



**Notice of Hearing**

**File no: 200508**

**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: ROBIN ANDERSEN**

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**NOTICE OF HEARING**

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**NOTICE** is hereby given that a first appearance will take place before a Hearing Panel (the "Hearing Panel") of the Regional Council of the Prairie Region of the Mutual Fund Dealers Association of Canada (the "MFDA"), in the hearing room located at #2330, 355 – 4<sup>th</sup> Avenue, S.W., Calgary, Alberta on Tuesday, August 16, 2005 at 10:00 a.m. (MST) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Robin Andersen (the "Respondent").

**DATED** at Toronto, Ontario this 21st day of June, 2005.

“Gregory J. Ljubic”

Gregory J. Ljubic  
Corporate Secretary

Mutual Fund Dealers Association of Canada  
121 King St. West, Suite 1000  
Toronto, ON  
M5H 3T9  
Telephone: (416) 943-5836  
E-mail: gljubic@mfda.ca

**NOTICE** is further given that the MFDA alleges that the Respondent engaged in the following misconduct contrary to the By-laws, Rules or Policies of the MFDA:

**Allegation #1:** Between July 1998 and November 2003, the Respondent failed to deal fairly, honestly and in good faith with his clients JH, LH, MS, PW, RG, NML and PP by misappropriating from them the total amount of approximately \$362,000 and failing to repay or otherwise account for the funds, contrary to MFDA Rule 2.1.1.

**Allegation #2:** Between July and November 2003, the Respondent processed four redemptions for clients without obtaining instructions or authorization from the clients, contrary to MFDA Rules 2.1.1 and 2.3.4 and the Respondent's registration as a mutual fund salesperson.

### **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. From December 8, 1992 to January 7, 2004, the Respondent was registered in Alberta as a mutual fund salesperson for Investors Group Financial Services Inc. ("IG"). The Respondent worked at the Edmonton Metro Region Office of IG except during a period from mid-1997 to April, 2001 when the Respondent worked at the St. Albert's sub-branch of IG. On January 7, 2004, the Respondent was terminated for cause as a result of the matters described herein. Since January 7, 2004, the Respondent has not been registered in the securities industry in any capacity.

2. IG has been a Member of the MFDA since March 7, 2002.

### **The Respondent's Conduct**

3. As described in greater detail below, between July 1998 and November 2003, the Respondent misappropriated approximately \$362,000 from clients by means of the following methods:

- (a) he redeemed mutual fund investments without authorization from the clients and directed that the redemption cheques be delivered to the Respondent's branch office. The Respondent forged the signature of the clients on the redemption cheques and deposited the redemption cheques into the bank account of his corporation, 765398 Alberta Ltd. (the "Corporate Account");
- (b) he informed clients that redemption orders had been processed in their accounts in error and then directed the clients to send cheques to him to enable him to purchase mutual fund investments to replace the investments that had been redeemed in error. The Respondent deposited the cheques sent by clients into the Corporate Account and did not use the funds to purchase mutual fund investments for the clients; and
- (c) he solicited and accepted \$125,000 from a client purportedly for the purpose of purchasing investment products that were not approved for sale by the Member and upon receipt of the money, the Respondent deposited the money into the Corporate Account and did not purchase the said investments.

4. The Respondent has failed to repay or otherwise account for any of the misappropriated funds.

### **Clients JH and LH**

5. JH and LH were elderly clients of the Respondent. JH is now 81 years old and LH is now deceased.

6. Between July 23, 1998 and September 30, 1999, the Respondent processed four redemptions from mutual fund accounts of JH and LH on the dates and in the amounts set out below, without obtaining instructions, authorization or approval from JH or LH:

<b>Date</b>	<b>Client</b>	<b>Amount</b>
July 23, 1998	JH & LH	\$5,063.06
November 24, 1998	JH	\$5,000
September 3, 1999	JH	\$5,000
September 29, 1999	LH	\$5,000
	<b>Total</b>	\$20,063.06

7. After taxes and fees associated with the redemption transactions were deducted, cheques were issued in the following amounts:

<b>Date</b>	<b>Payee</b>	<b>Amount</b>
July 23, 1998	JH & LH	\$5,000
November 24, 1998	JH	\$4,365
September 3, 1999	JH	\$4,500
September 29, 1999	LH	\$4,500
	<b>Total</b>	\$18,365

8. The Respondent prepared the IG investment instruction form in each case and included a direction to have the redemption cheque delivered to him at the Regional office.

9. Without the knowledge, authorization or approval of JH or LH, the Respondent forged the signatures of JH and LH on the four cheques that comprised the proceeds of the redemptions and deposited the cheques into the Corporate Account, thereby misappropriating the funds. The Respondent has not repaid or otherwise accounted for these misappropriated funds.

10. By processing the redemptions without obtaining instructions, authorization or approval from JH and LH, the Respondent engaged in discretionary trading contrary to his registration as a mutual fund salesperson.

