

Notice of Hearing

File No. 201953



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: Israel (Steve) Notis

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, 121 King Street West, Suite 1000, Toronto, Ontario on October 8, 2019 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 Israel (Steve) Notis (“Respondent”).

DATED this 26th day of August, 2019.

“Michelle Pong”

Michelle Pong
Director, Regional Councils

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Telephone: 416-945-5134
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 November 2016 and March 2017, the Respondent engaged in personal financial dealings with a client of the Member by obtaining funds from the client that he pooled with his own funds to purchase an investment property, contrary to the Member's policies and procedures and MFDA Rules 2.1.4, 2.1.1, and 1.1.2 and 2.5.1.

Allegation #2: Between June 2015 and March 2017, the Respondent had and continued in outside activities that were not disclosed to and approved by the Member, including:

- a) engaging in the purchase and resale of an investment property;
- b) serving on the board of directors of a gold exploration corporation; and
- c) serving as a representative for a foreign corporation to facilitate its collection of debts, contrary to the Member's policies and procedures and MFDA Rules 1.2.1(c) (now 1.3.2)¹, 2.1.1, and 2.5.1 and 1.1.2.

Allegation #3: Between at least 2014 and 2017, the Respondent obtained, possessed and, in some instances, used to process transactions, 70 pre-signed account forms, contrary to the Member's policies and procedures and MFDA Rules 2.1.1, 1.1.2, and 2.5.1.

Allegation #4: Between July 2014 and March 2017, the Respondent falsely indicated on the Member's Annual Consultant Certificate that he: (i) did not possess and use pre-signed forms; (ii) was not engaged in any outside activities; and (iii) had reviewed and was compliant with the Member's policies and procedures, contrary to MFDA Rule 2.1.1.

Allegation #5: Between May 2017 and June 2017, the Respondent misled the Member during the course of an investigation into his conduct, contrary to MFDA Rule 2.1.1.

¹ On March 14, 2016, Rule 1.2.1(c) was revised and renumbered as Rule 1.3.2.

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 June 1, 2006 to May 23, 2017, the Respondent was registered in Ontario as a mutual fund sales person (now known as a dealing representative)² with Investors Group Financial Services Inc. (the “Member”), a Member of the MFDA.
2. From January 20, 2011 to April 16, 2012, the Respondent was designated as a branch manager.
3. On July 4, 2017, the Member terminated the Respondent’s employment, effective May 23, 2017, as a result of the conduct that is the subject of this proceeding.
4. At all material times, the Respondent conducted business in the Toronto, Ontario area.
5. The Respondent is not currently registered in the securities industry in any capacity

Personal Financial Dealings

6. At all material times, the Member’s policies and procedures prohibited its Approved Persons from engaging in any personal dealings or investment arrangements with clients.
7. On October 31, 2016, the Respondent purchased a condominium unit from a builder as an investment property. The Agreement of Purchase and Sale (“APS”) required the Respondent to make an initial deposit of \$3,000, a further deposit of \$25,495 30-days following the execution of the APS, and a further \$28,495 one-year following the execution of the APS.

² In September 2009, the registration category Mutual Fund Salesperson changed to “Dealing Representative” when National Instrument 31-103 came into force.

8. On or around November 30, 2016, the Respondent's client paid \$14,247.50 to the Respondent to co-invest in the purchase of the condominium. The amount of the cheque represented 50% of the deposit required under the APS within the first 30 days.

9. On March 1, 2017, the Respondent entered into an Assignment Agreement to assign the purchase of the condominium to a third party. As a result of the Agreement, the Respondent and his client recovered the original deposit and each earned a profit of \$39,915.

10. By engaging in the conduct described above, the Respondent had an actual or potential conflict of interest, which he failed to disclose to the Member or address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the Member's policies and procedures and MFDA Rules 2.1.4, 2.1.1, and 1.1.2 and 2.5.1.

Outside Activities

11. At all material times, the Member's policies and procedures stated:

In the event, you wish to pursue an outside business activity (OBA), you must obtain prior approval from your Regional Director, and the Vice-President, Financial Services responsible for your area, Compliance and the regulator prior to start any activity.

Investment Property

12. As described above at paragraphs 7 to 9, the Respondent obtained funds from a client to co-invest in and purchase an investment property, thereby engaging in an outside activity.

13. At no time did the Respondent disclose his investment with the client in the condominium property to the Member or obtain the Member's approval in accordance with its policies and procedures.

Board of Directors

14. In 2015, another of the Respondent's clients asked the Respondent to serve as an independent director on the board of directors of a gold exploration corporation (the "GEC"). The Respondent's client was the chief executive officer of the GEC.

15. The Respondent agreed and joined the board of directors of the GEC in June 2015. The Respondent was also appointed to the compensation committee, the governance committee, and the audit committee.

16. The Respondent received \$30,000 and 325,000 stock options, which he did not exercise, as compensation over the time he served on the board of directors of the GEC.

