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: Robert James Thiessen and Wealth Advisory Services Ltd.

Heard: February 3 and 4, 2014 in Toronto, Ontario
Submissions of MFDA Staff dated February 18, 2014 (written by Melissa MacKewn)
Supplementary Submissions of MFDA Staff (written by Maria L. Abate) dated April 2, 2015

Decision and Reasons (Misconduct): June 12, 2015

DECISION AND REASONS
(Misconduct)

Hearing Panel of the Central Regional Council:

The Honorable John W. Morden	Chair
Terrence Bourne	Industry Representative
Guenther Kleberg	Industry Representative

Appearances:

Melissa MacKewn	)	For the Mutual Fund Dealers Association of Canada
Robert James Thiessen	)	In Person

TABLE OF CONTENTS

I. INTRODUCTION

1. The following allegations are made by the Mutual Fund Dealers Association ("MFDA") against Robert James Thiessen ("Thiessen") and Wealth Advisory Services Ltd. ("WAS") in this proceeding in the *Amended* Notice of Hearing dated December 20, 2012, amended October 15, 2013:

Allegation #1: Between March 4, 2003 and November 1, 2005, WAS and Thiessen sold shares of a related company of WAS to 48 clients without ensuring a reasonable level of due diligence was conducted on the investment product and without making reasonable inquiries to ensure that the product was suitable for sale to clients of WAS, contrary to MFDA Rules 2.2.1(a) and (b) and MFDA Rule 2.1.1(c).

Allegation #2: Between March 4, 2003 and November 1, 2005, WAS sold shares of a related company to WAS to 48 clients in reliance on the accredited investor and closely held insurer [*sic* issuer] exemptions:

(a) without ensuring that these investments were suitable for the clients and in keeping with the clients' investment objectives, contrary to MFDA Rule 2.2.1 (a), (b) and (c), and MFDA Rule 2.1.1(c);
(b) without obtaining sufficient documentation to determine if the clients qualified as accredited investors in accordance with s. 2.3 of Ontario Securities Commission Rule 45-501 and subsequently s. 2.3 of National Instrument 45-106[1], contrary to MFDA Rule 2.1.1(c); and
(c) without complying with the requirements of the closely held issuer exemption as set out in s. 2.1 of Ontario Securities Commission Rule 45-501, in that the clients were not provided with a copy of Form 45-501F3 at least 4 days prior to their purchase of the shares, thereby engaging the jurisdiction of the Hearing Panel to impose a penalty

[1] In September 2005, National Instrument 45-106 came into force. Many of the prospectus and registration exemptions previously available in OSC Rule 45-501 were incorporated into NI 45-106. The "accredited investor" exemption was amended slightly but the amendments are not relevant to the allegations against the Respondents.

on the Respondents pursuant to s. 24.1.1(h) and 24.1.2(n) of MFDA By-Law No. 1 and contrary to MFDA Rule 2.1.1(c).

Allegation #3: Between March 4, 2003 and November 1, 2005, WAS and Thiessen sold or facilitated the sale of shares of a related company of WAS to 48 clients without disclosing to the clients:

(a) the relationship between WAS and the related company; and
(b) the financial interest of WAS and Thiessen in respect of the sales of the shares of the related company;

thereby giving rise to a conflict or potential conflict of interest between the interests of WAS and Thiessen, on the one hand, and the clients on the other hand, which WAS and Thiessen failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #4: Between March 4, 2003 and November 1, 2005, Thiessen, in his capacity as a director of WAS, failed to ensure that WAS established, implemented, communicated and maintained a compliance program to:

(a) ensure that a reasonable level of due diligence was conducted on all investment products prior to their approval for sale;
(b) identify and address conflicts of interest with respect to the sale of the securities of non-arm's length issuers;
(c) identify and address through appropriate supervision and compliance procedures material risks of non-compliance with respect to:

i. ensuring the suitability of investments in clients' accounts;
ii. the sale of exempt products and, in particular, reliance by clients on exemptions from the prospectus requirement; and

iii. ensuring the fees and compensation earned by WAS on the sale of exempt products were adequately disclosed to clients;

contrary to MFDA Rules 2.1.1, 2.2.1 and 2.5.1, and MFDA Policy No. 2.

Allegation #5: Between October 2010 and August 2011, while WAS was designated in early warning pursuant to MFDA Rule 3.4.2(a)(v), WAS and Thiessen, in his capacity as a director, the Ultimate Designated Person, and controlling shareholder of WAS, permitted payments to be made from WAS to Thiessen without obtaining the prior written consent of MFDA Staff, contrary to MFDA Rules 3.4.2(b)(iv) and 2.1.1.

Allegation #6: In October and November 2010 and from January 2011 onward, WAS and Thiessen, in his capacity as a director, the Ultimate Designated Person, and controlling shareholder of WAS, failed to ensure that WAS complied with its financial requirements while designated in early warning pursuant to MFDA Rule 3.4.2(a)(v), contrary to MFDA Rules 3.4.2 and 2.1.1.

Allegation #7: In October and November 2010 and from January 2011 onward, WAS and Thiessen, in his capacity as a director, the Ultimate Designated Person, and controlling shareholder of WAS, failed to consistently maintain WAS's required minimum capital and risk adjusted capital, contrary to MFDA Rules 3.1.1 and 2.1.1.

2. Following the delivery of the *Amended* Notice of Hearing an evidentiary hearing was held on February the 3rd and 4th of 2014 at which evidence was given by Douglas Lawson (his role with WAS is referred to in several places later in these Reasons) and Laura Milliken, the MFDA Managing Director of Financial Compliance. Ms. MacKewn read into the record parts of the transcript of investigation interviews of Mr. Thiessen (pp. 65-71) and Mr. Gordon Lewis (pp. 71-76).

3. Following this Mr. Thiessen said that there were no new documents he wished to introduce and anything that he was going to say he could say in the argument phase because it would be based on the documents presented. This was followed by this exchange:

> THE CHAIR: I should alert you, and I'm not prejudging anything, but whatever you would say in argument, if it raises -- if you're challenging a fact that's relied upon by the MFDA, and you have reasons for it, you've got to get that under oath to give Ms. MacKewn a chance to cross-examine you on it.
>
> MR. THIESSEN: Yes, I understand.
>
> THE CHAIR: That's why we break the process into these stages.
>
> MR. THIESSEN: Yes. I'm not challenging any facts, no. I'm not challenging any of the facts. I'm not presenting new evidence.
>
> THE CHAIR: I gather your case is you're not challenging any of the facts that are alleged. You'll ask this tribunal not to make the findings sought that MFDA want on those facts because in your arguments –
>
> MR. THIESSEN: Exactly.

