

**DECISION OF A PANEL APPOINTED PURSUANT TO *THE FINANCIAL AND CONSUMER AFFAIRS
AUTHORITY OF SASKATCHEWAN ACT***

IN THE MATTER OF
THE SECURITIES ACT, 1988

AND

IN THE MATTER OF
**MK Futures
And
Maitlan Knoke**
(collectively referred to as the Respondents)

**DECISION OF THE HEARING PANEL
CONCERNING MR. KNOKE'S MOTION
FOR ADJOURNMENT OF THE FIRST APPEARANCE**

Motion Heard: May 17, 2021

Before: Karen Prisciak, Q.C. (Chairperson)
Peter Carton (Panel Member)
Tracey Bakkeli (Panel Member)

Appearances: Mr. Connor Smith (Counsel for the Securities Division of the Financial and Consumer
Affairs Authority, hereinafter "Securities Counsel")

Mr. Maitlan Knoke (on his own behalf and on behalf of MK Futures)

Date of decision: May 25, 2022

I. BACKGROUND

1. We have decided to grant the adjournment requested by Mr. Maitlan Knoke ("Mr. Knoke") on his own behalf and on behalf of MK Futures to June 28, 2022, at 9:00 a.m. for the purpose of allowing him further time to obtain legal counsel. Our reasons for this decision are as follows:

II. FACTS

2. The Statement of Allegations in this matter was originally issued on December 6, 2021 (the "Statement of Allegations").

3. On December 15, 2021, Securities Counsel sent Mr. Knoke a disclosure package containing evidence in the case against the Respondents to 137-142 Pawlychenko Lane, Saskatoon, SK, S7V 0N7 via registered mail. Notably this package did not contain the Statement of Allegations.

4. On January 7, 2022, a Notice of First Appearance was issued setting a First Appearance for January 28, 2022, at 9:00 a.m. This Notice of First Appearance contained the Statement of Allegations.

5. On January 28, 2022, the Panel convened for the First Appearance and were informed that Securities Counsel had not been able to serve the Respondents with the Notice of First Appearance. Securities Counsel requested an adjournment *sine die* for the purpose of effecting service, and we granted that request.

6. On April 7, 2022, a second Notice of First Appearance was issued setting the First Appearance date for May 17, 2022, at 1:00 p.m. This Notice of First Appearance also contained the Statement of Allegations.

7. On April 11, 2022, Mr. Knoke was personally served with the second Notice of First Appearance at 137-142 Pawlychenko Lane, Saskatoon, SK, S7V 0N7.

8. On May 17, 2022, at 1:00 p.m. the First Appearance proceeded via telephone conference as scheduled and Mr. Knoke indicated he was seeking an adjournment.

III. SUBMISSIONS OF THE PARTIES

9. Mr. Knoke indicated that he was speaking on his own behalf as well as on behalf of MK Futures. He indicated that he needed more time to hire a lawyer. He indicated that he had an upcoming appointment with a lawyer in early June and that he had not yet heard back from a second lawyer.

10. In response to a question from the Panel Mr. Knoke indicated that the reason he had not secured a lawyer between April 11, 2022, and the time of the First Appearance was because he had COVID-19. He did not go into any detail on this point.

11. In response to a question from the Panel, Mr. Knoke volunteered that the First Appearance could proceed on June 28, 2022, at 9:00 a.m.

12. Securities Counsel indicated that it had had the opportunity to review section 10.2 of the *Saskatchewan Policy Statement 12-602* (the “*Local Policy*”) and that it was prepared to consent to

Mr. Knoke's requested adjournment. However, Securities Counsel also stated for the record that it was present and prepared to proceed as of the date and time stated in the second Notice of First Appearance. Thus, Securities Counsel indicated that its position was that any delay caused by this adjournment could not be attributed to Securities Counsel. Securities Counsel informed the Panel that it would be available on June 28, 2022, at 9:00 a.m.

13. The Panel thanked the parties for their submissions and reserved its decision.

IV. ANALYSIS

14. Although we appreciate the efforts of the parties to proceed by consent, it remains the Panel's responsibility to consider whether to grant or deny an adjournment on any terms we consider appropriate. The *Local Policy* guides our decision as follows:

10.2 Factors Considered

In deciding whether to grant an adjournment, the Panel will consider all relevant factors, including the following:

- (a) whether an adjournment would be in the public interest;
- (b) whether all parties consent to the request;
- (c) whether granting or denying the adjournment would prejudice any party;
- (d) the amount of notice of the hearing date that the requesting party received;
- (e) any prior adjournment requests made and by whom and the reasons for those prior requests;
- (f) the reasons provided to support the adjournment request;
- (g) the cost to the Authority and to the other parties for rescheduling the hearing;
- (h) evidence that the party made reasonable efforts to avoid the need for the adjournment; and
- (i) whether the adjournment is necessary to provide an opportunity for a fair hearing.

15. In our view, several factors weigh in favour of granting this adjournment. First, the parties consent to this adjournment thus section 10.2(b) weighs in favour of the adjournment. The purpose of the adjournment is to allow Mr. Knoke to retain legal representation. Under section 9(10) of *The Securities Act, 1988*, SS 1988-89, c S-42.2, Mr. Knoke is entitled to choose to be represented by counsel at his expense. Although proceeding with a First Appearance in the absence of counsel is not likely prejudicial, Mr. Knoke has clearly stated that he does not fully understand the proceedings. Thus, even though we do not finally decide any questions at a first appearance, an adjournment to allow Mr. Knoke the opportunity to get professional legal advice is necessary to provide a procedurally fair hearing. Sections 10.2(f) and (i) also weigh in favour of granting the adjournment.

16. As stated, we do not see a risk of prejudice at this early stage of the proceeding so section 10.2(c) is a neutral factor. Similarly, although there is a cost to the Financial and Consumer Affairs Authority associated with the adjournment, having counsel to help Mr. Knoke navigate the remainder of the proceedings will likely result in a more efficient process. At this stage there has been little preparation by the Panel, and there is only a small amount of time set aside for the First Appearance. Section 10.2(g) is also neutral.

17. In our view there are also several factors that weigh against granting the adjournment. Mr. Knoke was personally served with the Notice of First Appearance on April 11, 2022. He was served at the address where the disclosure package had previously been sent via registered mail on December 15, 2021. We are satisfied that Mr. Knoke had ample notice there was a proceeding against him. Mr. Knoke did not provide much evidence of the efforts he made to avoid the necessity of an adjournment. For example, Mr. Knoke did not attempt to explain why he did not seek legal advice, or reach out to Securities Counsel, after receiving the disclosure package in December 2021. Sections 10.2(d) and (h) weigh against granting the adjournment.

18. Although section 10.2(e) would typically weigh in favour of granting an adjournment where Securities Counsel has previously requested an adjournment *sine die* to effect service, in this case we have evidence that Mr. Knoke received a disclosure package in December 2021. As stated above, there is no evidence Mr. Knoke attempted to contact Securities Counsel after receiving the package, and no evidence of any attempt by Mr. Knoke to understand or address the proceeding before or after being personally served at the same address on April 11, 2022. Thus, this factor is neutral.

19. On the whole, after balancing all of these factors, we are of the view that it is in the public interest to grant this adjournment to the date requested by Mr. Knoke.

20. This is an unanimous decision of the Hearing Panel.

Dated at Regina, Saskatchewan this 25 day of May, 2022.


Karen Prisciak, Q.C., Hearing Panel Chairperson


Peter Carton


Tracey Bakke