



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

and

Antony Kin San Chau

NOTICE OF HEARING

NOTICE is hereby given that a disciplinary proceeding has been commenced by the Canadian Investment Regulatory Organization (“**CIRO**”) against Antony Kin San Chau (the “**Respondent**”). The first appearance will take place by videoconference before a hearing panel of the Ontario District Hearing Committee of CIRO (the “**Hearing Panel**”) on May 21, 2024, at 10:00 a.m. (Eastern) or as soon thereafter as the hearing can be held. The Hearing on the Merits will take place by videoconference 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@ciro.ca to obtain particulars.

DATED this 25th day of March 2024.

“Michelle Pong”

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

Canadian Investment Regulatory Organization
40 Temperance Street, Suite 2600
Toronto, Ontario
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NOTICE is further given that CIRO alleges the following violations of the Mutual Fund Dealer Rules:

Allegation #1: Between March 2018 and March 2021, the Respondent solicited and arranged for a client to loan money to a third party for the Respondent's benefit, contrary to MFDA Rule 2.1.4.¹

Allegation #2: In or about March 2018, the Respondent made misleading representations to a client to have the client loan money to a third party, contrary to Mutual Fund Dealer Rule 2.1.1.

Allegation #3: Commencing April 13, 2023, the Respondent failed to cooperate with an investigation into the Respondent's conduct by Staff of CIRO, contrary to Mutual Fund Dealer Rule 6.2.1.

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:

Overview

1. In March 2018, the Respondent, who was the UDP of the Member at the time, approached client RC, a client of the Member, and asked that client RC lend \$300,000 to a third party, EF. The Respondent represented to client RC that EF was a client of the Respondent who held over \$1 million in assets with the Respondent, and required the loan for the purchase of a property. In reality, the Respondent had made investments with EF and made loans to EF, using his own money and the money of others, which investments and loans had not been repaid. On the basis of the Respondent's representations, client RC loaned \$250,000 to EF. While the Respondent assumed responsibility for the loan and

¹ On June 30, 2021, amendments to MFDA Rule 2.1.4 came into effect. As the conduct addressed in this proceeding commenced prior to the amendments to that Rule, the version of MFDA Rule 2.1.4 that was in effect between February 7, 2006 and June 29, 2021 is applicable to this proceeding.

promised to repay client RC, neither the Respondent nor EF repaid the \$250,000 to client RC.

2. Between September 2022 and April 2023, Staff of CIRO (“**Staff**”) made multiple attempts to obtain a statement and documents from the Respondent and to have the Respondent attend an interview with Staff. The Respondent failed to provide a statement or the requested documents and did not attend a scheduled interview, thereby failing to cooperate with Staff’s investigation.

Registration History

3. Between approximately 1995 and March 2021, the Respondent was registered in the securities industry.

4. Between September 2009 and January 29, 2021, the Respondent was the controlling shareholder, officer, and sole director of TeamMax Investment Corp. (the “**Member**”), a former Member of the MFDA.

5. Between September 2009 and March 1, 2021, the Respondent was registered in Ontario and British Columbia as a dealing representative with the Member.

6. Between January 4, 2010 and January 10, 2020, the Respondent was registered as the Ultimate Designated Person (“**UDP**”) of the Member.

7. The Respondent is no longer registered in the securities industry in any capacity.

8. Effective August 12, 2022, the Member resigned from Membership in the MFDA, and since that date is not registered in the securities industry in any capacity.

9. At all material times, the Respondent conducted business in the Richmond Hill, Ontario area.

Allegation #1 – Soliciting a Client to Loan Monies to a Third Party

10. At all material times, the Member's policies and procedures required its Approved Persons to be aware of conflicts or potential conflicts of interest between the interests of the Member or the Approved Person and the clients, and disclose such conflicts to the Member's Compliance Department.

11. At all material times, client RC was a client of the Member.

12. In February 2018, client RC opened accounts with the Member and purchased investments worth approximately \$450,000.

13. On or around March 9, 2018, the Respondent contacted client RC by telephone and requested that client RC provide an urgent loan (the "Loan") of \$300,000 to a third party, EF. The Respondent told client RC that:

- (a) EF required the Loan to close a purchase of a property;
- (b) the Loan would only be required for a few days and no more than two weeks;
- (c) client RC would receive interest of 10%;
- (d) the Respondent would personally guarantee the Loan; and
- (e) EF was the Respondent's long-time client who was holding over \$1 million of assets with the Respondent.

14. The Respondent's representations to client RC as to the reason for the loan and his relationship with EF were false or misleading. Beginning in 2015, the Respondent, personally and on behalf of other private investors, invested with and loaned money to EF. In March 2018, the Respondent was told by EF that EF required money to pay monies to other third parties. The Respondent understood that if EF were unable to pay the monies to the other third parties, the Respondent would not receive the monies he had invested with and loaned to EF. The Respondent solicited the Loan from RC to EF so that EF could pay these other third parties.