4. The following provisions in Rule 8 of MFDA Rules of Procedure deal with aspects of the matter of serving a Reply to the Notice of Hearing.

> ***8.1 Requirement to Reply***
>
> (1) A Respondent shall serve on every other party and file a Reply within 20 days of the effective date of service of the Notice of Hearing
>
> ***8.2 Contents of Reply***
>
> (1) Subject to sub-Rule (2), the Reply shall:
>
> (a) identify the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing which the Respondent,
>
> (i) admits,
>
> (ii) denies, with a summary of the grounds for denying them,
>
> (iii) denies, because the Respondent has no knowledge of them, and
>
> (b) state any additional facts and conclusions on which the Respondent intends to rely at the hearing

* * * * * * * * * * * *

8.3 Acceptance of Facts and Conclusions

(1) A Hearing Panel may accept as proven any facts alleged or conclusions drawn by the Corporation in the Notice of Hearing that the Respondent does not specifically deny in the Reply in accordance with Rule 8.2(1)(a)(ii) and (iii).

8.4 Effect of Failure to Deliver a Proper Reply

(1) Where a Respondent fails to serve and file a Reply in accordance with the requirements of Rules 8.1 and 8.2, the Hearing Panel may do any one or more of the following:

(a) proceed with the hearing without further notice to and in the absence of the Respondent;
(b) accept the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing as proven and impose any of the penalties and costs described in sections 24.1 and 24.2 respectively of MFDA By-law No. 1;

5. Mr. Thiessen delivered a Reply to Allegations # 1 to 4 in the Notice of Hearing (before it was amended by the addition of Allegations # 5, 6 and 7) but did not deliver a Reply to allegations numbers 5 to 7.

II. JURISDICTION

6. Under sections 24.1.1 and 24.1.2 of MFDA By-law No. 1, Hearing Panels have the power to impose upon Members and Approved Persons certain enumerated penalties where, in the opinion of the Hearing Panel, the Member and/or Approved Person has failed to comply with the provisions of securities legislation or provisions of any MFDA By-law, Rule or Policy.

7. In her written submissions dated February 18, 2014 MFDA counsel submitted that the definition of "Approved Person" contained in section 1 of MFDA By-law No. 1 "includes an individual who is a director of a Member who is registered **or permitted**, where required by the

applicable securities legislation, by the securities commission having jurisdiction [emphasis added]".

8. The footnote to this statement says that the definition of "Approved Person" to include "Permitted Person" was amended effective December 6, 2013. This date is after the time of the events set forth in all of the allegations. The footnote, in full reads:

> Note that the definition of Approved Person was amended effective December 6, 2013. The prior definition of Approved Person included, inter alia, a director of a Member who is "registered, licensed or approved in the appropriate category" as required under securities law (see: Definition of "Approved Person" in By-Law No. 1, initial enactment, February 23, 2001, which definition did not change until the December 6, 2013 amendment, MFDA Second Supplementary Book of Authorities, Tab 2). As set out in MFDA Bulletin #0587-P, the December 2013 amendment was made to clarify that an individual who was registered or permitted under securities law or otherwise submitted to the jurisdiction of the MFDA was subject to the jurisdiction of the MFDA as an Approved Person (see: MFDA Bulletin #0587-P, MFDA Second Supplementary Book of Authorities, Tab 3). In other words, the amendment clarified that the prior criteria of "registered, licensed, or approved" was intended to encompass a broad range of individuals whose status was subject to some form of review or authorization by securities regulatory authorities, including "permitted persons."

9. The two versions of the definition of "Approved Person" are:

> **"Approved Person"** means, in respect of a Member, an individual who is a partner, director, officer, compliance officer, branch manager or alternate branch manager, employee or agent of the Member who conducts or participates in the dealer business of the Member and who (i) is registered, licensed or approved in the appropriate category, where required by applicable securities legislation, by the securities commission having jurisdiction, and (ii) is designated and qualified as such in accordance with the Rules, or (iii) is otherwise subject to the jurisdiction of the Corporation.
> [In force February 23, 2001 to December 6, 2013]

> **"Approved Person"** means an individual who is a partner, director, officer, compliance officer, branch manager, or alternate branch manager, employee or agent of the Member who (i) is registered or permitted, where required by applicable securities legislation, by the securities commission having jurisdiction, or (ii) submits to the jurisdiction of the Corporation.
> [Came into force on December 6, 2013]

10. The general legal rule is that legislation does not apply to events that occurred before it was enacted. Counsel relies on the MFDA Bulletin to "clarify" the meaning of the pre-December 6, 2013 By-law. The panel, on May 15, 2014, sought the assistance of counsel for the MFDA to

expand, with all relevant details, on her written submissions under the heading of Jurisdiction. The questions included submissions on what Mr. Thiessen's "status" was as far as the Securities Commission was concerned as an element to be taken into account in applying the By-law. Another question related to being informed as to what part of the affidavit of some 30 pages of Jessie Ching Siu (an Investigator with the MFDA) related to Mr. Thiessen's registration history.

11. The panel was informed by the MFDA office on October 8, 2014 that MFDA counsel (an "outside" counsel) would no longer be acting and that the permanent enforcement staff would address the questions. The Supplemental Submissions of Staff were delivered on April 2, 2015.

