



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

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULES
and
Stephen Scott Smockum**

ORDER

WHEREAS on September 20, 2021, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing (the “Notice of Hearing”) pursuant to sections 20 and 24 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4) in respect of a disciplinary proceeding commenced against Stephen Scott Smockum (the “Respondent”);

AND WHEREAS on November 19, 2021, the first appearance in this proceeding was held electronically by videoconference before a public representative of the Central Regional Council of the MFDA, in accordance with section 19.13(b) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.2.4(b)), which permits one public representative to be designated to act on behalf of a hearing panel (the “Hearing Panel”) for the purpose of hearing and determining any procedural matter;

AND WHEREAS counsel for Staff of the MFDA (“Staff”) and the Respondent attended the first appearance by videoconference and jointly proposed a schedule for the continuation of the proceeding;

AND WHEREAS on November 19, 2021, an order was issued on consent of the parties scheduling the hearing of this matter on its merits to take place between May 10-13, 2022;

AND WHEREAS on March 22, 2022, Staff and the Respondent entered into an agreed statement of facts (the “Agreed Statement of Facts”) in which the Respondent admitted to facts and contraventions for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of MFDA By-law No. 1 (now Mutual Fund Dealer Rules 7.3 and 7.4.1);

AND WHEREAS on May 3, 2022, the Hearing Panel granted a joint request made by the parties for an adjournment of the hearing of this matter on its merits from May 10-13, 2022 to July 14, 2022;

AND WHEREAS on July 14, 2022, the Respondent and counsel for Staff attended an interim appearance by videoconference before the Hearing Panel and, after being informed by the Respondent that he was in the process of retaining counsel to represent him, the Hearing Panel adjourned the interim appearance to take place on July 19, 2022 with the Respondent’s new counsel in attendance;

AND WHEREAS on July 19, 2022, counsel for Staff and counsel for the Respondent attended the interim appearance by videoconference and the Hearing Panel granted an order to reschedule the hearing on the merits based upon a request from counsel for the Respondent that was not opposed by Staff in order to allow new counsel time to prepare for the hearing and the hearing of this matter on its merits was rescheduled to take place on September 23, 2022;

AND WHEREAS on September 23, 2022, the hearing of this matter on its merits took place by videoconference before the Hearing Panel;

AND WHEREAS on September 23, 2022, the Notice of Hearing, was amended on consent as set out in Schedule “A” to this Order;

AND UPON READING the Agreed Statement of Facts and the written submissions of Staff and upon hearing the oral submissions of Staff and the Respondent with respect to the appropriate penalty to be imposed on the Respondent as a consequence of the misconduct that was admitted in the Agreed Statement of Facts;

AND WHEREAS on the basis of the admissions of the Respondent as set out in the Agreed Statement of Facts, the Hearing Panel is of the opinion that:

- (a) 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 2.1.4¹, 2.1.1, 2.5.1, and 1.1.2 (now Mutual Fund Dealer Rules 2.1.4(2), 2.1.1, 2.5.1 and 1.1.2);
- (b) 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 (now Mutual Fund Dealer Rules 1.3, 2.1.1, 2.5.1 and 1.1.2);
- (c) 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 (now Mutual Fund Dealer Rule 2.1.1); and
- (d) Between August 2016 and 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 (now Mutual Fund Dealer Rule 2.1.1).

AND WHEREAS on January 1, 2023, the MFDA and the Investment Industry Regulatory Organization of Canada ("IIROC") consolidated to form the New Self-Regulatory Organization of Canada (the "Corporation");²

¹ On June 30, 2021, amendments to MFDA Rule 2.1.4 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to the Rule, the contravention of MFDA Rule 2.1.4 that is addressed in this proceeding is of the version of MFDA Rule 2.1.4 that was in effect between February 27, 2006 and June 30, 2021.

² Pursuant to transition provisions set out in Mutual Fund Dealer Rule 1A, MFDA By-law No. 1 continues to be applicable to this proceeding and this Hearing Panel continues to have jurisdiction over this matter.

IT IS HEREBY ORDERED THAT:

1. The Respondent is permanently prohibited from conducting securities related business while in the employ of or associated with a Dealer Member of the Corporation that is registered as a mutual fund dealer (formerly Members of the MFDA), pursuant to s. 24.1.1(e) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.1.1(e));
2. On or before February 8, 2025, the Respondent shall pay a fine in the amount of \$275,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.1.1(b));
3. The Respondent shall pay costs in the amount of \$10,000 on the date of this Order, pursuant to s. 24.2 of MFDA By-law No. 1 (now Mutual Fund Dealer Rule 7.4.2);
4. If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3, requests production of or access to exhibits in this proceeding that contain personal information as defined by the Corporation's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of the Corporation shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

DATED this 8th day of February, 2023.

"Robert P. Armstrong"

Robert P. Armstrong,
Chair

"Brigitte J. Geisler"

Brigitte J. Geisler,
Industry Representative

"Guenther W. K. Kleberg"

Guenther W. K. Kleberg,
Industry Representative