

Further Amended Notice of Hearing

File No. 201925



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: Mohammad Movassaghi and Kindle Briten Megan Blythe

FURTHER¹ AMENDED² NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel of the Pacific Regional Council (“Hearing Panel”) of the Mutual Fund Dealers Association of Canada (“MFDA”) in the hearing room at the MFDA offices, 650 West Georgia Street, Suite 1220, Vancouver, British Columbia on May 28, 2019 at 10:00 a.m. (Pacific), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Mohammad Movassaghi (“Movassaghi”) and Kindle Briten Megan Blythe (“Blythe”) (or together referred to as the “Respondents”).

DATED ~~March 12, 2019.~~ Amended on August 30, 2019. Further Amended on November 15, 2019.

“Michelle Pong”

Michelle Pong
Director, Regional Councils

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¹ Amended Notice of Hearing amended by Order of the Hearing Panel dated November 15, 2019.

² Notice of Hearing amended by Order of the Hearing Panel dated August 30, 2019.

NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between April 2015 and October 2015, Movassaghi and/or Blythe falsified a client's signature on ~~40~~ 9 account forms, contrary to MFDA Rules 2.1.1, 2.10 and 1.1.2 and the policies and procedures of the Member.

Allegation #2: Between April 8, 2015 and June 9, 2015, Movassaghi and/or Blythe submitted to the Member ~~4~~3 Know-Your-Client ("KYC") Update Forms without client X's knowledge or authorization, contrary to MFDA Rules 2.2.1, 2.1.1, 2.10, and 1.1.2, and the policies and procedures of the Member.

Allegation #3: Between January 2015 and June 2016, Movassaghi and/or Blythe processed at least 197 trades in the investment accounts of client X without the knowledge or authorization of client X, thereby engaging in unauthorized discretionary trading, contrary to MFDA Rules 2.3.1(a) (now MFDA Rule 2.3.1(b))³, 2.10, 1.1.2 and 2.1.1 and the policies and procedures of the Member.

Allegation #4: Between January 2015 and June 2016, Movassaghi and/or Blythe created false notes that purported to record instructions received from client X which the Respondents had not in fact received, contrary to MFDA Rules 2.1.1, 2.10 and 1.1.2 and the policies and procedures of the Member.

Allegation #5: Between January 2014 and August 2016, Movassaghi failed to disclose actual or potential conflicts of interest to the Member, contrary to MFDA Rules 2.1.4, 2.5.1, 1.1.2, and 2.1.1, and the policies and procedures of the Member.

Allegation #6: Between January 2015 and June 2016, Blythe failed to conduct adequate due diligence, prior to signing KYC Update Forms, trade forms and account forms as an Approved Person, to determine whether authorization had been received from client X with respect to changes to KYC information, the processing of trades, and other account activities recorded or

³ On January 19, 2017, MFDA Rule 2.3.1 was amended. The prohibition on discretionary trading was moved from MFDA Rule 2.3.1(a) to MFDA Rule 2.3.1(b).

processed for client X's accounts based upon the content of the account forms, contrary to MFDA Rules 2.2.1, 1.1.2, 2.10, and 2.1.1, and the policies and procedures of the Member.

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

Movassaghi

1. From May 22, ~~2014~~ 2013 to July 8, 2016, Movassaghi was registered in British Columbia as a dealing representative (formerly known as a mutual fund salesperson) with Investors Group Financial Services Inc. (the "Member"), a member of the MFDA.
2. From July 25, 2016 to September 2, 2016, Movassaghi was registered in British Columbia as a registered representative with Harbourfront Wealth Management Inc. ("Harbourfront"), a dealer member of the Investment Industry Regulatory Organization of Canada ("IIROC").
3. Movassaghi is not currently registered in the securities industry.
4. At all material times, Movassaghi carried on business in the Vancouver, British Columbia area.

Blythe

5. From October 6, 2014 to July 8, 2016, Blythe was registered in British Columbia and Alberta as a dealing representative with the Member.
6. Since July 22, 2016, Blythe has been registered in British Columbia as a registered representative with Harbourfront.
7. At all material times, Blythe carried on business in the Vancouver, British Columbia area.

Background

8. ~~Between January 21, 2014 and August 2016, eClient X~~ was a client of the Member whose accounts were serviced solely by Movassaghi from January 21, 2014 to October 6, 2014, and jointly by Movassaghi and Blythe from October 6, 2014 (when Blythe became registered) to July 8, 2016 (when Movassaghi and Blythe ceased to be registered with the Member).

