by the Respondent but without the knowledge, authorization or approval of Client BH, an additional redemption was processed

in the New RRIF Account in the amount of approximately \$14,203.39, constituting the remaining balance in the account. The proceeds from the April 17, 2012 redemption were also deposited into the Joint Bank Account.

17. In December 2015, a collection agency contacted Client BH about a delinquent line of credit that had been opened in his name at SSI's bank affiliate without his knowledge. Client BH attended at an SSI bank branch for the first time on December 14, 2015 in order to inquire about the line of credit that he had learned about from the collection agency. During his visit to the branch office, Client BH was informed for the first time about the existence of the Joint Bank Account and the redemptions described above.

18. When Client BH reported that he had no knowledge of the line of credit, the Joint Bank Account or the transactions that were processed in the New RRIF Account, SSI's bank affiliate commenced an investigation.

19. Based upon information gathered during its investigation, SSI's bank affiliate concluded that after the net proceeds from the redemptions were deposited into the Joint Bank Account, the Respondent processed subsequent withdrawals from the Joint Bank Account without the knowledge, authorization or approval of Client BH.

20. The Respondent failed to repay or otherwise account to Client BH for the money that she withdrew from the Joint Bank Account which constituted net proceeds from the unauthorized redemptions from the New RRIF Account.

21. By engaging in the conduct described above without Client BH's knowledge, authorization or approval, the Respondent misappropriated approximately \$31,636.78 from Client BH, contrary to MFDA Rule 2.1.1.

22. Client BH subsequently reported this matter to the Ontario Provincial Police ("OPP").

23. In 2017, the Respondent pled guilty to three criminal charges that had been brought against her by the OPP, which pertained to violations of sections 380(1) and 331 of the Criminal Code of Canada. One of the charges (the “Client BH Charge”) stated that the Respondent:

between the 01st day of January 2006 to the 31st day of December 2015, at the City of Woodstock and elsewhere in the Province of Ontario did commit theft while being entrusted, whether solely or jointly with another person, with a power of attorney on the real or personal property of [Client BH] to a purpose other than that which the power of attorney specifies contrary to Section 331 of the Criminal Code of Canada.

24. The Respondent subsequently received the following sentence in connection with the criminal charges described above: 3 years of probation; conditional sentence of 2 years less a day; and a requirement to pay restitution of \$329,756 over a period of 10 years (including a requirement to pay \$140,300 in restitution in connection with the Client BH Charge).

Allegation #2 – Failure to Cooperate

25. Commencing in February 2017, the Respondent failed to cooperate with Staff’s investigation into her conduct. As set out in the table below, Staff has made a number of requests to the Respondent to provide documents and attend an interview with Staff. The Respondent failed to provide the requested documents and failed to attend an interview.

Date	Communication	Method of Delivery	Result
1/12/2017	Staff sent a letter requesting documentation from the Respondent concerning the matters under review and advising the Respondent that she was required to attend an interview with Staff on February 27, 2017. In the letter, Staff requested that the Respondent provide the requested documentation and confirm that she would attend the interview by February 3, 2017.	Personal service (delivered on January 28, 2017)	On February 27, 2017, the Respondent sent an email to Staff advising that she was unable to attend the scheduled interview but could attend on another date. The Respondent did not provide the requested documentation.

Date	Communication	Method of Delivery	Result
2/27/2017	Staff requested that the Respondent provide documentation concerning the matters under review by March 3 and 6, 2017. Staff also advised the Respondent that she was required to attend an interview with Staff on March 16, 2017, and was required to confirm by March 3, 2017 that she would attend the interview.	Email	On March 5, 2017, the Respondent sent an email to Staff advising that she would attend the interview on March 16, 2017. The Respondent did not provide the requested documentation.
3/6/2017	Staff requested that the Respondent provide documentation concerning the matters under review by March 8, 2017.	Email	On March 15, 2017, the Respondent sent an email to Staff advising that she “will not be attending any meetings at this time.” The Respondent did not provide the requested documentation.
3/16/2017	Staff advised the Respondent that “the MFDA will proceed accordingly.”	Email	The Respondent did not respond and she did not attend the interview on March 16, 2017.

26. Since March 15, 2017, the Respondent has not communicated with Staff.

27. The Respondent has not provided Staff with the documentation it requested or attended an interview with Staff to give information concerning the matters under investigation in accordance with her regulatory obligations.

28. 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 her conduct including whether she misappropriated additional monies from Client BH.

29. By virtue of the foregoing, the Respondent failed to cooperate with Staff’s investigation into her 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; 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: Paul Blasiak
Fax: 416-361-9073
Email: pblasiak@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) 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.

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