



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: Harold Magnus Backer

Heard: August 8 and 9, 2018 in Vancouver, British Columbia

Decision: August 9, 2018

Reasons for Decision: February 8, 2019

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

Joseph A. Bernardo
Barbara E. Fraser
Susan Monk

Chair
Industry Representative
Industry Representative

Appearances:

Christopher Corsetti)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Harold Magnus Backer)	Respondent, not in attendance or represented
)	by counsel
)	

1. On August 8 and 9, 2018, the Mutual Fund Dealer's Association of Canada (MFDA) held a disciplinary hearing in Vancouver, British Columbia, against Harold Magnus Backer, the Respondent (Hearing).

2. At the conclusion of the Hearing, the Hearing Panel permanently prohibited the Respondent from conducting securities related business with any MFDA member and ordered that he pay a fine and the costs of the proceeding. These are our reasons.

Procedural History

3. On April 14, 2017, the Respondent was charged with criminal fraud in Victoria, British Columbia.

4. On September 12, 2017, the MFDA Staff issued a notice of hearing alleging that the Respondent had violated MFDA Rules and By-Laws by perpetrating frauds against a number of individuals (Notice of Hearing). The Notice of Hearing also set a date for a first appearance, which in due course was rescheduled and took place by teleconference on November 9, 2017.

5. Additional teleconferences subsequently took place to address scheduling issues and procedural motions.

6. On July 4, 2018, the Respondent pleaded guilty to one count of fraud over \$5000 under section 380(1)(a) of the *Criminal Code* (Canada) and was sentenced to 13 months incarceration.

7. At a teleconference held on July 12, 2018, the Hearing Panel:

- (a) scheduled the Hearing to commence on August 8, 2018; and
- (b) granted the MFDA Staff's application to amend the Notice of Hearing by adding an allegation relating to the Respondent's criminal conviction.

8. On or about July 31, 2018, the MFDA Staff received a letter from the Respondent's lawyer stating that the Respondent would not:

- (a) attend the Hearing;
- (b) be represented by counsel at the Hearing; or

- (c) contest the admissibility of affidavit evidence the MFDA Staff had previously disclosed to the Respondent.

9. On August 1, 2018, the Hearing Panel confirmed the Hearing would commence on August 8, 2018.

Evidence

10. The Notice of Hearing discusses misconduct from 1999 until 2015. The specific breaches alleged against the Respondent, however, refer only to his misconduct from May 15, 2002 onwards, this being the date on which the MFDA assumed enforcement jurisdiction over Members and Approved Persons.

11. The evidence in this case consists of:

- (a) Affidavits the parties tendered in one of the pre-hearing motions. This testimony was limited to establishing facts relevant to procedural issues; none of it is germane to whether or not misconduct occurred.
- (b) Affidavits the MFDA Staff tendered at the Hearing to establish the entirety of the Respondent's misconduct. Under the Staff's theory of the case, this larger historical context is necessary because the alleged breaches are intelligible only as part of an overall pattern of conduct.

12. The relevant facts are summarized below, in the remainder of this section.

Registration

13. At all relevant times, the Respondent carried on mutual fund business in or around Victoria, British Columbia:

- (a) The Respondent became a registered representative for mutual funds on August 29, 1997.
- (b) He continuously maintained that status with various employers up to May 15, 2002, when he became subject to the jurisdiction of the MFDA. This occurred when his employer at the time, Cartier Partners Financial Services Inc., became a Member of the MFDA. The Respondent remained with that firm until March 13, 2003.

- (c) From March 14, 2003 to May 17, 2005, the Respondent was registered as a mutual fund salesperson with HollisWealth Advisory Services Inc., a Member of the MFDA.
- (d) The Respondent became registered as a mutual fund salesperson with Investia Financial Services Inc. (Investia), a Member of the MFDA, on June 8, 2005. He continued in that capacity until he was terminated on November 17, 2015, which ceased his registration in the securities industry in any capacity.
- (e) At the time of his termination, the Respondent was responsible for 22 Investia clients for whom he administered assets of approximately \$2,680,584.41.
- (f) The Respondent has not been previously disciplined by the MFDA.

False prospectus

14. On July 2, 1998, the Respondent incorporated a British Columbia company called My Financial Backer Corporation (MFB). He was the company's sole director.

15. On or about March 1, 1999, the Respondent created and distributed a prospectus for a family of fictitious mutual funds (MFB Funds) purportedly offered by MFB (the MFB Prospectus).

16. The MFB Prospectus was never filed with the British Columbia Securities Commission and the MFB Funds were never registered or qualified under the *Securities Act*, RSBC 1996, c. 418.

Investors BK and EK

17. BK was a close personal friend of the Respondent. BK and his wife EK were also both Investia clients whose accounts were managed by the Respondent.

