



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: Barry L. Adams

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel (the “Hearing Panel”) of the Atlantic Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) on June 12, 2009 at 2:00 p.m. (Atlantic), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Barry L. Adams (the “Respondent”). Members of the public who want to listen to the teleconference should contact Yvette MacDougall, MFDA Hearings Coordinator, at 416-943-4606 or by email at ymacdougall@mfdca.ca to obtain particulars. The Hearing on the Merits will take place in Saint John, New Brunswick at a time and venue to be announced.

DATED: April 6th, 2009

“Jason D. Bennett”
Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, ON M5H 3T9
Telephone: 416-943-7431
Fax: 416-361-9781
E-mail: jbennett@mfdca.ca

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

Allegation #1: Between February 16, 2007 and April 30, 2007, the Respondent engaged in securities related business that was not carried on for the account of the Member or through the facilities of the Member by recommending and facilitating investments in a real estate investment product, contrary to MFDA Rules 1.1.1 and 2.1.1.

Allegation #2: Between February 16, 2007 and April 30, 2007, the Respondent engaged in outside business activity that was not disclosed to and approved by the Member by recommending and facilitating the purchase of a real estate investment product, contrary to MFDA Rules 1.2.1(d) and 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. The Respondent was registered in New Brunswick as a mutual fund salesperson with Legacy Associates Inc. (“Legacy”) from January 9, 2007 until his termination on May 3, 2007 as a result of the events described herein.
2. Prior to his registration with Legacy, the Respondent was registered in New Brunswick as a mutual fund salesperson with Clarica Financial Services Inc. from August 2005 to January 2006.
3. Legacy became a Member of the MFDA on May 16, 2002.

The Respondent’s Dealings With Walton International Inc.

4. On December 13, 2006, Legacy advised its Branch Managers by email that it did not have a referral arrangement with Walton International Inc. (“Walton”) and that

Legacy's salespersons were not permitted to refer, sell or recommend purchases of real estate investment products offered by Walton (the "Walton Investment(s)").

5. On January 9, 2007, the Respondent was registered with Legacy as a mutual fund salesperson. On January 12, 2007, the Respondent received an email from the Chief Compliance Officer ("CCO") of Legacy confirming he was registered as an Approved Person and was permitted to commence placing business with the firm. The CCO directed the Respondent to review Legacy's Compliance Manual which provided, among other things, that a mutual fund salesperson was only permitted to sell investments that had been approved for sale by Legacy.

6. On February 16, 2007, the Respondent purchased \$30,000 of the Walton Investment on his own behalf directly from Walton.

7. On March 1, 2007, the Respondent recommended and facilitated the purchase of Walton Investments by five individuals, none of whom were clients of Legacy. The total amount invested by the five individuals was \$125,110.00. The investments were not carried on for the account of or through the facilities of Legacy.

8. On April 30, 2007, the Respondent recommended and facilitated the purchase of a Walton Investment by another individual, who was also not a client of Legacy. The total amount invested by this individual was \$20,000. The investment was not carried on for the account of or through the facilities of Legacy.

9. In total, the Respondent facilitated investments in Walton Investments by six individuals in the total amount of \$145,100, all of which investments were not processed through the accounts and facilities of Legacy. The Respondent earned \$34,430.58 in commissions on the sale of these investments.

10. The Walton Investments were never approved for sale by Legacy.

11. On April 30, 2007, the New Brunswick Securities Commission ("NBSC") informed Legacy that the Respondent had been identified as an individual who had been selling Walton Investments.

12. On May 1, 2007, the Respondent admitted to Legacy that he had referred individuals to Walton and had received commissions in respect of their purchase of Walton Investments.

13. On May 3, 2007, the Respondent was terminated by Legacy.

14. By engaging in the activities described above, the Respondent conducted securities related business that was not carried on for the account of or through the facilities of Legacy, contrary to MFDA Rules 1.1.1 and 2.1.1.

15. In the event the conduct of the Respondent does not constitute securities-related business, then the Respondent engaged in an outside business activity that was not disclosed to and approved by Legacy, contrary to MFDA Rules 1.2.1(d) and 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 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: Maria Abate, Enforcement Counsel
Fax: 416-361-9073
Email: mabate@mfd.ca

A **Reply** shall be **filed** by:

- (a) providing 4 copies of the **Reply** to 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 1 copy of the **Reply** to the Corporate Secretary by fax to fax number 416-361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Corporate Secretary permits otherwise; or
- (c) transmitting 1 electronic copy of the **Reply** to the Corporate Secretary by e-mail at CorporateSecretary@mfd.ca.

A **Reply** may either:

- (a) 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
- (b) 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.