



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: Stephen Scott Smockum

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 November 19, 2021 at 10:00 a.m. (Eastern) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Stephen Scott Smockum (the “Respondent”). Members of the public who would like to listen to the teleconference should contact hearings@mfd.ca to obtain particulars.

DATED this 20th day of September, 2021. Amended on the 23rd day of September, 2022.

“Michelle Pong”

Michelle Pong
Director, Regional Councils

Mutual Fund Dealers Association of Canada
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¹ Notice of Hearing amended by Order of the Hearing Panel dated September 23, 2022.

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

Allegation #1: Between August 2016 and July 2019, the Respondent borrowed monies from clients, thereby engaging in personal financial dealings with clients which gave rise to conflicts or potential conflicts of interest that he failed to disclose to the Member or otherwise ensure were addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to the Member's policies and procedures and MFDA Rules 2.1.4, 2.1.1, 2.5.1, and 1.1.2.

Allegation #2: Between in or about August 2016 and February 2019, the Respondent engaged in an outside activity without prior written approval from the Member, contrary to the Member's policies and procedures and MFDA Rules 1.3, 2.1.1, 2.5.1, and 1.1.2.

Allegation #3: Between on or about April 18, 2017 and January 3, 2018, the Respondent recorded false notes in the Member's system regarding the reason for redemptions of mutual funds in the accounts of two clients, contrary to MFDA Rule 2.1.1.

Allegation #4: Between August 2016 and ~~July~~ September 2019, the Respondent provided false or misleading statements to a Member on annual update checklists, and during the course of a Member's investigation into his conduct, contrary to MFDA 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. Between April 2006 and September 2019, the Respondent was registered in the securities industry.
2. From July 2014 to February 2019, the Respondent was registered in Ontario as a dealing representative with Desjardins Financial Security Investments Inc. ("Desjardins"), a Member of the MFDA.
3. From July 2014 to April 2016, Desjardins designated the Respondent as a branch manager.

4. From February 2019 to September 24, 2019, the Respondent was registered in Ontario as a dealing representative with GP Wealth Management Corporation (“GP Wealth”), a Member of the MFDA.

5. On September 24, 2019, GP Wealth terminated the Respondent as a result of the conduct described below, and he is not currently registered in the securities industry in any capacity.

6. At all material times, the Respondent carried on business in the Norwood, Ontario area.

Allegation # 1 – Personal Financial Dealings With Clients

7. At all material times, the policies and procedures of both Desjardins and GP Wealth prohibited Approved Persons from borrowing monies from clients.

8. Between August 2016 and July 2019, the Respondent borrowed monies from 8 clients, as follows:

<u>Client</u>	<u>Date of Loan</u>	<u>Amount Borrowed</u>	<u>Purpose of Loan Represented to the Client</u>	<u>Terms of Loan</u>	<u>Source of Client Monies for Loan</u>	<u>Repayment</u>
KT	August 2016	\$73,315	To assist the Respondent in establishing a medical marijuana company	August 16, 2016 Loan Agreement: Monthly payments of \$968.87 over 120 months plus 10% interest on the loan. Dividend of 5% of the net profit for the first 3 years of production at the medical marijuana company	Redemptions from KT’s investment accounts at Desjardins	The Respondent has repaid client KT approximately \$31,972.
BM and SM²	November 2016	\$36,000	To renovate the Respondent’s house	November 20, 2016 Loan Agreement: Monthly payments of \$525.91 over 7 years plus 6% interest on the loan.	Not known	Amount of any repayments not fully known
DC and LD	May and July 2017	Loan #1: \$475,000	To build and re-sell the Respondent’s house	October 5, 2017 e-mail: 10% interest on the loan	Redemption of client DC and LD’s investment accounts at Desjardins	The Respondent has fully repaid clients DC and LD

² At the time of the loan, clients BM and SM were 75 and 70 years of age, respectively. By virtue of their ages, clients BM and SM were vulnerable clients.

<u>Client</u>	<u>Date of Loan</u>	<u>Amount Borrowed</u>	<u>Purpose of Loan Represented to the Client</u>	<u>Terms of Loan</u>	<u>Source of Client Monies for Loan</u>	<u>Repayment</u>
				Loan to be callable on demand		
	July 2019	Loan #2: \$20,000	To build and re-sell the Respondent's house	July 24, 2019 Loan Agreement: 12.5% interest on the loan	Client DC and LD's bank (Savings) Accounts	The Respondent has fully repaid clients DC and LD
SO	November and January 2018	\$175,000	To build the Respondent's house	Respondent represented that he would pay 10% interest on the loan.	Redemption of client SO's investment accounts at Desjardins	The Respondent has repaid \$30,000 to client SO.
MB	August and September 2018	\$50,000	To renovate the Respondent's house	Respondent represented he would pay MB \$55,000 after selling his house.	Redemption of client MB's investment account at Desjardins	The Respondent has fully repaid client MB
LM	July 2019	\$90,000	To renovate the Respondent's house	Respondent agreed to pay 13% interest on the loan and payments were to be semi-annual amortized over 10 years. Loan registered as a second mortgage on the Respondent's house in favour of client LM	Not from proceeds of redemptions from investments held in client accounts at the Member	The Respondent has repaid approximately \$14,582 to client LM.
\$919,315 (Total)						

9. At all material times, the clients described in the chart above were clients of Desjardins whose accounts were serviced by the Respondent, and subsequently they became clients of GP Wealth approximately when the Respondent became registered with GP Wealth.