11. On or about October 19, 1999, JH provided the Respondent with a cheque in the amount of \$8,500 payable to the Respondent to be applied towards the purchase of mutual fund investments for the benefit of JH. The Respondent deposited the cheque into the Corporate Account, thereby misappropriating the funds. The Respondent did not purchase any mutual fund investments for the benefit of JH and has not repaid the \$8,500 or otherwise accounted for it.

### **Client MS**

12. MS was a client of the Respondent. MS is a mechanic and is now 35 years old. He frequently works and travels overseas.

13. Between August 2, 2000 and April 6, 2001, the Respondent processed four redemptions from mutual fund accounts of MS on the dates and in the amounts set out below, without obtaining instructions, authorization or approval from MS:

<b>Date</b>	<b>Amount</b>
Aug 2, 2000	\$25,503.76
November 16, 2000	\$25,503.45
February 5, 2001	\$25,504.98
April 6, 2001	\$20,384.92
<b>Total</b>	<b>\$96,897.11</b>

14. After taxes and fees associated with the redemption transactions were deducted, cheques were issued to MS in the following amounts:

<b>Date</b>	<b>Amount</b>
Aug 2, 2000	\$25,000
November 16, 2000	\$25,000
February 5, 2001	\$25,000
April 6, 2001	\$20,000
<b>Total</b>	<b>\$95,000</b>

15. The Respondent prepared the IG investment instruction form in each case and included a direction to have the redemption cheque delivered to him at the Regional office.

16. By processing the redemptions without obtaining instructions, authorization or approval from MS, the Respondent engaged in discretionary trading contrary to his registration as a mutual fund salesperson.

17. Without the knowledge, authorization or approval of MS, the Respondent forged the signature of MS on the four redemption cheques issued between August 2, 2000 and April 6, 2001 and deposited those cheques into the Corporate Account, thereby misappropriating the funds. The Respondent has not repaid MS or otherwise accounted for these misappropriated funds.

18. Between November 12, 1999 and March 2002, the Respondent solicited and accepted an additional \$125,000 from MS for the purchase of investments that were not approved for sale by IG. Upon receipt of the funds, the money was misappropriated. This money was not used to purchase any investments for the benefit of MS and has not been repaid to MS or otherwise accounted for. Specifically:

- (a) On or about November 12, 1999, the Respondent advised MS to redeem mutual fund investments in the amount of \$25,426.66 that had previously been purchased through IG and apply the proceeds towards an investment that was not approved for sale by the Member. Of the total amount redeemed, \$426.66 was deducted and applied towards taxes and fees

associated with the redemption transaction. The Respondent then solicited and accepted a cheque from MS, dated November 12, 1999, in the amount of \$25,000 and payable to the Respondent and deposited the cheque into the Corporate Account, thereby misappropriating the funds.

(b) On or about November 14, 2001, the Respondent advised MS to redeem mutual fund investments in the amount of \$50,000 that had previously been purchased through IG and apply the proceeds towards an investment that was not approved by the Member. The Respondent then solicited and accepted a cheque, dated November 16, 2001, in the amount of \$50,000 payable to Investors Group 765398 Alberta Ltd. and deposited the cheque into the Corporate Account, thereby misappropriating the funds.

(c) On or about February 28, 2002, the Respondent advised MS to redeem additional mutual fund investments in the amount of \$48,873.54 that had previously been purchased through IG and apply the proceeds towards a second investment that was not approved by the Member. The Respondent then solicited and accepted a cheque from MS, dated March 3, 2002, in the amount of \$50,000 payable to the Respondent's corporation, 765398 Alberta Ltd. and deposited the cheque into the Corporate Account, thereby misappropriating the funds.

#### **Client PP**

19. PP was a client of the Respondent from approximately 1994 until the Respondent's employment with IG was terminated in January, 2004. He is now 33 years old. PP resides and works in Taiwan.

20. On or about August 28, 2002, PP gave \$10,000 to the Respondent to be deposited into PP's mutual fund investment account at IG. The Respondent provided PP with a receipt for the \$10,000 and an IG investment instructions form identifying the mutual fund investments that PP expected the Respondent to purchase on his behalf with the \$10,000. Contrary to PP's instructions, the Respondent did not deposit the \$10,000 into

PP's mutual fund investment account or use the money to purchase any mutual fund investments for the benefit of PP. The Respondent has not repaid the \$10,000 to PP or otherwise accounted for it.

21. In October 2003, PP gave the Respondent a cheque drawn on his personal bank account in the amount of \$15,000 for the purpose of purchasing mutual fund investments. No payee was identified on the cheque. The Respondent cashed the cheque on October 23, 2003. The Respondent did not deposit the \$15,000 into PP's mutual fund investment account or use the money to purchase any mutual fund investments for the benefit of PP. The Respondent has not repaid the \$15,000 to PP or otherwise accounted for it.