12. The new submissions cover contextual matters such as the role of the Ontario Securities Commission and documents that emanated from National sources. Light is shed on the matter by a document published by the Ontario Securities Commission entitled "Guide to Individual Registration Categories / Categories of individual registration or approved under the Securities Act (Ontario). One category of registration is "Permitted Individual (subject to approval)". This is described as follows:

> This is the firm's director, chief executive officer, chief financial officer or chief operating office *or any individual who has direct influence or control of the firm.* It also means an individual who has beneficial ownership of, or direct or indirect control or direction over, 10 percent or more of the voting securities of the firm. *Although not registered, a permitted individual is subject to review and approved by the OSC.*

13. This is in accord with the definition of "Permitted Individual" in "NATIONAL INSTRUMENT 33-109, *REGISTRATION INFORMATION*". It reads:

> "permitted individual" means an individual who is:
>
> (a) a director, chief executive officer, chief financial officer, or chief operating officer of a firm, or who performs the functional equivalent of any of those positions, or
> (b) an individual who has beneficial ownership of, or direct or indirect control or direction over, 10 percent or more of the voting securities of a firm;

14. Mr. Thiessen qualifies as an Approved Person under both definitions so it is not necessary to rely on the new definition. At all relevant times covered by the allegations (apart

from an insignificant 10 day difference between the times in Allegations 1 to 4 and the information in the NRD printout set out in the next part of these Reasons) he was the sole director of WAS and, as is described later in these Reasons under the heading "The Resolution of the Issues", he recognized that he had oversight responsibilities although, in his view, they did not apply because Mr. Lawson "was *the* responsible person" (Emphasis added.) The point is dealt with under "The Resolution of the Issues".

III. MR. THIESSEN'S REGISTRATION STATUS

15. This is an appropriate place in relation to Jurisdiction to consider Mr. Thiessen's registration status that is relevant to this proceeding. It is part of an exhibit to the affidavit of Jessie Ching Siu, an investigator with the Mutual Fund Dealer Association of Canada, sworn on January 20, 2014. It reads:

N·R·D ****** – Thiessen, Robert **** – Wealth Advisory Services Ltd.

Firm Category	Individual Category	Start Date	End Date	Status
Permitted Individuals	Director	2013/01/31		Suspended (Regulatory Action) - Firm
		2009/09/28	2013/01/31	Active
Ultimate Designated Person	Ultimate Designated Person	2013/01/31		Suspended (Regulatory Action)-Firm
		2010/10/27	2013/01/31	Active
Mutual Fund Dealer & Limited Market Dealer	Director	2009/09/28		Bulk Category Change
		2009/09/28	2009/09/28	Suspended (Surrender) - Firm
		2006/01/09	2009/09/28	Active
		2005/12/31		Suspended (Not Renewed) – Firm
		2003/03/14	2005/12/31	Active

16. This shows, in reverse order of time, that between September 28, 2009 and January 31, 2013 Mr. Thiessen was registered in the National Registration Database as a director of Wealth Advisory Services Ltd., and in the Firm Category of a Permitted Individual; between October 27,

2010 and January 31, 2013 was registered as Ultimate Designated Person under both the Individual and Firm Categories; and from March 14, 2003 and December 31, 2005 as a Director under the Firm Category of Mutual Fund Dealer and Limited Market Dealer.

17. Mr. Thiessen in written submissions to the panel dated March 11, 2014 (probably in response to MFDA Staff written submissions dated February 18, 2014) submitted the following:

> "as stated in affidavit of Jesse [*sic*] Ching Sui [*sic*] [sworn on January 20, 2014] Robert Thiessen was registered with WAS as a Permitted Person not registered to engage in <u>any</u> [emphasis added] advising or trading activity. Mr. Thiessen therefore could [not?] provide any of the functions suggested by staff". [This refers to a paragraph in the Siu affidavit and not to an exhibit to the affidavit].

18. The Thiessen submission further stated that the Form 33-109F4 exhibit statement respecting Mr. Thiessen's changed role to one of Ultimate Designated Person effective October 27, 2010 was "not possible as Mr. Thiessen became a non-resident of Canada as at October 8, 2010. Mr. Thiessen therefore could not [be] eligible to be the sole Director of WAS and therefore could never have become the UPD"... and, further, "the form 33-109F4 was completed by someone other than Mr. Thiessen (see Item 22 of Schedule "C" page 19 of said form). Mr Thiessen never agreed to the status change."

19. In response to the foregoing, the MFDA staff counsel submitted in her Supplemental Submissions dated April 2, 2015:

> 55. Staff further submits that the Respondent had the opportunity to advance a defence and present evidence in support of his submissions during the liability phase of the hearing. The Respondent elected not to do so and the claims in his submissions remain unsubstantiated. Not only has the Respondent failed to forward any documentary evidence to support his non-resident status on October 8, 2010 or that he notified the relevant regulatory bodies to discharge his obligations or terminate or update his NRD record on or about that date, but the Respondent never testified under oath regarding the evidence he now seeks rely on in support of his position. By failing to provide documentary evidence or testifying on his own behalf, the Respondent denied Staff an opportunity to test the truth of his claims before the Hearing Panel.
>
> 56. Moreover, the submission of false information to NRD is a serious offence and can result in discipline against the individual who is found to have done so. The

Respondent has not provided evidence of a false submission nor has he indicated whom he believes to be the source of the fraudulent submission to NRD. Neither Staff nor the Hearing Panel has been presented with documentary evidence of a false NRD submission and, in the event that the Respondent is suggesting that Lawson submitted the allegedly fraudulent NRD claims, Staff submits that the Respondent had the opportunity to question Lawson about the NRD submissions during his cross-examination and failed to do so. The Respondent now seeks to advance a theory on untested evidence after the close of the evidentiary phase of the hearing. With such little support, all of the Respondent's claims should be given very little weight and consideration.

57. With respect to the Respondent's submission that he did not agree to or authorize a status change to UDP for WAS, Staff notes that both MFDA Financial Compliance Staff and Lawson had been corresponding with the Respondent both prior to and after the October 27, 2010 date and the change in status to UDP. In fact, the Respondent received correspondence from the MFDA which addressed him as UDP in 2011 and from WAS (Lawson) advising him that the change in his status had been submitted to NRD in October 2010. As far as Staff is aware, the Respondent never previously expressed concern or objected to his status as UDP for WAS to Staff or to Was [*sic*] and Lawson nor has Staff been able to locate any documentary evidence to suggest that an error occurred. In light of all the above-mentioned circumstances, Staff submits that it is unreasonable to accept the Respondent's submissions.

20. We accept these submissions.

21. On May 21, 2015, in Replies, Mr. Thiessen emailed the panel as follows:

Here is my written response to the panel.

I reference tab 26 [in Staff's Supplementary Book of Authorities, April 2, 2015] statements from Doug Lawson. In those statements Mr. Lawson communicates to the MFDA that he is resigning and putting me in place effective October 27, 2010. I was non-resident as at October 10,2010. As a result I would not have been in a legal position to hold that office.

