



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: Nhat Nick Trieu

ORDER

(ARISING FROM THE HEARING ON THE MERITS ON AUGUST 19, 2022)

WHEREAS on March 14, 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 in respect of a disciplinary proceeding commenced against Nhat Nick Trieu (the “Respondent”);

AND WHEREAS the first appearance in this hearing was held before a Chair of a hearing panel of the Central Regional Council of the MFDA (the “Hearing Panel”) on April 28, 2022 in accordance with s. 19.13(b) of MFDA By-law No. 1;

AND WHEREAS both Counsel for Staff of the MFDA (“Staff”) and the Respondent attended the first appearance by videoconference on April 28, 2022 to address scheduling and other procedural matters and jointly proposed that the hearing of this matter on its merits would occur on August 19, 2022;

AND WHEREAS on August 19, 2022, the hearing of this matter on its merits proceeded as scheduled before the Hearing Panel with Counsel for Staff and the Respondent in attendance;

AND WHEREAS, at the beginning of hearing of this matter on its merits, Staff requested certain amendments to the Notice of Hearing issued on March 14, 2022, the Respondent consented

to the proposed amendments, and the amendments were made pursuant to this order and the attached Schedule “A”;

AND WHEREAS, at the hearing of this matter on its merits, the Hearing Panel considered the evidence and submissions presented by Staff and the Respondent with respect to the alleged misconduct;

AND WHEREAS on the basis of the evidence and submissions presented during the hearing of this matter on its merits, the Hearing Panel found that, commencing in March 2020, the Respondent failed to cooperate with an investigation into his conduct by Staff of the MFDA, contrary to section 22.1 of MFDA By-law No. 1;

AND WHEREAS at the hearing of this matter on its merits, the Hearing Panel considered the submissions of Staff and the Respondent with respect to sanctions.

IT IS HEREBY ORDERED THAT:

1. Leave is granted to Staff to amend the Notice of Hearing in this proceeding in the manner consented to by the Respondent;
2. The Respondent is permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
3. The Respondent shall pay a fine in the amount of \$40,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
4. The Respondent shall pay costs in the amount of \$7,500 payable, pursuant to s. 24.2 of MFDA By-law No. 1;
5. The payment by the Respondent of the fine and costs shall be made to and received by the MFDA in certified funds as follows:
 - a) \$1,666.82 (fine) on or before September 1, 2022;
 - b) Monthly payments of \$1,666.66 (fine) to commence on or before October 1, 2022 and to be paid for twenty-three consecutive months, on or before the first day of every month;

- c) Monthly payments of \$312.50 (costs) to commence on or before September 1, 2022 and to be paid for twenty-four consecutive months, on or before the first day of every month;
- d) If the Respondent fails to make any of the payments described above in paragraphs 5(a) to 5(c) when the payments become due, then the unpaid balance of the fine and costs owed by the Respondent shall immediately become due and payable to the MFDA, unless an MFDA Hearing Panel provides otherwise; and

6. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

DATED this 19th day of August, 2022.

“Frederick W. Chenoweth”

Frederick W. Chenoweth
Chair

“Michael-Murray Coulter”

Michael-Murray Coulter
Industry Representative

“Robert C. White”

Robert C. White
Industry Representative

Schedule “A”

Amended Notice of Hearing

File No. 202208



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**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: Nhat Nick Trieu

AMENDED¹ NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel of the Central Regional Council (the “Hearing Panel”) of the Mutual Fund Dealers Association of Canada (the “MFDA”) on April 28, 2022 at 11:00 a.m. (Eastern) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Nhat Nick Trieu (the “Respondent”). Members of the public who would like to listen to the teleconference should contact hearings@mfd.ca to obtain particulars.

DATED this 14th day of March, 2022. Amended on the 19th day of August, 2022.

“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

¹ Notice of Hearing amended by Order of the Hearing Panel dated August 19, 2022.

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

Allegation #1: Commencing in March 2020, the Respondent failed to cooperate with an investigation into his conduct by Staff of the MFDA, contrary to section 22.1 of MFDA By-law No. 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. Between July 2015 and November 2019, the Respondent was registered in the securities industry.
2. Between February 2018 and November 2019 in Ontario, and between February 2018 and December 2018 in British Columbia, the Respondent was registered as a dealing representative with TeamMax Investment Corp. (the “Member”), a Member of the MFDA.
3. On November 15, 2019, the Respondent resigned from the Member and he is not currently registered in the securities industry in any capacity.
4. At all material times, the Respondent carried on business in the Markham, Ontario area.

