

Notice of Hearing

File No. 201937



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: Joel Henry Attis

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel (“Hearing Panel”) of the Atlantic Regional Council of the Mutual Fund Dealers Association of Canada (“MFDA”) on February 25, 2020 at 10:00 a.m. (Atlantic) concerning a disciplinary proceeding commenced by the MFDA against Joel Henry Attis (“Respondent”). Members of the public who would like to listen to the teleconference should contact hearings@mfd.ca to obtain particulars. The Hearing on the Merits will take place in Moncton, New Brunswick.

DATED this 18th day of December, 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 December 2015 and August 2017, the Respondent engaged in discretionary trading in respect of four series of bulk trades he processed in client accounts, contrary to the Member's policies and procedures, and MFDA Rules 2.3.1(b), 1.1.2, 2.5.1, or Rule 2.1.1.

Allegation #2: Between December 2015 and November 2016, the Respondent failed to maintain adequate records of the clients' authorization for trades, contrary to the Member's policies and procedures and MFDA Rules 5.1, 1.1.2 and 2.5.1, or Rule 2.1.1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. The Respondent has been registered in the securities industry since March 2001.
2. From September 29, 2009 to October 9, 2015, the Respondent was registered in New Brunswick as a dealing representative (previously referred to as a mutual fund salesperson) with Investia Financial Service Inc. ("Investia"), a Member of the MFDA.
3. From October 15, 2015 to October 19, 2017 when he resigned, the Respondent was registered in New Brunswick as a dealing representative with IPC Investment Corporation ("IPC"), a Member of the MFDA.
4. Since December 6, 2017, the Respondent has been registered as an Exempt Market Dealing Representative and Portfolio Manager Associate Advising Representative with a portfolio management and investment advisory firm in Atlantic Canada.
5. At all material times, the Respondent carried on business from a location in Moncton, New Brunswick.

Allegations #1 & 2 – Discretionary Trading and Failure to Maintain Adequate Records

6. At all material times, IPC's policies and procedures prohibited discretionary trading by its Approved Persons, and required that its Approved Persons obtain specific client instructions for every trade.
7. Upon joining IPC on October 1, 2015, the Respondent began to transition his clients from his former Member, Investia to his new Member, IPC.
8. While registered with IPC, the Respondent serviced approximately 230 clients and had approximately \$61 million in assets under administration. All of the Respondent's client accounts were held in nominee name.
9. From October 1, 2015 to December 8, 2015, the Respondent met with clients to complete account documentation to transfer their accounts to IPC. During these meetings, the Respondent obtained trade instructions from clients to process certain trades, and also had each client complete an IPC "Fee for Service Program" agreement which the Respondent intended to use to switch the client funds to Fee for Service (F-class) versions of the same funds.
10. The Respondent did not submit the trades for processing at the time he received the trade instructions from clients. In addition, the Respondent did not obtain instructions from clients with respect to the timing of the trades or adequately inform the clients that the trades could be delayed for several months.
11. At all material times, the Member's policies and procedures required that its Approved Persons maintain records regarding client instructions for every trade.
12. The Respondent failed to maintain adequate records regarding client instructions for every trade.
13. In December 2015 and November 2016, the Respondent processed three series of bulk trades for clients using his discretion to determine the timing of the trades. The particulars are as follows:

Bulk trade #	Date of trades	Number of clients	Number of trades	Type of trades
1	December 16, 2015	97	306	Switches: • from Fidelity North Star Fund (FID253) to Fidelity North Star Currency Neutral Class Fund (FID1284) • from Fidelity American Equity Fund (FID264) to Fidelity American Equity Currency Neutral Class Fund (FID2640)
2	December 14-16, 2015	97	318	Sell/buys: • from Dynamic Dividend Advantage Fund Series A (DYN 054) to Mackenzie Global Strategic Income Fund Series F (MFC2310)
3	November 16-29, 2016	70	309	Sell/buys: • Fidelity American Equity Currency Neutral Class Series F (FID2640) and Fidelity North Star Currency Neutral Series F (FID1284) were sold • Manulife Strategic Dividend Bundle Series F (MFC4676) was purchased

14. On August 3, 2017, the Respondent sent a ‘mass’ email communication to at least 156 clients recommending that the clients switch from the “currency neutral version of the funds to the regular (currency-exposed) version of the funds.”

15. In the email, the Respondent stated, “[i]f we do not hear from you by Friday, August 4th we will process the switches to remove the hedge.”

16. On August 10, 2017, the Respondent processed 605 switches as follows:

- Fidelity North Star Currency Neutral Class F Fund (FID1284) to the Fidelity NorthStar Class F Fund (FID610)
- Fidelity American Equity Currency Neutral Class Series F Fund (FID2640) to the Fidelity American Equity Class Series F Fund (FID2316)

- Fidelity North Star Currency Neutral Class Series A Fund (FID1280) to the Fidelity North Staff Class Series A Fund (FID510)
- Fidelity American Equity Currency Neutral Class Series A Fund (FID2620) to the Fidelity American Equity Series A Fund (FID564)

17. The Respondent processed these switches based upon his August 3, 2017 email to the clients, and without receiving adequate authorization from clients.

18. By virtue of the foregoing, the Respondent engaged in discretionary trading, and failed to maintain adequate records, contrary to the Member's policies and procedures, and MFDA Rules 2.3.1(b), 1.1.2, 2.5.1, 5.1, or 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: Lyla Simon
Email: lsimon@mfda.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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