Secondly, There is zero communication that I ever agreed to assume the position. All of these changes have been done without my agreement or acceptance of the revised role.

Finally as an observation at the panel hearings the legal counsel was given 3 weeks to provide responses instead they have been given 18 months that seems very wrong.

22. As indicated above, this email was sent to the panel in reply to the MFDA Staff's Supplementary Submissions dated April 2, 2015. We assume that in the final sentence Mr. Thiessen is referring to the panel hearing on February 3 and 4, 2014. Following this, MFDA

counsel delivered her written submissions on February 18, 2014. Mr. Thiessen was given until May 21, 2015 to respond to Staff's Supplementary Submissions dated April 2, 2015. MFDA counsel's submissions were not in relation to the February hearing but, rather, in relation to the panel's request in May of 2014. We have referred above to the period of delay following this request.

IV. THE FACTUAL BACKGROUND AND THE ISSUES RAISED

23. What follows is a copy of part of the Amended Notice of Hearing and part of the Submissions of Staff of the MFDA, February 18, 2014. They are the basis for understanding the issues involved in the Allegations.

The Overview in MFDA Submissions, February 18, 2014.

1. This case concerns the sale of a non-arm's length exempt product by Wealth Advisory Services Ltd. ("WAS" or the "Member") to clients. The product, shares in S&P 500 Limited ("S&P 500"), was sold to clients purportedly as a means of investing in S&P 500 Futures Index Contracts and other similar instruments on the Chicago Mercantile Exchange. The trading for the S&P 500 product was to be managed by G.H. Lewis & Associates ("G.H. Lewis"), of which Gordon Lewis ("Lewis") was the principal. In total, 48 clients of WAS invested a total of $2,883,993 USD in the S&P 500 product.[2]

Transcript of Hearing, February 3, 2014 ("Hearing Transcript, Day 1"), Brief of Hearing Transcripts, Tab 1, p. 56, lines 11-18

2. The S&P 500 product was discovered to be a fraud. Lewis had fabricated the investment returns, was criminally charged with fraud and pled guilty. Investors appear to have lost the entirety of their investment in the S&P 500 product with little or no prospect of recovery.

[2]Douglas Lawson ("Lawson") was WAS's (and its predecessors) only salesperson during the material time. The MFDA commenced a proceeding against him in relation to his involvement in the subject matter of the Amended Notice of Hearing (with the exception that Allegations #4-#7 were not the subject matter of the proceeding against Lawson). On June 19, 2012, a Hearing Panel of the MFDA approved a settlement of the Lawson proceeding. (See: Exhibit 2, Exhibit A to Lawson Affidavit).

3. The allegations in the Amended Notice of Hearing are made against the Member and Robert James Thiessen ("Thiessen") in his capacity as the director of WAS. Thiessen was also the co-creator of the S&P 500 product (with Lewis) and the controlling mind of the issuer of the S&P 500 product and its sole director, President and Secretary.

4. The allegations in the Amended Notice of Hearing relate to the roles played by the Member and Thiessen in the sale of the S&P 500 product to clients of WAS:

(a) without having conducted a reasonable level of due diligence on the product and without having made reasonable inquiries to ensure that the product was suitable for sale to clients of WAS;
(b) without ensuring that the product was suitable for clients of WAS and in keeping with their investment objectives;
(c) without obtaining sufficient documentation to determine that clients qualified as "accredited investors," and without complying with the requirements of the (then) "closely held issuer" exemption;
(d) without addressing a conflict or potential conflict of interest between the interests of WAS and Thiessen on the one hand, and clients of WAS on the other; and
(e) without ensuring that WAS had established, implemented, communicated and maintained an adequate compliance program.

5. Allegations are also made regarding breaches of the MFDA's minimum capital, risk adjusted capital ("RAC") and early warning requirements. These breaches arise from unauthorized withdrawals of monies by Thiessen from WAS's operating account after WAS had been designated as being in discretionary early warning status by the MFDA (as a result of WAS's potential liability to clients for losses in their investments in shares of S&P 500).

Allegations in the Amended Notice of Hearing

Thiessen – ownership and control of WAS and Promittere

7. At all material times, WAS was wholly owned by Promittere Capital Group Limited Partnership, which at all material times was owned 70% by Thiessen through wholly-owned corporations. The remaining 30% was at all material times owned directly, indirectly or beneficially by members of Thiessen's family. Thiessen was the controlling mind of WAS.

8. At all material times, Thiessen was also the controlling mind of a related company to WAS, Promittere S&P 500 Ltd. ("Promittere"). Thiessen was the sole director, President and Secretary of Promittere. Promittere was a related company to WAS by virtue of common ownership by Thiessen, directly or indirectly, at the time the Promittere investment product described herein was launched.

9. WAS was essentially a one-person mutual fund dealer which was operated on a day-to-day basis by Douglas A. Lawson ("Lawson"). At all material times, Lawson was duly registered as the President and Secretary of WAS, its Compliance Officer and its only salesperson. At all material times, Lawson was a salaried employee of WAS who reported directly to and acted under the direction of Thiessen.[3]

10. Thiessen is a chartered accountant. Lawson worked alongside or for Thiessen in various capacities at various companies in the securities industry, including companies

[3]Lawson has been registered in Ontario as a mutual fund salesperson with WAS and its predecessor, Promittere Securities Ltd. from January 1, 1995 until August 2012, at which time the Ontario Securities Commission approved the transfer of Lawson's registration to another member of the MFDA subject to terms and conditions, following the conclusion of a disciplinary proceeding commenced against Lawson by the MFDA in relation to his involvement in the subject matter of this Notice of Hearing. On June 19, 2012, a Hearing Panel of the MFDA approved a settlement of the Lawson proceeding. Under the terms of the settlement, Lawson paid a fine of $20,000 and costs of $5,000, was permanently prohibited from being an officer, director, Ultimate Designated Person, Compliance Officer or Branch Manager of an MFDA Member, was permanently prohibited from selling exempt securities, required to successfully complete the Canadian Securities Course and agreed to appear and give truthful testimony as a witness in this proceeding. See *In the Matter of Douglas A. Lawson*, MFDA Case No. 200907 at www.mfda.ca.

owned or controlled by Thiessen, from 1985 until the Ontario Securities Commission approved the transfer of Lawson's registration from WAS to another Member of the MFDA in August 2012 subject to terms and conditions. On the basis of their history together, at all material times Lawson perceived Thiessen to be a skilled professional, specifically with respect to the creation of investment products. Lawson relied on and deferred to Thiessen with respect to the selection and approval of investment products for sale by WAS, including the Promittere investment product described herein.[4]

11. Thiessen and Lawson worked out of the same office (which was shared by WAS and Promittere). Promittere did not have any employees other than the two administrative support personnel that Promittere and WAS shared.