### **Clients RG and NML**

22. RG was a client of the Respondent. He is now 52 years old and operates his own trucking business called NML. RG maintained mutual fund investment accounts with IG in his own name and in the name of NML.

23. On July 7, 2003, the Respondent processed a redemption from RG's mutual fund investment account in the total amount of \$29,876.26 without obtaining instructions, authorization or approval from RG. Of this amount, \$869.06 was deducted for taxes and fees associated with the transaction. On July 9, 2003, \$29,047.18 was deposited into RG's personal bank account by electronic funds transfer.

24. On July 7, 2003, the Respondent also processed a redemption from the mutual fund investment account of NML in the total amount of \$23,470.85 without obtaining instructions, authorization or approval from RG. Of this amount, \$683.06 was deducted for taxes and fees associated with the transaction. On July 9, 2003, \$22,831.18 was deposited into NML's bank account by electronic funds transfer.

25. By processing the redemptions without obtaining instructions, authorization or approval from RG and NML, the Respondent engaged in discretionary trading contrary to his registration as a mutual fund salesperson and MFDA Rules 2.1.1 and 2.3.4.

26. On July 9, 2003, the Respondent contacted RG and led him to believe that the redemption transactions in his personal and corporate mutual fund accounts had been processed in error. The Respondent persuaded RG to send him cheques, purportedly for the purpose of enabling the Respondent to purchase mutual fund investments for the benefit of RG and NML to replace the investments that had been redeemed.

27. On July 10, 2003, RG sent the Respondent a cheque drawn on his personal bank account and payable to IG in the amount of \$29,047.18 and a cheque drawn on the bank account of NML payable to IG in the amount of \$22,831.18. The Respondent deposited both cheques into the Corporate Account, thereby misappropriating the funds. The Respondent did not purchase any mutual fund investments for the benefit of RG or NML and has not repaid RG or otherwise accounted for these misappropriated funds.

28. On August 11, 2003, the Respondent processed a redemption from the mutual fund investment account of RG in the total amount of \$2,060.15 without obtaining instructions, authorization or approval from RG. Of this amount, \$60.15 was deducted for taxes and fees associated with the transaction. On August 11, 2003, \$2,000 was deposited into RG's bank account by electronic funds transfer.

29. By processing this redemption without obtaining instructions, authorization or approval from RG, the Respondent engaged in discretionary trading contrary to his registration as a mutual fund salesperson and MFDA Rules 2.1.1 and 2.3.4.

#### **Client PW**

30. PW became a client of the Respondent in the fall of 1997. He resides in Barrhead, Alberta. He is a chef who works in a hotel and is now 37 years old.

31. On or about October 31, 2003, the Respondent contacted PW and recommended that changes be made to the selection of mutual funds held in his account. The Respondent did not identify which funds should be sold and purchased, nor did he specify the quantities or prices associated with any proposed transaction. Later the same day, the Respondent processed a redemption from PW's mutual fund account in the total amount of \$37,526.44. Of this amount, \$877.98 was deducted for taxes and fees

associated with the transaction. The net proceeds of the redemption in the amount of \$36,648.46 were deposited into PW's personal bank account by electronic funds transfer.

32. By processing the redemption without obtaining instructions, authorization or approval from PW as to any of the elements of the trade, the Respondent engaged in discretionary trading contrary to his registration as a mutual fund salesperson and MFDA Rules 2.1.1 and 2.3.4.

33. On or about November 5, 2003, the Respondent led PW to believe that the redemption had been processed in error. The Respondent persuaded PW to provide the Respondent with a cheque payable to IG in the amount of \$36,648.48, purportedly for the purpose of enabling the Respondent to purchase mutual fund investments for the benefit of PW to replace the investments that had been redeemed.

34. PW sent the Respondent a cheque in the amount of \$36,648.48 payable to IG which was dated November 6, 2003. The Respondent deposited the cheque into the Corporate Account, thereby misappropriating the funds. The Respondent did not purchase any mutual fund investments for the benefit of PW and has not repaid to PW or otherwise accounted for these misappropriated funds.

### **The Response Of The Member**

35. In January 2004, IG was informed of the Respondent's misconduct. IG terminated the Respondent's employment and conducted an internal investigation to determine the nature and extent of the Respondent's misconduct. IG has taken steps to arrange for compensation for the clients affected by the Respondent's misconduct. The Respondent still has not repaid or otherwise accounted for any of the misappropriated funds.

**NOTICE** is further given that the Respondent shall be entitled to appear and be heard and be accompanied by counsel or agent at the hearing and to 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 has twenty (20) days from the date of service of this Notice of Hearing, to serve a **Reply** upon:

Mutual Fund Dealers Association of Canada  
121 King St. West  
Suite 1000  
Toronto, Ontario  
M5H 3T9  
Attention: Shelly Feld, Enforcement Counsel

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 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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