Allegation #1 - Failure to Cooperate

5. Between September 30, 2019 and November 14, 2019, as part of a compliance review, Staff of the MFDA (“Staff”) conducted a review of a sample of the client files maintained by the Respondent and discovered that multiple account forms maintained in files for various clients appeared to contain identical images of electronic signatures placed on forms. The presence of multiple account forms in client files that appeared to contain identical images of electronic signatures raised concerns that the Respondent could be directly applying the electronic image of each client’s signature to complete account forms without the knowledge or authorization of the client.

6. Upon discovering the account forms containing the electronic signatures, Staff conducted a full review of the client files maintained by the Respondent, and discovered a total of 103 account forms relating to accounts of 15 clients (the "Account Forms") which contained identical images of electronic signatures. Staff then commenced an investigation into whether the Respondent was directly completing account forms for his clients by re-using images of the electronic signatures of his clients on the Account Forms.

7. On November 14, 2019, the Member sent a letter to the Respondent informing him that Staff had discovered the Account Forms. The letter stated that the Member had opened an investigation into the Respondent's conduct, and had attempted to contact the Respondent on several occasions but received no response from the Respondent to its requests.

8. On November 15, 2019, the Respondent emailed the Member advising that he was resigning from the Member.

9. The Respondent did not provide any response to the Member's previous attempts to contact him. Furthermore, he did not provide an explanation as to why the duplicated images of clients' signatures appeared on multiple account forms of clients whose accounts he serviced.

10. On March 6, 2020, Staff sent a letter to the Respondent by registered and regular mail requesting a signed or written statement from him in respect of the Account Forms. The March 6, 2020 letter also attached a chart listing the Account Forms and the issue(s) identified with each of the Account Forms listed which requested that the Respondent acknowledge the issue(s) identified with each Account Form and provide comments if the Respondent had an explanation for any of the issue(s) identified.

11. Between April 2, 2020 and April 6, 2020, Staff attempted to contact the Respondent on a number of occasions by telephone and left a voicemail message for the Respondent on April 2, 2020.

12. The Respondent did not respond to any of Staff's attempts to contact him by telephone.

13. On November 9, 2020, Staff sent a letter to the Respondent reiterating its request for delivery of the information it sought in its March 6, 2020 letter. Staff informed the Respondent that, should the Respondent fail to respond to Staff's request, Staff may seek authorization to

commence enforcement proceedings against the Respondent for failing to cooperate with its investigation.

14. On November 19, 2020, the Respondent emailed Staff, but did not provide any of the information requested by Staff.

15. On November 20, 2020, Staff replied to the Respondent's email and requested that he deliver by December 4, 2020, the information that Staff had previously requested in its March 6, 2020 letter.

16. On December 4, 2020, the Respondent emailed Staff requesting an extension of the deadline to provide the requested information.

17. On December 7, 2020, Staff granted the Respondent an extension of time to December 10, 2020 to provide responses to the requests for information that had previously been sent to the Respondent in Staff's March 6, 2020 letter.

18. The Respondent did not provide the requested information by December 10, 2020.

19. On December 14, 2020, Staff emailed the Respondent to inform him that he had failed to provide the information requested by Staff by the December 10, 2020 deadline, and requested that he contact Staff immediately.

20. On December 15, 2020, the Respondent was personally served with a letter reiterating Staff's request for the information that Staff had been seeking since March 2020, and informing him that Staff had scheduled an interview with him that would take place on February 16, 2021~~February 2, 2021~~ relating to the matters under investigation. The Respondent was required to contact Staff by February 2, 2021 to confirm his attendance at the interview. Staff further advised the Respondent that, should he fail to provide the information requested in Staff's correspondence or attend the interview, Staff would seek authorization to commence enforcement proceedings against the Respondent for failing to cooperate with its investigation.

21. The Respondent did not respond to Staff's December 15, 2020 letter, did not contact Staff by February 2, 2021, and failed to attend the interview scheduled to take place on February 16, 2021~~February 2, 2021~~.

22. Due to the Respondent's failure to cooperate with Staff's investigation, Staff has not been able to determine the full nature and extent of the Respondent's conduct under investigation.

23. By virtue of the foregoing, the Respondent has failed to cooperate with Staff's investigation into his conduct, contrary to section 22.1 of MFDA By-law No. 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;

- 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 (20) 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: Brendan Forbes
E-mail: bforbes@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 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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