17. The Respondent did not disclose his position with the GEC to the Member or obtain the Member's approval in accordance with its policies and procedures.

18. In April 2017, the Respondent's regional director discovered the Respondent's role with the GEC, and the Member directed the Respondent to resign from the position. The Respondent resigned from the board of directors effective June 15, 2017.

Debt Collection Services

19. Around December 2016, the Respondent received an e-mail solicitation purportedly from a foreign corporation (the "FC") asking if he would be interested in a job position. The position involved facilitating debt collection from the corporation's clients in North and South America.

20. The Respondent expressed his interest and executed a Memorandum of Understanding provided by the FC. The Memorandum stated the Respondent would be paid US\$4,000 per month and retain 5% of all amounts collected from debtors on behalf of the FC. After a collection, the Respondent would be required to remit the remaining 95% as directed by the FC.

21. Between January and February 2017, the Respondent contacted the FC's clients as directed, and requested and collected payment. The Respondent received cheques on behalf of the FC on at least 4 occasions purportedly from the FC's debtors.

22. On one occasion, the Respondent received \$109,849, purportedly from one of the FC's clients on February 7, 2017. The FC directed the Respondent to retain 5% of the amount received and have the remainder, \$104,356, converted to British Pounds and transferred to a foreign account identified by the FC.

23. On February 14, 2017, the Respondent transferred the converted funds to the FC. On February 23, 2017, the Respondent's bank reversed the deposit of the \$109,849 cheque received from the purported client of the FC because the bank determined that the cheque was fraudulent.

24. The Respondent contacted the FC about the reversed deposit, but did not receive a satisfactory explanation. The Respondent determined that he had been involved in a fraud, and reported the matter to the police.

25. At no time did the Respondent disclose his position with the FC to the Member or obtain the Member's approval in accordance with its policies and procedures.

26. By engaging in the above outside activities, which were not disclosed and approved by the Member, the Respondent contravened the Member's policies and procedures and MFDA Rules 1.2.1(c) (now 1.3.2), 2.1.1, and 2.5.1 and 1.1.2.

Pre-Signed Account Forms

27. At all material times, the Member's policies and procedures prohibited its Approved Persons from obtaining, possessing, and using pre-signed account forms.

28. In February 2015, the Respondent signed an attestation, stating that "he would not collect, accept from a client, maintain for future use, or submit for processing, any form that was signed by a client prior to being completed in full."

29. Between at least 2014 and 2017, the Respondent obtained, possessed and, in some instances, used to process transactions, 70 pre-signed account forms.

30. The pre-signed account forms consisted of one or more of the following forms: client application, security agreement on investments, transfer, credit application, investment instructions, know-your-client information form and know-your-client update form, Ontario LIRA addendum, declaration of spousal status, pre-authorized contribution agreement, and registered education savings plan grant.

31. By engaging in the conduct described above, the Respondent failed to observe a high standard of ethics and conduct in the transaction of business and engaged in conduct unbecoming

an Approved Person, contrary to the Member's policies and procedures and MFDA Rules 2.1.1 and 1.1.2 and 2.5.1.

False Statements on Annual Consultant Certificate

32. From 2014 to 2017, the Respondent completed the Member's Annual Consultant Certificate. Each certificate required the Approved Person to indicate: (i) whether he possessed and/or used a pre-signed form; (ii) whether he was engaged in an outside activity; and (iii) whether he had reviewed and was compliant with the Member's policies and procedures.

33. In each year, the Respondent answered "no" to questions (i) and (ii) above and "yes" to question (iii).

34. As a result of the facts set out above, some or all of the Respondent's answers were false in each year from 2014 to 2017.

35. By failing to complete the Member's Annual Consultant Certificate accurately, the Respondent undermined the Member's ability to supervise the Respondent and engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Misleading the Member

36. Following the Member's discovery of the Respondent's outside activity as a director of the GEC, it commenced an investigation into his conduct.

37. From May 2017 to June 2017, the Member wrote the Respondent various questions concerning the conduct described above and interviewed the Respondent. In response to questioning, the Respondent repeatedly failed to make full disclosure of the conduct described above until confronted by the Member with new information it had independently gathered.

38. In particular, the Respondent:

- a) stated he had received "just stock options" for serving as a director of the GEC, until the Member advised it had information that he had received additional compensation;

- b) failed to disclose his outside activities of engaging in the purchase and sale of an investment property and serving as a representative for the FC, until the Member confronted him directly about his real estate activities and work for the FC; and
- c) denied the involvement of any Member client in his purchase and resale of an investment property both in writing and in a telephone interview, until finally admitting the involvement of a client after repeated questioning in a subsequent telephone interview.

39. By making false statements and failing to provide full disclosure to the Member during the course of an investigation, the Respondent failed to observe high standards of ethics and conduct in the transaction of business, and engaged in business conduct or practice which is unbecoming or detrimental to the public interest, 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; 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 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: Alan Melamud
Email: amelamud@mfdca.ca

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

- a) providing four 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 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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