



CIRO · OCRI

Canadian Investment
Regulatory
Organization

Organisme canadien
de réglementation
des investissements

Notice of Hearing

File No. 202327

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ
and
Joshua Emanuel Mifsud**

NOTICE OF HEARING

NOTICE is hereby given that a disciplinary proceeding has been commenced by the Canadian Investment Regulatory Organization (“CIRO”) against Joshua Emanuel Mifsud (the “Respondent”). The first appearance will take place electronically by videoconference before a hearing panel of the Ontario District Hearing Committee of CIRO (the “Hearing Panel”) on December 7, 2023, at 10:00 am Eastern Time or as soon thereafter as the hearing can be held. The Hearing on the Merits will take place at a time and venue to be announced. Members of the public who would like to attend the first appearance by videoconference as an observer should contact hearings@mfsda.ca to obtain particulars.

DATED this 4th day of October, 2023.

“Michelle Pong”

Michelle Pong
Director, District Hearing Committees,
Mutual Fund Dealer Division

Canadian Investment Regulatory Organization
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Telephone: 416-945-5134
Email: corporatesecretary@mfsda.ca

NOTICE is further given that CIRO alleges the following violations of the Mutual Fund Dealer Rules:

Allegation: Between September 7, 2021 and September 9, 2021, the Respondent cut and pasted the signatures of two clients from copies of account forms previously signed by the clients onto four new account forms and submitted the account forms to the Dealer Member for processing, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).¹

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by CIRO at the hearing:

Registration History

1. From March 29, 2016 to October 13, 2021, the Respondent was registered in the securities industry.
2. From June 21, 2021 to October 13, 2021, the Respondent was registered in Ontario as a dealing representative with BMO Investments Inc. (the “Dealer Member”), a Dealer Member of the Corporation (formerly a Member of the MFDA).
3. On October 13, 2021, the Dealer Member terminated the Respondent due to the conduct described herein, and the Respondent is not currently registered in the securities industry.
4. At all material times, the Respondent conducted business in the Halton Hills, Ontario area.

¹ Staff alleges that, at the time of the misconduct, the Respondent contravened MFDA Rule 2.1.1, which is now incorporated into Mutual Fund Dealer Rule 2.1.1 referred to in this proceeding.

Allegation - Cut and Pasted Client Signatures

5. At all material times, the Dealer Member's policies and procedures prohibited the falsification or modification of any account information, record or documentation in any way.

6. Between September 7, 2021 and September 9, 2021, the Respondent cut and pasted the signatures of two clients from copies of account forms previously signed by the two clients onto four new account forms and submitted the account forms to the Dealer Member for processing.

7. The Respondent engaged in the misconduct by digitally affixing onto the account forms electronic images of the clients' signatures that he had obtained from account forms that the clients had previously signed which he stored on his computer.

8. The account forms consisted of a New and Existing Account Application form for a Tax Free Savings Account, a BMO Investments Inc. Account Redemption Form, a BMO Investments Inc. Non-Registered Account Opening Form, and a BMO Investments Inc. Registered Retirement Savings Plan Account Opening Form.

9. By virtue of the foregoing, the Respondent failed to observe a high standard of conduct and ethics in the transaction of business and engaged in conduct unbecoming of an Approved Person, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 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 pursuant to Mutual Fund Dealer Rule 1A that any person subject to the jurisdiction of the Mutual Fund Dealers Association of Canada prior to January 1, 2023 remains subject to the jurisdiction of CIRO in respect of any action or matter that occurred while that person was subject to the jurisdiction of the Mutual Fund Dealers Association of Canada at the time of such action or matter.

NOTICE is further given that the Mutual Fund Dealer Rules provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with CIRO;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Dealer Member or of any regulation or policy made pursuant thereto;
- has failed to comply with the provisions of the Mutual Fund Dealer Rules of CIRO;
- has engaged in any business conduct or practice which such Hearing Panel 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 Office of the Corporate Secretary, Mutual Fund Dealer Division within twenty (20) days from the date of service of this Notice of Hearing.

A **Reply** shall be **served** upon Enforcement Counsel at:

Canadian Investment Regulatory Organization
Mutual Fund Dealer Division
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Attention: Maria L. Abate
Email: mabate@mfda.ca

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

- (a) providing 4 copies of the **Reply** to the Office of the Corporate Secretary, Mutual Fund Dealer Division by personal delivery, mail or courier to:

Canadian Investment Regulatory Organization
Mutual Fund Dealer Division
121 King Street West, Suite 1000
Toronto, ON M5H 3T9
Attention: Office of the Corporate Secretary; or

- (b) transmitting 1 electronic copy of the **Reply** to the Office of the Corporate Secretary, Mutual Fund Dealer Division by e-mail at CorporateSecretary@mfda.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 CIRO in the Notice of Hearing; or

- (ii) admit the facts alleged and conclusions drawn by CIRO 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 CIRO 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 CIRO in the Notice of Hearing as having been proven and may impose any of the penalties described in the Mutual Fund Dealer Rules. **End**.

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 recognized under applicable securities legislation that is called the Canadian Investment Regulatory Organization (referred to herein as “CIRO”). 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. Where the rules of IIROC and the by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules. 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.