Overview – sales of the Promittere investment product

12. As described in greater detail below, between August 2002 and November 2005, Lawson sold shares of Promittere to clients of WAS as a means of investing in S&P 500 Futures Index Contracts and other similar instruments on the Chicago Mercantile Exchange. The trading in respect of Promittere was to be managed by G.H. Lewis & Associates ("G.H. Lewis"). In total, 48 clients of WAS invested $2,883,993 USD (in 39 accounts) in shares of Promittere.

13. In September of 2006, the Respondents were informed that a fraud had occurred and that Promittere could not account for WAS-client funds. The value of the Promittere investment as reported monthly by Gordon H. Lewis ("Lewis"), the principal of G.H. Lewis, to Thiessen, and in turn communicated to investors, had been fabricated and, as a result, was grossly overstated.[5] Lewis was subsequently charged with fraud and theft by the Metropolitan Toronto Police Force. On September 14, 2009, Lewis pled guilty to a fraud charge and was sentenced to 12 months under house arrest.

[4] Lawson's failure to discharge his duties and obligations as the President and Compliance Officer of WAS with respect to product due diligence and approval was one of the findings of misconduct, amongst others, that Lawson admitted to in the settlement of his MFDA proceeding.

[5] See paragraph 26 below.

14. Investors in Promittere lost almost the entirety of their investment. To date, the investors have been unable to recover their investment and there is no reasonable prospect of them doing so.[6]

History and Features of the Promittere investment product

15. In early 2002, Thiessen and Lewis created the Promittere investment product. G.H. Lewis was retained to manage the investment of funds raised by the sale of shares of Promittere through trading in S&P Futures Index Contracts and other similar instruments on the Chicago Mercantile Exchange. On June 25, 2002, Thiessen changed the name of a company he had incorporated in October 1992 (1003686 Ontario Limited) to Promittere S & P 500 Limited (the company defined above as "Promittere").

16. As stated above, Thiessen was, at all material times, the sole director, President and Secretary of Promittere, and its controlling mind.

17. Thiessen presented and recommended the Promittere product to Lawson for sale to WAS clients. WAS approved the product for sale and, on August 1, 2002, Lawson began selling shares of Promittere to WAS clients.

18. Between August 1, 2002 and November 1, 2005, 48 clients of WAS invested $2,883,993 USD in shares of Promittere. WAS directed clients to make their cheques payable to Promittere in US funds. Thiessen forwarded these funds from Promittere's US dollar bank account to a US dollar bank account over which Lewis had sole signing authority. Lewis then allegedly transferred the funds to a trading account held by Lewis or G.H. Lewis at ED & F Man International Inc., a broker for exchange-listed futures and options.

19. Upon receipt of funds from Promittere, Promittere was issued units of a trust established as part of the Promittere product that Lewis and Thiessen had created.

[6] It appears a few investors may have been able to recover slightly more than most. See paragraph 27 below.

Corresponding shares of Promittere were then issued to clients of WAS who had invested in the product.

20. Once WAS-client investment funds were relinquished to Lewis or G.H. Lewis, the alleged performance of the trust units was reported to Thiessen by Lewis daily by email. The email contained a single figure which Lewis described as the closing value for the trust units for the day.

21. Thiessen provided investors in Promittere with a monthly update on the value of their shares. Each investor also received an annual statement from Promittere. Lawson and/or Thiessen periodically provided some investors with a copy of a monthly newsletter which Lewis provided to Promittere to describe his alleged trading activities.

22. At the time of investment, clients were asked to complete a Promittere share subscription agreement and a New Account Application Form. Clients were also provided with a current version of a 2-page share offering summary for Promittere, (the "Promittere Summaries"). The Promittere Summaries contained the following representations, with returns reported up to the most recent year-end:

(a) Promittere was created to permit shareholders to participate in the managed trading of S&P 500 Futures Index Contracts;
(b) Lewis' net return to investors to date has been: 77% in 1999 (six months), 163% in 2000, 169% in 2001, 230% in 2002, 102.6% in 2003, and 70.5% in 2004. The Promittere Summary noted that these returns were calculated net of management fees, trading costs and currency conversions;
(c) G.H. Lewis would receive an incentive-based fee equal to 50% of the amount by which the percentage increase in the value of the investment exceeded an annual return of 20% (the "Management Fee"). The percentage increase in the value of the investment was to be calculated net of commissions. To the extent that the 20% threshold was not reached, the amount of such shortfall would be carried

forward and deducted from the increase in the value of the investment in future years;

(d) Promittere's investment objectives and risk management strategies included the active use of limit price and stop loss orders, the closure of all contracts at the end of the day resulting in 100% cash position, and a 15-20% limit of asset exposure on any one trade hence the risk of large losses as a percentage of assets was negligible;[7] and

(e) Redemptions would only be processed once per year, on the last business day of December.

Regulatory Investigations, Proceedings and Fraud Charges

a. Compliance Review – Conflict of Interest

23. As described above, in return for managing the trading activities of Promittere, G.H. Lewis received the Management Fee. G.H. Lewis then paid one of Thiessen's Promittere companies a fee equal to 20% of the Management Fee collected, on an annual basis, in either cash or trust units (the "Promittere Fee"). Thiessen then paid Lawson, through WAS, a percentage of the Promittere Fee as a fee for his role in selling shares of Promittere to WAS-clients.

24. In September 2005, MFDA Compliance Staff conducted a compliance examination (the "Compliance Examination") of WAS during which Staff advised Lawson that Staff was concerned with, among other things, the accuracy of WAS' disclosure to clients regarding its relationship with Promittere and Thiessen. At that time, clients had only been advised that Promittere was created by Thiessen to allow shareholders to participate in Lewis' trading activities. Written disclosure of the compensation payable to WAS, Thiessen and Lawson as a result of the sale of shares of

[7] Note that the Promittere Summary for 2002 identified 25-30% of asset exposure on any one trade as opposed to 15-20%.