10. Borrowing monies from the clients, as described above, gave rise to conflicts or potential conflicts of interest. The Respondent did not disclose to Desjardins or GP Wealth that he borrowed monies from the clients or that he made payments to them to repay the loans.

11. The Respondent borrowed monies from clients KT, BM and SM, and MB, as well as the first loan from DC and LD, while he was registered with Desjardins. The Respondent continued to owe monies to some of these clients when he became registered with GP Wealth in February

2019 and his indebtedness continued to give rise to a conflict or potential conflict of interest with these clients. The Respondent did not disclose to GP Wealth that he was indebted to these clients.

12. While registered at GP Wealth, the Respondent also borrowed monies from client LM, as well as additional monies borrowed from DC and LD, as described in the chart above. He did not disclose to GP Wealth that he had borrowed additional amounts from clients of GP Wealth.

13. By virtue of the foregoing, the Respondent borrowed monies from clients, thereby engaging in personal financial dealings with clients which gave rise to conflicts or potential conflicts of interest that he failed to disclose to either Desjardins or GP Wealth or otherwise ensure were addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to the Members' policies and procedures and MFDA Rules 2.1.4, 2.1.1, 2.5.1, and 1.1.2.

Allegation #2 – Outside Activity

14. At all material times, the policies and procedures of Desjardins required Approved Persons to obtain written approval from it to engage in any outside business activities.

15. On August 10, 2016, while registered with Desjardins, the Respondent and another individual incorporated 2531410 Ontario Inc. (“the Numbered Company”). The Respondent was a director of the Numbered Company.

16. The Respondent incorporated the Numbered Company for the purposes of applying to the government for a license to produce and sell medical marijuana. During the period when the Respondent was registered with Desjardins, he took additional steps to start up the business. In addition, as described in the chart at paragraph 8 above, the Respondent borrowed approximately \$73,315 from client KT for the purpose of financing the establishment of this medical marijuana company.

17. The Respondent did not disclose the Numbered Company to Desjardins, nor did he obtain Desjardins' approval to engage in the activities described above.

18. By virtue of the foregoing, the Respondent engaged in an outside activity without prior written approval from the Member, contrary to the Member's policies and procedures, and MFDA Rules 1.3, 2.1.1, 2.5.1, and 1.1.2.

Allegation # 3 – Recorded False Notes

19. The Respondent recorded false notes on Desjardins' system regarding the reasons for the redemptions in the accounts of clients, as follows:

Client	False Note
SO	<p>November 3, 2017 – <i>Client is aware of TFSA Redemption and DSC Fees of 500.03 as per email attached. Client is buying property to build and once started with house and mortgage money will return later.</i></p> <p>January 3, 2018 - <i>Client is aware of the with holding tax of 34285.71 and DSC Fee of 5163.83 as she is paying for property bought to build in spring. she understands the taxes and fees and will return all month to RRSPs as soon as possible.</i></p>
DC and LD	<p>April 18, 2017 - <i>Client is building a new house and will do a series of redemptions over the next 6 months that will have a small amount of fees, these fees are way less than borrowing the money.</i></p> <p>May 19, 2017 - <i>Client is aware and signed the LOD for the DSC fees of \$6422.49. He is building a house and is selling theirs once built. This is a short term change that will be re invested and is the best financially for him.</i></p>

20. The notes recorded by the Respondent set out above are false, as the proceeds from the redemptions from the clients' accounts were loaned to the Respondent as described above.

21. By virtue of the foregoing, the Respondent recorded false notes in the Member's system regarding the reason for redemptions of mutual funds in the accounts of two clients, contrary to MFDA Rule 2.1.1.

Allegation # 4 – Misleading the Member

22. As described at paragraph 10 above, at no time did the Respondent disclose to Desjardins or GP Wealth that he was engaging in personal financial dealings with clients, nor did he obtain any approvals to do so.

23. On or about April 5, 2017, the Respondent advised Desjardins on an Annual Compliance Update Checklist that he had not engaged in any conflict of interest by borrowing money from clients. This statement is false because, as stated at paragraph 11 above, the Respondent borrowed monies from 7 clients while registered at Desjardins.

24. On or about May 22, 2018, the Respondent advised Desjardins on an Annual Permanent Record and Compliance Update Checklist that he had not engaged in any conflict of interest by

borrowing money from clients. This statement is false because, as stated at paragraph 11 above, the Respondent borrowed monies from 7 clients while registered at Desjardins.

25. In or about September 2019, clients DC and LD, from whom the Respondent borrowed monies as described above in the chart at paragraph 8, contacted another Approved Person at GP Wealth and advised that the Respondent had borrowed monies from them and other clients.

26. GP Wealth commenced an investigation into the Respondent's conduct in response to this information from clients DC and LD. During the course of GP Wealth's investigation, on September 11, 2019, GP Wealth interviewed the Respondent, during which, the Respondent falsely stated that he had only borrowed money from 1 client. GP Wealth advised the Respondent of additional clients from whom it had information that the Respondent had also borrowed money. Following that, the Respondent admitted to borrowing monies from the 8 clients described above in the chart in paragraph 8.

27. By virtue of the foregoing, the Respondent provided false or misleading statements to Desjardins on annual update checklists, and to GP Wealth during the course of GP Wealth's investigation into his conduct, contrary to MFDA 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;
- 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: Audrey Smith
E-mail: asmith@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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