18. In 1999, the Respondent promoted the MFB Funds to BK and EK, claiming he was the portfolio manager for the funds and providing them with the MFB Prospectus and other marketing material.

19. Between 1999 and 2015, the Respondent solicited and obtained a total of \$608,053.64 from BK and EK for the purported purpose of investment in the fictitious MFB Funds.

20. On or about October 7, 2015, the Respondent sent BK and EK a fictitious MFB quarterly account statement that falsely represented their investment account had a balance of \$822,175.50 invested in various fictitious MFB Mutual Funds and certain equity securities, and that it had an annualized rate of return of 6.89%.

21. During the course of their investment relationship with the Respondent, BK and EK made redemption requests that resulted in the return to them of \$229,346.22. The balance of \$378,707.42 was never returned or otherwise accounted for by the Respondent.

Investor TK

22. BK and EK introduced their daughter TK to the Respondent, and she became an Investia client.

23. Between 2012 and 2015, the Respondent solicited and obtained at least \$20,000 from TK for the purported purpose of investment in the fictitious MFB Funds.

24. TK made a redemption request that resulted in the return of \$10,000 to her. The balance of \$10,000 was never returned or otherwise accounted for by the Respondent.

Investor SV

25. SV became friends with the Respondent in 1996.

26. In or about 2007, the Respondent promoted the MFB Funds to SV, claiming he was the portfolio manager for them.

27. On June 19, 2007, the Respondent solicited and obtained \$680,000 from SV for the purported purpose of investment in the fictitious MFB Funds.

28. On July 10, 2007, the Respondent provided SV with a fictitious MFB account statement falsely representing that his investment in MFB Funds had increased in value. The Respondent continued to provide SV with similar fictitious MFB account statements during their investment relationship.

29. Between November 2008 to November 2009, SV made redemption requests that resulted in the return to him of \$225,000. The balance of \$455,000 was never returned or otherwise accounted for by the Respondent.

Investors NP and FP

30. NP was a longtime friend of the Respondent. He and his wife FP became clients of Investia.

31. The Respondent promoted the MFB Funds to NP, and provided NP and FP with a copy of the MFB Prospectus.

32. Between 2002 and 2012, the Respondent solicited and obtained a total of \$333,900 from NP and FP for the purported purpose of investment in the fictitious MFB Funds.

33. Between 2003 and 2013, NP and FP made redemption requests that resulted in the return to them of \$145,000. The balance of \$188,400 was never returned or otherwise accounted for by the Respondent.

34. The Respondent provided NP and SP with fictitious MFB account statements that led them to believe that the value of their investments in the fictitious MFB Funds was increasing.

Investor DG

35. DG met the Respondent in the early 1990s. They became friends and DG became an Investia client. The Respondent promoted the MFB Funds to DG, claiming he ran them.

36. On or about April 2, 2012, the Respondent solicited and obtained \$15,600 from DG for the purported purpose of investment in the fictitious MFB Funds.

37. DG subsequently made redemption requests that resulted in the return to him of \$6,800. The balance of \$8,800 was never returned or otherwise accounted for by the Respondent.

Respondent's disappearance

38. In October 2015, BK and EK requested a redemption in the amount of \$100,000.

39. Shortly thereafter, on November 3, 2015, the Respondent failed to return home from a bicycle ride and was reported missing.

40. That same month, investors in the MFB Funds received an unsigned letter dated October 2015. Investors BK, SV, and NP were among the recipients.

41. The circumstances of the letter's delivery and the nature of its contents led a number of its recipients to believe it had been written and sent by the Respondent:

- (a) The letter was received shortly after the Respondent's disappearance.
- (b) In the letter, which was written in the first person, the author described MFB as an investment fund vehicle directed by himself.
- (c) The letter described MFB's operating principle to be that mutual funds should receive fees only if they outperform industry benchmarks. This was the same investment strategy the Respondent advertised in marketing material he gave to BK.
- (d) The author of the letter admitted to having deceived investors about their returns since 1999, that he had been running a pyramid scheme, and that the investors were friends to whom he had done a "terrible thing".
- (e) The letter sent to BK was enclosed in an envelope whose return address was the same as the mailing address the Respondent had used for MFB.
- (f) The letter's author referred to private information known to the Respondent, namely, that some MFB Funds investors were also Investia clients.
- (g) One of the recipients, SV, received a second letter in November 2015. The author identified himself as "Harold" and, like the author of the first letter, expressed regret over concealing poor business decisions made 15 years before and the harm he had caused.

