



Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ
and
Antonio Luciano**

ORDER

(ARISING FROM THE MOTION ON APRIL 19, 2023)

WHEREAS on December 6, 2022, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4) in respect of a disciplinary proceeding commenced against Antonio Luciano (the “Respondent”);

AND WHEREAS on January 1, 2023, the MFDA consolidated with the Investment Industry Regulatory Organization of Canada (“IIROC”) to form the New Self-Regulatory Organization of Canada (the “Corporation”);

AND WHEREAS on February 23, 2023, the first appearance in this proceeding was held by videoconference before one public representative of a hearing committee acting on behalf of a hearing panel of the Ontario District Hearing Committee of the Corporation (the “Hearing Panel”) acting on behalf of a Hearing Panel, pursuant to s. 19.1.13(b) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.2.4(b)) which permits one public representative to be designated to act on behalf of a Hearing Panel for the purpose of hearing and determining any procedural matter;

AND WHEREAS counsel for Staff of the Corporation (“Staff”) attended the first appearance by videoconference and nobody appeared on behalf of the Respondent although he was properly served;

AND WHEREAS on February 23, 2023, at the first appearance, the Hearing Panel made a finding that the Respondent was properly served with the Notice of Hearing and issued an order setting a schedule for the delivery of the Respondent’s Reply, the exchange of disclosure and witness lists and for the hearing of this matter on its merits;

AND WHEREAS following the first appearance, counsel for Staff made many attempts to contact the Respondent by email and by telephone and informed the Respondent of the schedule that the Hearing Panel had established at the first appearance;

AND WHEREAS the Respondent did not respond to the emails and voicemail messages from counsel for Staff and has not served or filed a Reply to the Notice of Hearing;

AND WHEREAS pursuant to Rules 7.3(1)(a) and 8.4(1)(d) of the Mutual Fund Dealer Rules of Procedure (the “ROP”), if a Respondent fails to attend the hearing on the date and at the time and location specified in the Notice of Hearing and if the Respondent fails to serve and file a Reply to the Notice of Hearing in accordance with Rules 8.1 and 8.2 of the ROP, the Hearing Panel may proceed with the hearing in the absence of the Respondent;

AND WHEREAS the Respondent has not served or filed a Reply to the Notice of Hearing in accordance with Rule 8.1(1) of the Mutual Fund Dealer Rules of Procedure (the “ROP”) and did not attend the first appearance on February 23, 2023 or send someone to appear on his behalf, despite being properly served with the Notice of Hearing and did not attend the motion that was heard today despite being informed of the date, time and purpose of the motion by counsel for Staff;

AND WHEREAS on April 14, 2023, counsel for Staff brought a motion before the Hearing Panel seeking an Order to amend the first appearance Order dated February 23, 2023 and for an order abridging the time for service and filing of Staff’s motion record;

AND UPON READING Staff’s motion record including the sworn affidavit of Angela Lau, an Administrative Assistant at the Corporation, and upon hearing the submissions of counsel for Staff;

IT IS HEREBY ORDERED THAT:

1. The time for service and filing of Staff's motion record as set out in Rule 6.5 of the ROP is abridged to permit the hearing of this motion upon less than 10 days' notice to the Respondent;
2. The requirements imposed on Staff that were set out in paragraphs 2 and 4 of the Order dated February 23, 2023 setting deadlines for the delivery of disclosure, witness lists and witness statements are waived unless and until the Respondent files a Reply to the Notice of Hearing, requests disclosure from Staff and provides an e-mail address or mailing address to which disclosure can be delivered securely by Staff;
3. Staff shall send notice of the date and time of the hearing of the matter on its merits, provide the videoconference link to the hearing of the matter on its merits, and a copy of this order to the Respondent by personal service, and file an Affidavit of Service confirming that such notice was provided to the Respondent;
4. Subject to any further Order of the Hearing Panel, unless the Respondent serves and files a Reply to the Notice of Hearing in accordance with Rule 8 of the ROP, the hearing of this matter on its merits shall take place by videoconference on May 19, 2023, commencing at 10:00 a.m., or as soon thereafter as the matter can be heard without any further notice to the Respondent beyond the requirements set out in this Order;
5. If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3, requests production of or access to exhibits in this proceeding that contain personal information as defined by the Corporation's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of the Corporation shall not provide to the non-party, copies of or access to the requested exhibits without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the ROP.

DATED this 19th day of April, 2023.

"Frederick W. Chenoweth"
Frederick W. Chenoweth
Chair

ⁱ On January 1, 2023, the Investment Industry Regulatory Organization of Canada (“IIROC”) and the Mutual Fund Dealers Association of Canada (the “MFDA”) were consolidated into a single self-regulatory organization recognized under applicable securities legislation. The New Self-Regulatory Organization of Canada (referred to herein as the “Corporation”) adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules. Pursuant to Mutual Fund Dealer Rule 1A, MFDA By-law No. 1 continues to be applicable to this proceeding and pursuant to Mutual Fund Dealer Rule 1A and s.14.6 of By-Law No.1 of the Corporation, contraventions of former MFDA regulatory requirements may be enforced by the Corporation.