9. In or about October 2013, client X finished medical school and moved to Vancouver, British Columbia to work as a medical doctor at a hospital.

10. On January 21, 2014, client X opened 2 accounts with the Member: a Registered Retirement Savings Plan (“RRSP”) account and a Tax Free Savings Account (“TFSA”).

11. In January 2014, client X accepted the recommendation of ~~the Respondent~~ Movassaghi to set up monthly pre-authorized contributions to her investment accounts. Specifically, client X agreed to have \$2,000 withdrawn from her personal bank account each month and applied as follows: \$1,000 per month into her TFSA and \$1,000 per month into her RRSP account with the Member.

12. On September 19, 2014, client X opened a non-registered investment account with the Member.

13. In September 2014, client X accepted the recommendation of ~~the Respondent~~ Movassaghi to set up monthly pre-authorized contributions to her non-registered investment account with the Member. Specifically, client X agreed to have \$1,000 ~~debited~~withdrawn from her personal bank account each month and deposited into her non-registered investment account with the Member.

14. Client X did not give the Respondents instructions to purchase specific mutual funds with the cash from the pre-authorized monthly contributions.

15. In 2015 and in 2016, client X did not attend any in-person meetings with Movassaghi or Blythe, and did not speak to Movassaghi or Blythe on the telephone.

16. In July 2016, Movassaghi and Blythe moved from the Member to become registered at Harbourfront.

17. On or about August 9, 2016, Movassaghi falsified client X's signature on several Harbourfront forms required to transfer client X's accounts from the Member to Harbourfront and to open accounts at Harbourfront. Client X's holdings at the Member were sold and transferred to Harbourfront in cash without client X's knowledge or authorization.

18. On June 21, 2017, Movassaghi entered into a settlement agreement with IIROC in which he admitted to falsifying client X's signature on forms to facilitate the transfer of client X's investment accounts from the Member to Harbourfront.

19. When Movassaghi's misconduct at Harbourfront came to light, client X reviewed the records of transactions processed in her investment accounts with the Member prior to the transfer of her accounts to Harbourfront and reported the conduct described in this Notice of Hearing.

Falsification of Client Signature

20. At all material times, the Member's policies and procedures prohibited its representatives from falsifying client signatures.

21. Between April 8, 2015 and June 9, 2015, Movassaghi and/or Blythe updated KYC information on file with the Member for client X's investment accounts without client X's knowledge or authorization.

22. Specifically, Movassaghi and/or Blythe updated KYC information on file for client X to increase her risk tolerance from "medium" to "very high" and to change her Investment Profile from "moderate conservative/moderate" to "very aggressive". Client X was not informed about these changes to her KYC information. There had been no actual changes to her risk tolerance or her investment profile.

23. Between April 8, 2015 and June 9, 2015, Movassaghi and/or Blythe falsified client X's signature on 4-3 KYC Update Forms. Client X did not meet with Movassaghi and/or Blythe in person in 2015 and did not sign any of the 4-3 KYC Update Forms or authorized the KYC changes in any other way.

24. Between June 10, 2015 and October 30, 2015, Movassaghi and/or Blythe also falsified client X's signature on 3 Pre-Authorized Contribution ("PAC") Agreements and 3 client information update forms.

25. By engaging in the conduct described above, Movassaghi and/or Blythe falsified client X's signature on ~~10~~ 9 account forms without the knowledge or authorization of client X, contrary to MFDA Rules 2.1.1, 2.10 and 1.1.2 and the policies and procedures of the Member.

Failure to Accurately Record KYC Information

26. Between April 8, 2015 and June 9, 2015, Movassaghi and/or Blythe ~~falsified client X's signature on~~ submitted to the Member ~~4~~ 3 KYC Update Forms, and changed KYC information on file with the Member for client X without client X's knowledge or authorization, as described above at paragraphs ~~22~~ 1 and ~~23~~ 2, contrary to MFDA Rules 2.2.1 and 2.1.1.

Unauthorized Discretionary Trading

27. Between January 2015 and June 2016, Movassaghi and/or Blythe submitted at least 197 trades in client X's account which client X did not authorize.