Promittere, as well as the fact that Thiessen was a director and controlling mind of both WAS and Promittere, had not been provided to clients of WAS.

25. Following the Compliance Examination, WAS provided clients with written disclosure that Thiessen was a director of both WAS and Promittere. The compensation payable to WAS, Thiessen and Lawson for the sale of shares of Promittere was not disclosed to clients.

26. In September 2006, Thiessen and Lawson advised MFDA Staff that they had just learned that the investment returns provided by Lewis appeared to have been fabricated such that the value of the investment was greatly overstated. They further advised Staff that they had been advised that the actual amount remaining in the bank and trading accounts was approximately $40,000 USD. This represented a shortfall of approximately $5,760,000 USD based on Lewis' reported value of Promittere in the amount of $5,800,000 USD at that time.

27. In 2008, a handful of WAS-clients appear to have received payments directly from Promittere on account of their shares in Promittere in the cumulative amount of approximately $63,000, in exchange for the provision of full and final releases. To date, no other clients have been compensated for the losses they have incurred as a result of their investment in shares of Promittere. Accordingly, these clients appear to have lost their entire investment in Promittere with no reasonable prospect of recovery.

b. MFDA Investigation

28. In September of 2006, at the request of MFDA Staff and as a result of the investigation of this matter, WAS agreed to accept terms and conditions on its membership in the MFDA which included a requirement to cease trading in all exempt securities and related issuers, as well as increased financial reporting requirements to the MFDA. While these terms and conditions expired on March 31, 2007, WAS agreed to continue to abide by them on a voluntary basis. The second and third round compliance

examinations conducted by MFDA Compliance Staff confirmed that WAS had continued to comply with the terms and conditions.

29. Further, in September 2006, as a result of its potential liability to clients of WAS for the losses of monies invested by them in shares of Promittere, WAS was designated by the MFDA as being in discretionary early warning pursuant to MFDA Rule 3.4.2(a)(v). WAS was specifically reminded of the requirement under MFDA Rule 3.4.2(b)(iv) to obtain the prior written approval of MFDA Staff for any payments or other distributions of assets to any director, officer, partner, shareholder, related company, affiliate or associate of WAS when this designation was imposed.

30. On September 15, 2006, the Manitoba Securities Commission ("MSC") issued a temporary cease trade order against Promittere in relation to the distribution of its shares to the public allegedly in reliance on the accredited investor exemption to the applicable statutory prospectus and registration requirements. An order was also made removing the availability of any trading registration exemptions from Thiessen. On August 3, 2007, the MSC extended the cease trade order against Promittere until a hearing could be held to examine the allegations against Promittere. The MSC's order against Thiessen lapsed effective July 18, 2007.

c. Fraud Charges against Lewis

31. On June 20, 2007, Lewis was arrested and charged with two counts of Fraud Over $5,000 and Theft Over $5,000 by the Metropolitan Toronto Police Force. On September 14, 2009, Lewis pled guilty to a fraud charge and has served a sentence of 12 months under house arrest.

Allegation #1: Failure to Conduct Adequate Due Diligence

32. As a product being offered to investors in reliance upon exemptions from the prospectus requirement under Ontario securities law, the Promittere product should have

been subjected to a heightened level of due diligence by WAS to ensure that the features, nature and risks of the investment were fully examined and understood before it was offered for sale to clients for the following reasons, among others:

(a) Promittere had never previously been sold by WAS (or by anyone else);

(b) As a newly created investment, Promittere had no prior track record to be used to assess the performance of Promittere in varying market conditions;

(c) Promittere employed a sophisticated strategy of trading in S&P Futures Contracts and other similar interests listed on the Chicago Mercantile Exchange Index with which Lawson had only a basic familiarity. The specifics of the strategy were not fully disclosed in the Promittere Summary or otherwise made available in writing to investors. There were also no controls on Lewis' ability to vary or change altogether the strategy employed by Promittere;

(d) Promittere was not required by regulators to disclose the specific securities it held, the extent of its leveraging, or the extent of its short selling. Promittere had no obligation to make periodic or annual regulatory filings in respect of its performance and operations;

(e) It was difficult to identify comparable investments, classes of investments or published benchmarks for investments of Promittere's nature against which to evaluate its actual performance going forward; and

(f) A conflict or potential conflict of interest existed by virtue of Thiessen's common ownership and control of WAS and Promittere and the compensation scheme relating to sales of Promittere.

33. Thiessen, in his capacity as a director of WAS, failed to ensure that WAS had established, implemented, communicated and maintained a compliance program to ensure that a reasonable level of due diligence was conducted on all investment products, including Promittere, prior to their approval for sale.

34. As a result, or in any event, WAS and Thiessen failed to ensure that a reasonable level of due diligence was conducted on Promittere, Lewis and G.H. Lewis before

approving sales of shares of Promittere to clients. Among other things, WAS and Thiessen failed to ensure that a reasonable level of due diligence was conducted with respect to the following essential or fundamental matters:

(a) ***Conduct a review of G.H. Lewis' corporate status –*** G.H. Lewis' corporate status was cancelled in 1992.
(b) ***Confirm the registration status of Lewis and G.H. Lewis –*** Neither Lewis nor G.H. Lewis was registered to advise or trade in securities in Canada or the US.
(c) ***Conduct an assessment of G.H. Lewis' and Lewis' management qualifications and track record*** – A copy of Lewis' *curriculum vitae* was not reviewed and references were not contacted.
(d) ***Review the financial position and trading history of G.H. Lewis*** - The historic returns reported by Lewis, which were exceptionally high and ought to have raised a red flag on their face, were not verified.[8]

35. Had WAS and Thiessen ensured that a reasonable level of due diligence was conducted with respect to Promittere, they would have discovered extensive and fatal deficiencies with the investment product that made it unsuitable for any investor.

36. By engaging in the conduct described above, WAS and Thiessen sold shares of Promittere, a related company of WAS, to 48 clients without ensuring a reasonable level of due diligence was conducted on the product and without making reasonable inquiries to ensure that the product was suitable for sale to clients of WAS, contrary to MFDA Rules 2.2.1(a) and (b) and MFDA Rule 2.1.1(c).