42. Investia commenced an investigation after learning about the Respondent's disappearance. It determined that:

- (a) A total of ten Investia clients had invested in MFB Funds. In addition to investors BK, EK, TK, NP, FP, and DG already discussed above, the other Investia clients were BC, LC, AC, and MC.
- (b) In June 2005, the Respondent had disclosed to Investia that he was carrying on outside business activity through MFB, but misrepresented the company as a vehicle he had established to invest his family's assets.
- (c) The Respondent again misrepresented MFB to Investia in each of 2011, 2012 and 2013, on those occasions purporting he was using MFB to carry on a tax planning business.
- (d) The Respondent had failed to comply with Investia's policies and procedures prohibiting Approved Persons from engaging in securities related business outside of their employment.

43. Investia terminated the Respondent on November 17, 2015.

Failure to Cooperate

44. On or around May 1, 2017, the Respondent was released on judicial interim release pending his criminal trial. Subsequently, the MFDA Staff made multiple attempts to arrange an interview with him:

- (a) On May 8, 2017, the MFDA Staff sent the Respondent a letter via email and registered mail to his legal counsel, requesting an interview and asking for a response within ten business days. The Respondent did not respond.
- (b) On June 8, 2017, the MFDA Staff sent the Respondent another letter proposing interview dates, this time by both registered mail and process server. The letter was personally served on the Respondent on June 14, 2017 and requested a response by no later than June 22, 2017. The Respondent again failed to respond.
- (c) On June 28, 2017, the MFDA Staff sent the Respondent a letter by registered mail informing him that it intended to allege failure to cooperate. This letter was delivered on June 30, 2017.

Fraud Conviction

45. On July 4, 2018, the Respondent pleaded guilty and was convicted of one count of fraud.
46. In an agreed statement of facts, the Respondent admitted that he had perpetrated criminal fraud by soliciting money from five individuals for the purported purpose for investment in MBF and then diverting it to other purposes. Specifically:
- (a) On May 6, 2013, investors BC and LC relying on the Respondent's advice drew down on a line of credit secured by their house to make an investment in the amount of \$207,000; the Respondent diverted \$93,000 of these funds to other purposes, including his own personal use.
 - (b) On January 13, 2015, investor AC made an investment in the amount of \$25,000; the Respondent diverted \$23,500 of these funds to other purposes, including his own personal use.
 - (c) On April 29, 2015, investor IV made an investment in the amount of \$37,500. On May 4, 2015, the Respondent transferred all of these funds into his own personal line of credit; he diverted approximately \$35,000 to other purposes, including making a payment to another investor.
 - (d) On October 18, 2015, HS made an investment in the amount of \$7,900; the Respondent diverted all of these funds to other purposes, including his own personal use.

Breach allegations

47. MFDA Rule 2.1.1 requires Approved Persons to observe ethical standards and refrain from business conduct unbecoming or detrimental to the public interest.
48. Allegations one, two, and four of the Notice of Hearing assert that the Respondent contravened MFDA Rule 2.1.1 in three different ways by:
- (a) fraudulently inducing a set of individuals to invest in non-existent mutual funds;
 - (b) failing to repay or account for the money; and
 - (c) being criminally convicted for defrauding a different set of individuals.

49. Allegation three asserts that the Respondent failed to cooperate with the MFDA's investigation into his conduct, contrary to his obligation to do so under section 22.1 of MFDA By-law No. 1.

Findings

50. A respondent's failure to attend a hearing engages section 20.4 of MFDA By-law No.1 and Rule 7.3 of the MFDA Rules of Procedure. The MFDA Staff sought leave under these provisions to proceed with the Hearing in the Respondent's absence, which the Hearing Panel granted.

51. The same provisions confer on hearing panels the discretion to find the allegations in a notice of hearing as proved without receiving further evidence and to impose penalties, all without further notice to the respondent. The MFDA Staff did not seek to rely on this procedure. Instead, it elected to prove its case by adducing affidavit evidence further to Rules 1.6 and 13.4 of the MFDA Rules of Procedure.

52. In so doing, the MFDA Staff assumed the burden of putting forward evidence that was sufficiently clear, cogent and convincing to establish on a balance of probabilities the misconduct alleged in the Notice of Hearing.

F.H. v. McDougall, 2008 SCC 53 at paras 40, 46 and 49.

53. As already observed, the Respondent in this case tendered only limited affidavit testimony in order to advance a procedural argument. None of that evidence contradicts in any respect the evidence tendered by the MFDA Staff regarding the Respondent's misconduct.

54. The Hearing Panel finds that:

- (a) Investigator and client affidavit testimony establishes beyond doubt that the MFB Funds were fictitious; that the Respondent promoted and sold them to Investia clients and other individuals; and that the Respondent failed to account for all the funds he fraudulently obtained from investors.
- (b) The record of the MFDA Staff's correspondence with the Respondent establishes a wilful refusal to co-operate with the investigation.

