



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: Helen Collymore

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 (“Hearing Panel”) of the Mutual Fund Dealers Association of Canada (“MFDA”) on June 7, 2022 at 10:00 a.m. (Eastern), or as soon thereafter as the appearance can be held, concerning a disciplinary proceeding commenced by the MFDA against Helen Collymore (the “Respondent”). Members of the public who would like to listen to the teleconference should contact hearings@mfd.ca to obtain particulars.

DATED this 4th day of April, 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

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

Allegation #1: On or about September 4, 2009, the Respondent opened a new account and processed a purchase of mutual funds in respect of a client who was a non-resident of Canada, which the Respondent was not permitted to do pursuant to the policies and procedures of the Member, and MFDA Rules 2.1.1, 2.5.1 and 1.1.2.

Allegation #2: Between 2007 and 2019, the Respondent failed to update a client's residential address which concealed from the Member that the client was no longer a resident of Canada and, consequently, that there were restrictions on the investment services that the Respondent was permitted to provide the client and the investments held by the client at the Member would be subject to different tax treatment, contrary to the Member's policies and procedures and MFDA Rules 2.2.1¹, 2.2.4², 2.5.1 and 1.1.2.

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. Since 2001, the Respondent has been registered in Ontario as a dealing representative with Investors Group Financial Services Inc. (the "Member"). The Respondent has also been registered in Quebec since 2006, and in Alberta between 2006 and 2014.
2. Between 2009 and 2012, the Member designated the Respondent as a branch manager.
3. At all material times, the Respondent conducted business in the Mississauga, Ontario area.

¹MFDA Rule 2.2.1 was amended multiple times including on December 13, 2005, December 3, 2010, December 3, 2011, February 22, 2013 and December 31, 2021. Staff alleges that the conduct of the Respondent contravened all versions of Rule 2.2.1 that were in force prior to and after the amendments that were made.

² On December 3, 2010, Rule 2.2.4 was amended. With respect to the allegations in this Notice of Hearing, Staff alleges that the Respondent's conduct contravened the requirements set out in the versions of Rule 2.2.4 that were in force prior to and after December 3, 2010.

Allegation #1 - Opening an Account and Processing a Trade for a Client Who Does Not Reside in Canada

4. At all material times, the Member's policies and procedures prohibited existing clients who reside in the United States ("U.S.") from opening new accounts and making contributions into Member accounts, as follows:

Existing clients who are U.S. residents will not be permitted to open new plans.

If an existing Investors Group client moves to the U.S., the federal and state securities and insurance laws of the U.S. impose restrictions on the service that Investors Group and Consultants can provide to U.S. residents. Existing Investors Group clients who have relocated to the U.S. and have decided to retain their accounts with Investors Group will be allowed to do so, subject to the following restrictions...new deposits into any Investors Group sponsored investment product cannot be accepted.

5. In 1991, client X became a client of the Member, and in 2006, the Respondent became the Approved Persons responsible for servicing her accounts.

6. On or about January 7, 2007, client X ceased residing in Canada and moved to the U.S.

7. Around the time she moved to the U.S., client X requested that the Respondent update her address documented in the Member's records to a new Canadian address for her accounts (the "Canadian Address").

8. At this time, client X held both registered and non-registered accounts at the Member.

9. By no later than September 2009, the Respondent knew that client X was not residing at the Canadian Address and did not reside in Canada.

10. On September 4, 2009, after the time when the Respondent became aware that client X was no longer residing in Canada, the Respondent facilitated the opening of a new non-registered account on behalf of client X, in trust for her niece and the purchase of a mutual fund in the account, contrary to the Member's policies and procedures.

11. By virtue of the foregoing, the Respondent engaged in conduct that was contrary to the policies and procedures of the Member and contrary to MFDA Rules 2.1.1, 2.5.1 and 1.1.2.

Allegation # 2 - Failed to Update Client Address

12. At all material times, the Member's policies and procedures required its Approved Persons to review and update Know-Your-Client ("KYC") information when a material or significant change in client circumstances occurred.

13. As described above, no later than September 2009, the Respondent was aware that client X was not residing in Canada at the Canadian Address. Client X's change in residency amounted to a material or significant change that required the Respondent to update KYC information associated with client X's investment accounts in the records of the Member including client X's residential address.

14. While client X was residing in the U.S., the Respondent and client X had a number of communications regarding client X's accounts at the Member, including the following:

- a) between 2010 and 2013, client X provided the Respondent or her assistants with various addresses in the U.S. to which client X's quarterly account statements should be sent;
- b) in 2016, client X instructed the Respondent to redeem monies from her Member accounts in order to pay expenses that client X had incurred in the U.S.;
- c) in 2017, client X requested changes in her accounts, as client X had become aware of that she could be penalized for holding investments outside of the U.S.; and
- d) in 2017 client X contacted the Respondent to find out whether her Registered Educational Savings Plan ("RESP") account could be transferred from client X's daughter to her niece, as her daughter could not use the proceeds of the RESP in the U.S.

15. The Respondent failed to update client X's KYC information, or notify the Member of client X's address change. This concealed from the Member that the client was no longer a resident of Canada and, consequently, that there were restrictions on the investment services that the Respondent was permitted to provide the client and the investments held by the client at the Member would be subject to different tax treatment.

16. In 2013 and 2016, at the request of client X, the Respondent redeemed monies from client X's RRSP account. The Member was not aware that client X no longer resided in Canada, and as a result, the Member:

- a) applied withholding tax calculations on the redemptions applicable to a Canadian resident rather than those applicable to a U.S. resident; and
- b) issued and provided client X with the tax slips applicable to investments redeemed by a Canadian resident rather than those redeemed by a U.S. resident.

17. Between 2007 and 2017, client X earned income distributions from her non-registered investment accounts. As the Member was unaware that client X did not reside in Canada, it issued client X tax slips for this income applicable to a Canadian resident and did not apply withholding tax to the income. Had the Member been aware that client X resided in the U.S., it would have issued her tax slips applicable to a U.S. resident and applied withholding tax to the income.

18. Client X incurred a tax liability with the Canada Revenue Agency (the “CRA”) arising from the incorrect application of withholding taxes on the redemptions from her RRSP account and the income distributions from her non registered accounts.

19. In December 2019, client X complained to the Member that she had incurred a tax liability with CRA as a result of the fact that the residential address associated with her accounts at the Member was Canadian and the Respondent was aware that she was a resident of the U.S.

20. By virtue of the foregoing, the Respondent engaged in conduct contrary to the Member’s policies and procedures and MFDA Rules 2.2.1, 2.2.4, 2.5.1 and 1.1.2.

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: Brendan Forbes
Email: 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.

DM 882997