

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ**

and

Nicholas Andrew Rivet

ORDER

WHEREAS on November 16, 2021, 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 Nicholas Andrew Rivet (the “Respondent”);

AND WHEREAS on January 5, 2022, the Respondent filed a Reply to the Notice of Hearing;

AND WHEREAS on January 11, 2022, the first appearance in this hearing was held electronically by videoconference before a Chair of a hearing panel of the Central Regional Council of the MFDA (the “Hearing Panel”) and a schedule was set for the continuation of the proceeding including a date for the Hearing on the Merits which was scheduled to take place electronically by videoconference on June 22-23, 2022;

AND WHEREAS on April 8, 2022, in accordance with Rule 3.2(4) of the MFDA Rules of Procedure (now the Mutual Fund Dealer Rules of Procedure) (the “ROP”), counsel for the Respondent provided notification that she would no longer be representing the Respondent in this proceeding;

AND WHEREAS the Respondent did not provide Staff with documentary disclosure or witness lists or witness statements in accordance with the Order of the Chair dated January 11, 2022 and Rules 10 and 11 of the ROP;

AND WHEREAS the Respondent did not attend the hearing on the merits that took place electronically by videoconference on June 22, 2023 and nobody attended the hearing on the Respondent’s behalf;

AND UPON reading the affidavits and other documentary evidence filed by Staff of the MFDA (“Staff”) and the written submissions of Staff with respect to misconduct and upon hearing the oral submissions of Staff with respect to misconduct, the Hearing Panel is of the opinion that:

- (1) Between approximately December 2017 and January 2018, the Respondent misappropriated or failed to account for monies obtained from a client, contrary to MFDA Rule 2.1.1;
- (2) On or about April 12, 2018, the Respondent created and provided a fictitious document to a client to conceal from the client that the Respondent had misappropriated the client’s monies, contrary to MFDA Rule 2.1.1; and
- (3) On December 18, 2017 and January 4, 2018, the Respondent processed two trades in the accounts of a client without first obtaining instructions from the client with respect to all

elements of the trades, contrary to the Member's policies and procedures and MFDA Rules 2.3.1(b), 2.1.1, 1.1.2, and 2.5.1;

AND UPON reading the written submissions of Staff with respect to penalty and hearing the oral submissions of Staff with respect to penalty during the hearing on the merits on June 22, 2022 and upon reading a transcript of the reasons for decision of a judge who sentenced the Respondent in a criminal proceeding with respect to the Respondent's guilty plea to one count of theft under \$5,000 (although the theft in fact totaled \$16,180) that arose from the conduct described in contravention #1 set out above, and upon reading supplementary submissions of Staff dated August 4, 2022 with respect to the impact, if any, that the Respondent's criminal sentence should have on the penalty in this proceeding;

AND WHEREAS on January 1, 2023, the MFDA and the Investment Industry Regulatory Organization of Canada ("IIROC") consolidated to form a new self-regulatory organization now called the Canadian Investment Regulatory Organization ("CIRO");

IT IS HEREBY ORDERED THAT:

1. The Respondent is permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any Dealer Member of CIRO registered as a mutual fund dealer commencing on the date of this Order pursuant to s. 24.1.1(e) of MFDA By-law No. 1 [now Mutual Fund Dealer Rule 7.4.1.1(e)].
2. The Respondent shall pay costs in the amount of \$7,500 in certified funds 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).
3. 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 CIRO's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of CIRO shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all intimate financial and personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

DATED this 2nd day of November, 2023.

John Lorn McDougall, Chair
Samuel Mah
Eugene Park

Copyright © 2023 Canadian Investment Regulatory Organization. All Rights Reserved

ⁱ On January 1, 2023, the Investment Industry Regulatory Organization of Canada ("IIROC") and the Mutual Fund Dealers Association of Canada (the "MFDA") were consolidated into a single self-regulatory organization that is called the Canadian Investment Regulatory Organization (referred to herein as "CIRO") and is recognized under applicable securities legislation. CIRO adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the "Interim Rules"). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Pursuant to Mutual Fund Dealer Rule 1A and s. 14.6 of By-law No. 1 of CIRO, contraventions of former MFDA regulatory requirements may be enforced by CIRO. Pursuant to Mutual Fund Dealer Rule 1A, MFDA By-law No. 1 continues to be applicable to this proceeding.