Allegation #2: Suitability of Investments and Reliance on Exemptions

37. Promittere was presented to clients of WAS as a medium to high-risk product. It was in fact a high risk product having regard to, among other things, the lack of verified historic trading results for Promittere, the limited liquidity of the product and the lack of

[8] See paragraph 22(b) above.

internal controls to monitor G.H. Lewis' trading activities and the handling of client monies. Further, clients were provided with the Promittere Summaries, which understated the risk of the Promittere product by describing the risk of large losses as a percentage of assets as negligible.

38. For 34 clients of WAS who invested in shares of Promittere, a risk tolerance of moderate or lower had been recorded on their existing Know Your Client ("KYC") information. Promittere was therefore an unsuitable investment for those clients. Sufficient KYC information for 8 other WAS-clients who invested in shares of Promittere had not been and was not collected in order to enable WAS to determine whether the investment in Promittere was suitable for them.

39. WAS relied, or purported to rely, on the closely held issuer or the accredited investor exemptions then available under Ontario securities law in respect of the sale of shares of Promittere to clients.

40. Clients were not provided with a copy of Form 45-501F3 at least 4 days before their purchase of shares in Promittere, as then required pursuant to Ontario securities law in order to rely on the closely held insurer [*sic* issuer] exemption.[9] Accordingly, WAS was unable to rely on this exemption in respect of these sales.

41. Form 45-501F3 describes investments in small businesses as "inherently risky" and makes the following statement with respect to them, "NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY." As set out above, at the time of sale, the Promittere product was presented to clients as a medium to high risk product and clients were provided with the Promittere Summaries which described the risk of large losses as a percentage of assets as "negligible."

[9] In September of 2005, pursuant to National Instrument 45-106, the closely held issuer exemption (which had been provided for in s. 2.1 of Ontario Securities Commission Rule 45-501), was replaced with the private issuer exemption. Given the nature of the changes made to the exemption, the requirement to provide investors with a copy of Form 45-501F3 ceased. Lawson sold shares of Promittere to one client of WAS after this amendment.

42. In addition, WAS failed to ensure that adequate documentation evidencing the qualification of some of the clients to whom WAS sold shares of Promittere as accredited investors was collected.

43. By engaging in the conduct described above, WAS sold shares of Promittere to 48 clients in reliance on the accredited investor and closely held insurer [*sic* issuer] exemptions without:

a) ensuring that these investments were suitable for the clients and in keeping with the clients' investment objectives, contrary to MFDA Rule 2.2.1 (a), (b) and (c), and MFDA Rule 2.1.1(c);
b) obtaining sufficient documentation to determine if the clients qualified as accredited investors in accordance with s. 2.3 of Ontario Securities Commission Rule 45-501 and subsequently s. 2.3 of National Instrument 45-106[10], contrary to MFDA Rule 2.1.1(c); and
c) Without complying with the requirements of the closely held issuer exemption as set out in s. 2.1 of Ontario Securities Commission Rule 45-501, in that the clients were not provided with a copy of Form 45-501F3 at least 4 days prior to their purchase of the shares, contrary to MFDA Rule 2.1.1(c).

Allegation #3: Undisclosed Conflict of Interest

44. Until MFDA Compliance Staff conducted the Compliance Examination in September of 2005, clients of WAS had only been advised that Promittere was created to permit shareholders to participate in Lewis' trading activities.

[10]In September 2005, National Instrument 45-106 came into force. Many of the prospectus and registration exemptions previously available in OSC Rule 45-501 were incorporated into NI 45-106. The "accredited investor" exemption was amended slightly but the amendments are not relevant to the allegations against the Respondents.

45. Following the Compliance Examination, WAS provided clients with written disclosure that Thiessen was a director of Promittere and WAS. WAS still did not disclose the compensation payable to WAS, Thiessen and Lawson in respect of sales of Promittere.

46. By failing to provide written disclosure to clients of the relationship between WAS and Promittere and by failing to provide written disclosure to clients of the financial interest of WAS, Thiessen and Lawson in sales of Promittere, the actions of WAS and Thiessen gave rise to a conflict or potential conflict of interest between WAS and Thiessen, on the one hand, and the clients, on the other hand, which WAS and Thiessen failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #4: Failure to ensure adequate compliance program (Thiessen)

47. As stated above, at all material times Thiessen was a director and the controlling mind of WAS. In his capacity as a director of WAS, Thiessen had a regulatory obligation to ensure that an adequate compliance program was established, implemented, maintained and communicated by WAS, which program was required to identify and address material risks of non-compliance and to ensure that appropriate supervision and compliance procedures were in place to manage those risks.

48. By engaging in the conduct described above, Thiessen failed to ensure that WAS established, implemented, communicated and maintained a compliance program to, among other things:

(a) ensure that a reasonable level of due diligence was conducted on all investment products prior to their approval for sale;
(b) identify and address conflicts of interest with respect to the sale of the securities of non-arm's length issuers;

(c) identify and address through appropriate supervision and compliance procedures material risks of non-compliance with respect to:

i. ensuring the suitability of investments in clients' accounts;

ii. the sale of exempt products and, in particular, reliance by clients on exemptions from the prospectus requirement; and

iii. ensuring the fees and compensation earned by WAS on the sale of exempt products were adequately disclosed to clients;

contrary to MFDA Rules 2.1.1, 2.2.1 and 2.5.1, and MFDA Policy No. 2.

Allegations #5, 6 and 7 – Failure to Comply with Minimum Capital and Risk Adjusted Requirements

These allegations are set forth in the beginning of these Reasons. The following is set forth in the Amended Notice of Hearing.

49. In September 2006, WAS was placed in discretionary early warning status by the MFDA as a result of concerns relating to potential client losses relating to investments in shares of Promittere.

50. In early October 2010, Lawson, on behalf of WAS, submitted a letter of intention to resign from MFDA membership and requested MFDA approval to transfer WAS-client accounts (with the exception of accounts holding only shares in Promittere) in bulk to another MFDA Member. At this time, Lawson also applied to the Ontario Securities Commission (the "OSC") for approval to transfer his registration to another Member with a view to continuing to act as the Approved Person for WAS-clients after the transfer of their accounts was approved.

