



**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: Raymond John Zamrykut**

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**AGREED STATEMENT OF FACTS**

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**I. INTRODUCTION**

1. By Notice of Hearing dated 22 April, 2019, the Mutual Fund Dealers Association of Canada (the “MFDA”) commenced a disciplinary proceeding against Raymond John Zamrykut (the “Respondent”) pursuant to ss. 20 and 24 of MFDA By-law No. 1.

2. The Notice of Hearing set out the following allegations:

**Allegation #1:** In May 2014, the Respondent borrowed a total of \$3,100 from two clients, thereby engaging in conduct giving rise to a conflict or potential conflict of interest which the Respondent failed to disclose to the Member, or failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the Member’s policies and procedures and MFDA Rules 1.1.2, 2.1.4, 2.1.1, and 2.5.1.

**Allegation #2:** Between October 2016 and January 2018, the Respondent failed to report to the Member an outstanding garnishment order against the Respondent, contrary to the policies and procedures of the Member, subsection 4.1(h) of MFDA Policy No. 6, and MFDA Rules 1.1.2, 2.1.1 and 2.5.1.

## **II. IN PUBLIC / IN CAMERA**

3. The Respondent and Staff of the MFDA (“Staff”) agree that this matter should be heard in public pursuant to Rule 1.8 of the MFDA Rules of Procedure.

## **III. ADMISSIONS AND ISSUES TO BE DETERMINED**

4. The Respondent has reviewed this Agreed Statement of Facts and admits the facts set out in Part IV herein. The Respondent admits that the facts in Part IV constitute misconduct for which the Respondent may be penalized on the exercise of the discretion of a Hearing Panel pursuant to s. 24.1 of MFDA By-law No. 1.

5. Staff and the Respondent jointly request that the Hearing Panel determine, on the basis of this Agreed Statement of Facts, the appropriate penalty to impose on the Respondent.

## **IV. AGREED FACTS**

6. Staff and the Respondent agree that submissions made with respect to the appropriate sanction are based only on the agreed facts in Part IV and no other facts or documents, subject to paragraph 7 below. In the event the Hearing Panel advises one or both of Staff and the Respondent of any additional facts it considers necessary to determine the issues before it, Staff and the Respondent agree that such additional facts shall be provided to the Hearing Panel only with the consent of both Staff and the Respondent. If the Respondent is not present at the hearing, Staff may disclose additional relevant facts, at the request of the Hearing Panel.

7. Staff and the Respondent agree that the Respondent may lead evidence at the hearing on the merits that is relevant to the Respondent’s financial situation. This evidence will be tendered solely for the purpose of the Hearing Panel’s determination of the appropriate sanction and for no other purpose. Staff may lead any responding evidence at its discretion, and may cross-examine any witnesses tendered by the Respondent.

8. Nothing in this Part IV is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against him.

## **Registration History**

9. From September 2012 to February 2018, the Respondent was registered in Manitoba as a mutual fund salesperson (now known as a dealing representative) with PFSL Investments Canada Ltd. (the “Member”), a Member of the MFDA.

10. On February 7, 2018, the Member terminated the Respondent’s registration, and the Respondent is not currently registered in the securities industry in any capacity.

11. At all material times, the Respondent carried on business in the Winnipeg, Manitoba area.

## **Personal Financial Dealings with Clients**

12. At all material times, the Member’s policies and procedures prohibited its Approved Persons from borrowing money from clients.

13. At all material times, clients RN and SM were clients of the Member whose accounts were serviced by the Respondent.

14. In May 2014, the Respondent borrowed \$2,000 from client RN and \$1,100 from client SM. The Respondent told the clients that he would repay them with interest within one year.

15. The Respondent did not disclose to the Member that he had borrowed monies from clients RN and SM.

16. Clients RN and SM made repeated requests to the Respondent to repay the amounts owing. The Respondent has repaid only \$200 of the \$3,100 that he had borrowed from the clients.

17. The Member compensated clients RN and SM a total of \$2,900 for their loss.

## **Failure to Report a Garnishment**

18. At all material times, the Member’s policies and procedures required its Approved Persons to report any material changes to their information on the National Registration Database, including any garnishments outstanding or rendered against them in any civil court in Canada.

19. On October 14, 2016, a party (not clients RN or SM) commenced a small claim court action against the Respondent for \$5,159.19 at the Manitoba Provincial Court. On April 28, 2017, a Notice of Garnishment was issued against the Respondent indicating that he owed \$6,317.63.

20. The Respondent did not report to the Member that he was a party to the court action and that there was a garnishment against him.

### **The Member's Response**

21. On or about January 4, 2018, client BG contacted the Member and reported that, in or about January 2017 and then in or about June 2017, the Respondent had sought to borrow monies from her on two occasions. Client BG declined the Respondent's requests.

22. The Member then commenced an investigation into the Respondent's conduct, during which the Respondent admitted to the Member that he requested a loan from client BG, and borrowed \$3,100 from clients SM and RN as described above.

23. On February 7, 2018, the Member terminated the Respondent's registration for having personal financial dealings with clients, and for not disclosing that there was a garnishment against him.

24. On February 26, 2018, the Member sent letters to all clients serviced by the Respondent to determine whether he had engaged in personal financial dealings with any other client.

25. In response to the Member's letter, clients SM and RN confirmed to the Member that they provided the loans to the Respondent as described above.

26. During the course of its investigation, the Member also identified the garnishment against the Respondent as described above.

### **Additional Factors**

27. On January 1 of 2015, 2016 and 2017, the Respondent signed the Member's annual compliance attestations on three separate occasions, each time advising the Member that he understood, among other things, that he must not and will not accept cash from a client, nor be involved in any kind of borrowing or lending money arrangement with a client.

28. The Respondent has not previously been the subject of an MFDA disciplinary proceeding.

### **Misconduct Admitted**

29. By engaging in the conduct described above, the Respondent admits that:

- a) In May 2014, the Respondent borrowed a total of \$3,100 from two clients, thereby engaging in conduct giving rise to a conflict or potential conflict of interest which the Respondent failed to disclose to the Member, or failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the Member's policies and procedures and MFDA Rules 1.1.2, 2.1.4, 2.1.1, and 2.5.1; and
- b) Between October 2016 and January 2018, the Respondent failed to report to the Member an outstanding garnishment order against the Respondent, contrary to the policies and procedures of the Member, subsection 4.1(h) of MFDA Policy No. 6, and MFDA Rules 1.1.2, 2.1.1 and 2.5.1.

### **Execution of Agreed Statement of Facts**

30. This Agreed Statement of Facts may be signed in one or more counterparts which together shall constitute a binding agreement.

31. A facsimile copy of any signature shall be effective as an original signature.

**DATED** this 19<sup>th</sup> day of July, 2019.

“Raymond John Zamrykut”

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Raymond John Zamrykut

“Shaun Devlin”

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Shaun Devlin

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President,

Member Regulation – Enforcement