28. ~~The Respondents~~ Movassaghi and/or Blythe submitted transaction documentation for ~~each~~ some of the transactions that they processed in the accounts of client X. The transaction documentation falsely indicates that ~~the Respondents~~ Movassaghi and/or Blythe received instructions from client X by telephone or in-person in respect of each of the transactions that were processed in her accounts. Each transaction form was signed by Blythe on the Approved Person signature line and Movassaghi's name was printed on the Consultant name line. Client X did not sign any of the forms on the client signature line or provide authorization for the transactions in any other way.

29. In client X's file there were corresponding transaction forms for each transaction that was processed in the investment accounts of client X which stated that the trade instructions for the transactions were received by telephone or in person and each form purported to indicate the specific date and time when Movassaghi and/or Blythe received instructions from client X.

30. The records of transaction instructions that Movassaghi and Blythe maintained for the investment accounts of client X in 2015 and 2016 were false.

31. Client X did not speak with Movassaghi or Blythe on the telephone or attend meetings in-person with Movassaghi or with Blythe during 2015 or 2016 contrary to the false information recorded on the transaction documentation in the client X's file. Client X was out-of-province overseas during most of the period when those transactions were processed and could not be reached by telephone.

32. As a result of the unauthorized trades that were processed in the investment accounts of client X, client X suffered a loss of \$22,065.59.

33. On February 17, 2017, the Member ~~reimbursed~~ compensated client X for her losses.

34. By engaging in the conduct described above, Movassaghi and/or Blythe engaged in unauthorized discretionary trading, contrary to MFDA Rules 2.3.1(a), 2.10, 1.1.2 and 2.1.1 and the policies and procedures of the Member.

Blythe Failed to Conduct Adequate Due Diligence

35. Blythe failed to conduct adequate due diligence, prior to signing as an Approved Person the KYC Update Forms, trade forms and account forms described in paragraphs 23, 24 and 27-28 above, to determine whether authorization had been received from client X with respect to changes to KYC information, trades and other account activities addressed in the account forms.

36. By virtue of the foregoing, the Respondent engaged in conduct contrary to MFDA Rules 2.2.1, 1.1.2, 2.10, and 2.1.1, and the policies and procedures of the Member.

Creating False Notes of Client's Instructions

37. Between 2015 and 2016, Movassaghi and/or Blythe created false notes on the Member's client management system that purported to record instructions from client X that the Respondents had not in fact received in connection with transactions that they processed in her investment accounts as described above at paragraphs 27 and 31, contrary to MFDA Rule 2.1.1.

Conflict of Interest

38. At all material times, the Member had policies and procedures that required its Approved Persons to disclose to the Member any potential conflicts of interest with clients.

39. Prior to October 2013, Movassaghi obtained approval from the Member to operate a real estate rental business subject to the condition that Movassaghi was required to disclose to the Member if he intended to rent to a client of the Member.

40. Between October 2013 and August 2016, client X rented an apartment that Movassaghi owned.

41. On January 21, 2014, client X became a client of the Member and Movassaghi was the Approved Person responsible for servicing her account.

42. Movassaghi failed to disclose to the Member's compliance department that he was renting an apartment to client X.

43. Between June 2010 and July 2016, Movassaghi was a director of a fashion company which he properly disclosed to the Member. However, Movassaghi failed to disclose to the Member that his business partner who was also a director of the company was also a client of the Member.

44. By failing to disclose to the Member that the actual or potential conflicts of interest described above had arisen, ~~the Respondent~~ Movassaghi contravened MFDA Rule 2.1.4(a) and ~~prevented~~ deprived the Member of the opportunity to ~~from~~ consider whether any action was necessary to ensure that the actual or potential conflicts of interest were resolved by the exercise of responsible business judgment influenced only by the best interests of the clients and that the actual or potential conflicts of interest were disclosed to the clients as required by MFDA Rules 2.1.4(b) and (c).

45. By engaging in the conduct described above, Movassaghi failed to disclose two actual or potential conflicts of interest to the Member, contrary to MFDA Rules 2.1.4, 2.5.1, 1.1.2, and 2.1.1, and the policies and procedures of the Member.

NOTICE is further given that the Respondents 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 Respondents:

- ~~has~~ have failed to carry out any agreement with the MFDA;
- ~~has~~ have 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~~ have failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- ~~has~~ have engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- ~~is~~ are 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 Respondents 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 Respondents 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
650 West Georgia Street, Suite 1220
Vancouver, B.C. V6B 4N9
Attention: Christopher Corsetti
Email: ccorsetti@mfd.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 Respondents, and the conclusions drawn by the Respondents 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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DM 710529