51. In late October 2010, the MFDA approved the proposed bulk transfer of WAS-client accounts to the other MFDA Member, subject to a term and condition relating to the delivery of client statements. With this approval, MFDA Staff specifically reminded

WAS that, until its resignation from membership was accepted, it was required to continue to comply with all MFDA By-Laws, Rules and Policies, including maintaining sufficient capital.

52. The bulk transfer of WAS-client accounts could not take place until the OSC approved the transfer of Lawson's registration to the Member to which the accounts were to be transferred. This approval, with terms and conditions, was granted by the OSC in August 2012 and, as such, the bulk transfer of WAS-client accounts took place in September 2012.

53. In October 2010 (while WAS was designated in early warning and while OSC approval for the transfer of Lawson's registration was pending such that client accounts remained at WAS), Thiessen withdrew $86,000 from WAS's operating account without seeking or obtaining the prior written consent of MFDA Staff and without the prior knowledge of Lawson. The removal of these monies rendered WAS deficient in respect of its of minimum capital and risk adjusted capital obligations as of October 31, 2010.

54. After repeated requests from Lawson, which referenced the requirement that WAS remain compliant with all MFDA By-Laws, Rules and Policies, Thiessen repaid $86,000 to WAS's operating account in December 2010.

55. Between December 2010 and August 2011, Thiessen, without the approval of Lawson, made the following additional withdrawals from WAS's operating account without seeking or obtaining the prior written consent of Staff of the MFDA:

a) December 2010 - $9,300 (withdrawal);
b) January 2011 - $30,000 (withdrawal);
c) February 2011 - $6,300 (withdrawal);
d) March 2011 -$1,000 (withdrawal);
e) April 2011 - $8,000 (withdrawal); and
f) August 2011 - $10,000 (withdrawal which was subsequently repaid).

56. The above-referenced withdrawal of $30,000 by Thiessen in January 2011 rendered WAS deficient once again in respect of its minimum capital and risk adjusted capital obligations, which deficiency continues.

57. In February 2011, as a result of the foregoing, MFDA Staff imposed additional restrictions on WAS pursuant to MFDA Rule 3.4.3 including, prohibiting WAS from opening new client accounts and hiring new salespeople, requiring WAS to operate as a Level 2 Dealer (rather than a Level 3 Dealer) and, in conjunction with its transition to a Level 2 dealer, requiring WAS to clear any pending trades from its trust account and to thereafter desist from all use of the trust account.

58. To date, Thiessen has failed or refused to respond to requests from MFDA Staff and Lawson to return the funds he improperly withdrew from WAS's operating account as set out above.

59. As an MFDA member, WAS remains responsible for client complaints and for losses in the event of insolvency. The regulatory requirements with respect to minimum capital and risk adjusted capital, which Thiessen has either intentionally breached or ignored, are intended to, among other things, address these obligations.

V. THE RESOLUTION OF THE ISSUES

24. We begin this part of our Reasons with a statement made by Mr. Thiessen in his Reply to the Notice of Hearing dated March 8, 2013 and signed by his then counsel, before the Notice of Hearing was amended by the addition of Allegations #5, #6 and #7 on October 15, 2013. (No Reply was delivered to Allegations #5, #6 and #7.) Paragraph 9 (also quoted above under the heading "Thiessen Ownership and Control of WAS and Promittere" in the Notice of Hearing alleged:

9. WAS was essentially a one-person mutual fund dealer which was operated on a day-to-day basis by Douglas A. Lawson ("Lawson"). At all material times, Lawson was

duly registered as the President and Secretary of WAS, its Compliance Officer and its only salesperson. At all material times, Lawson was a salaried employee of WAS who *reported directly to and acted under the direction of Thiessen* (emphasis added).

Mr. Thiessen replied:

9. Agree, subject to the following clarification. As the senior officer of WAS, Lawson exercised day to day control over the affairs of WAS, *subject only to the oversight functions performed by the Respondent in his capacity as a director* (emphasis added).

25. These two paragraphs succinctly state the basic facts of the arrangement. Mr. Lawson was to respond directly to and act under the direction of Mr. Thiessen and Mr. Thiessen exercised oversight functions in his capacity as a director. It is clear that there were departures from this arrangement (they are basis of the case against Mr. Thiessen) but it is fair to regard these pleadings as reflecting the intent of the parties - at least, the intent they intended to present to the MFDA and investing public.

26. In a submission dated March 11, 2014 Mr. Thiessen's major point was that Mr. Lawson "was at all times *the* (emphasis added) responsible person. Mr. Lawson was the President, Secretary, and Chief Compliance Officer of WAS for all relative times." (He also made submissions relating to errors in the Jessie Ching Siu affidavit. We have dealt with these also under the heading "Mr. Thiessen's Registration Status".)

27. It is clear that both Mr. Lawson and Mr. Thiessen were responsible as Approved Persons. (We have noted above the MFDA panel's decision against Mr. Lawson in a settlement proceeding.) This, in addition to holding members accountable, is central to the MFDA mechanism for protecting investors. It includes the exercise of oversight by persons in the position of Mr. Thiessen of what is happening, or not happening - more specifically the Member's compliance with the MFDA's laws and policies designed to protect investors. Without the active oversight of Approved Persons the laws and policies are dead letters.

28. Because of his close knowledge of the nature of the Promittere product that was being sold to WAS clients Mr. Thiessen had a particular responsibility to participate in the active oversight of the sale of the product.

29. There is no question raised against any of the allegations that they did not involve breaches of the MFDA's rules and policies which are cited in each of the allegations.

30. Further, no issue is raised with respect to Allegations #5, #6 and #7. Mr. Thiessen caused a breach by the Member of MFDA Rule 3.4.2 (b) (IV)(A) "… so long as … the Member remains designated as being in early warning, it shall not without the prior written consent of the Corporation … reduce its capital in any manner."

VI. DISPOSITION

31. We have concluded that each of the seven allegations has been proven.

DATED this 12th day of June, 2015.

"John W. Morden"

The Honourable John W. Morden
Chair

"Terrence Bourne'

Terrence Bourne
Industry Representative

"Guenther Kleberg"

Guenther Kleberg
Industry Representative

DM 431754 v4