15. At the time the Respondent requested the Loan from client RC, the Respondent was the owner and UDP of the Member.

16. Client RC agreed to provide the Loan, but only had \$250,000 available. Client RC further told the Respondent that funding the Loan would require client RC to borrow against a line of credit.

17. On March 9, 2018, at the instruction of the Respondent, client RC obtained two bank drafts made payable to EF totaling \$250,000 and provided them to the Respondent to provide to EF.² Client RC obtained these monies from the redemption of investments outside the Member, the redemption of a GIC, and borrowing against lines of credit.

18. Despite assurances from the Respondent that client RC would receive repayment of the monies client RC provided pursuant to the Loan, client RC did not receive any repayment of the Loan or the promised interest within two weeks of making the Loan or at all.

19. Between September 27, 2019 and November 3, 2020, the Respondent signed multiple notes, wherein the Respondent acknowledged that the Respondent was responsible to pay client RC the amount of the Loan and promised to make full repayment plus interest of 10% per annum.

20. In 2019, the Respondent made a series of payments to client RC totaling \$28,000.

21. As a consequence of not receiving the repayment of the full \$250,000, client RC redeemed mutual funds held in client RC's Member accounts in order to pay daily expenses. These redemptions resulted in client RC incurring deferred sales charges totaling approximately \$15,000.

² Client RC obtained two bank drafts as the monies for the Loan came from two different banks.

22. On or around February 20, 2020, the Respondent commenced a civil claim against EF, claiming that between 2015 and 2018, the Respondent personally, and on behalf of private investors, invested money with EF or loaned money to EF totaling \$2,095,300, which EF had failed to repay.

23. The Loan was among investments and loans provided to EF described in the Respondent's civil claim.

24. On November 3, 2020, at the request of the Respondent, client RC signed a release in favour of EF, which stated that EF would repay to the Respondent the amounts client RC provided to EF pursuant to the Loan.

25. Beyond the amount set out at paragraph 20 above, to date, client RC has not received any further repayment of the principal or interest of the Loan. On January 16, 2023, client RC commenced a civil claim against the Respondent seeking damages arising from the Respondent's failure to repay the Loan.

26. By soliciting and arranging for client RC to loan money to EF, and promising to repay that loan, the Respondent's conduct gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Member or otherwise address by the exercise of responsible business judgment influenced only by the best interests of the client.

27. By engaging in the conduct described above, the Respondent acted contrary to MFDA Rule 2.1.4.

Allegation #2 – Misleading a Client to Loan Monies to a Third Party

28. As described above at paragraph 14, the Respondent made misleading representations to client RC to have client RC loan money to EF for the Respondent's benefit.

29. By virtue of the foregoing, the Respondent engaged in conduct that fell below the standard of conduct required of Approved Persons, contrary to Mutual Fund Dealer Rule 2.1.1.

Allegation #3 – Failure to Cooperate

30. In September 2022, Staff commenced an investigation into the Respondent's conduct after receiving a complaint from client RC concerning the Respondent's conduct described above.

31. Between September 2022 and April 2023, Staff made multiple attempts to obtain a statement and documents from the Respondent and to have the Respondent attend an interview with Staff. The Respondent repeatedly cited health concerns as a basis for why the Respondent required additional time and could not satisfy Staff's requests.

32. Staff provided the Respondent numerous extensions to provide a statement and documents, and asked that the Respondent provide medical evidence to identify the Respondent's health concerns and why those concerns prevented the Respondent from cooperating with Staff's investigation. The Respondent refused to provide a statement or documents or attend an interview with Staff, and failed to provide any evidence to substantiate that the Respondent's health prevented the Respondent from cooperating with Staff's investigation.

33. As a result of the Respondent's failure to (i) provide Staff with the information and documents it requested; and (ii) attend an interview with Staff, Staff has been unable to understand the full nature and extent of the Respondent's conduct, including whether the Respondent engaged in personal financial dealings with any other clients of the Dealer Member.

34. As a result of the foregoing, the Respondent failed to cooperate with an investigation into the Respondent's conduct by Staff, contrary to Rule 6.2.1 of the Mutual Fund Dealer Rules.

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
40 Temperance Street
Suite 2600
Toronto, ON M5H 0B4
Attention: Alan Melamud
Email: amelamud@ciro.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
40 Temperance Street
Suite 2600
Toronto, ON M5H 0B4
Attention: Office of the Corporate Secretary, Mutual Fund Dealer Division; or

(b) transmitting 1 electronic copy of the **Reply** to the Office of the Corporate Secretary, Mutual Fund Dealer Division by e-mail at Hearings@ciro.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.

iM# 1102708

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.