- (c) The Respondent's criminal conviction is proved by the warrant issued by the Provincial Court of British Columbia committing the Respondent to detention, and the facts underlying the conviction are established by the agreed statement of facts that was entered as an exhibit to the criminal proceedings.
- (d) The Respondent authored the letter his clients received after he disappeared; on a plain reading of the letter, he admitted to deceiving the recipients and causing them economic deprivation.

55. The evidence that establishes allegations one and two varies in some details from the particulars set out the Notice of Hearing. Nonetheless, the case against the Respondent has been amply made out:

- (a) between May 15, 2002 and November 17, 2015, the Respondent failed to repay or otherwise account for approximately \$719,853.78 that he solicited from at least 6 clients [*investors BK, EK, TK, NP, FP, and DG*] and 1 individual [*investor SV*] to invest in a fictitious mutual fund, thereby failing to deal fairly, honestly and in good faith with clients and engaging in conduct that is unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1;
- (b) between May 15, 2002 and November 17, 2015, the Respondent fraudulently induced at least 10 clients [*investors BK, EK, TK, NP, FP, DG, BC, LC, AC, and MC*] and 3 individuals [*investors SV, IV, and HS*] to invest in non-existent mutual funds, thereby failing to deal fairly, honestly and in good faith with clients and engaging in conduct that is unbecoming and detrimental to the public interest, contrary to MFDA Rule 2.1.1;
- (c) commencing June 28, 2017, the Respondent failed to cooperate with an investigation into his conduct by Staff of the MFDA, contrary to section 22.1 of MFDA By-law No. 1; and
- (d) on July 4, 2018, the Respondent pled guilty and was convicted of a single count of fraud, contrary to section 380(1) of the *Criminal Code*, R.S.C, 1985, c. C-46 and thereby failed to observe high standards of ethics and conduct in the transaction of business, engaged in business conduct or practice which is unbecoming and

detrimental to the public interest, and failed to be of such character and business repute as is consistent with the standards prescribed by MFDA Rule 2.1.1.

Penalty

56. In the same July 31, 2018 letter by which legal counsel informed the MFDA Staff that the Respondent would not participate in the Hearing, counsel also briefly put forward his client's position on penalty in the event of a liability finding:

- (a) if any fines were imposed, the time given to pay them should be sufficient to allow the Respondent to arrange his affairs upon release from custody;
- (b) no fines should be imposed for lack of co-operation;
- (c) no costs should be imposed; and
- (d) the MFDA's collection efforts in respect of any fines should not interfere with victim compensation, which should take priority.

57. Enforcement Counsel made extensive penalty submissions on the MFDA Staff's behalf. This included a detailed review of the aggravating factors in this case. The Staff's position, at its most essential, is that fraud and failure to account for client monies are egregious forms of misconduct that warrant the most serious of penalties. This is indisputable, both as a general proposition and as a response to the evidence.

58. The Respondent's misconduct began in the earliest years of his career in the industry and was distinguished from the very outset by its purposefulness. There is nothing inadvertent about the harm his misconduct continues to impose on its victims:

- (a) All fraud is deliberate, but in the Respondent's case it was executed assiduously over a period of roughly 15 years. During that time, he concealed and perpetuated his misconduct with fictitious account statements and by reporting fabricated rates of return.
- (b) The Respondent exploited the professional trust relationship he enjoyed with his clients. He also betrayed the personal trust of long-time friends.

- (c) The individuals defrauded by the Respondent have suffered more than monetary losses.
 - i. The loss of NP's retirement savings caused him a great deal of stress, leading to a stroke shortly after the Respondent's disappearance that left NP adversely affected both physically and cognitively.
 - ii. Having lost much of their life savings, BK and EK now face an uncertain retirement and must cope with the knowledge that they were betrayed by a trusted friend they had known for 30 years. The emotional stress and sadness cause sleepless nights.
 - iii. SV's substantial financial loss is all the more bitter for knowing that it was the result of betrayal at the hands of a friend he had known for 20 years.
- (d) A respondent's failure to co-operate with an investigation must always be regarded as serious misconduct, because it interferes with the MFDA Staff's ability to get at the truth. In the present case, this is not an abstract consideration.
 - i. The Respondent's fraud was "off book", which is to say he peddled the non-existent mutual funds outside of Investia's normal course record keeping requirements.
 - ii. This means his failure to co-operate constrained the investigation by limiting the scope of the inquiry to only those individuals who stepped forward as self-identified victims of his fraud.
 - iii. Therefore, a direct consequence of the Respondent's failure to co-operate, and its deeper significance, is that the full scale of his misconduct and the precise quantum of his ill-gotten gains both remain unknown.

59. Genuine remorse can be a mitigating factor. There is little reason to believe it is present in this case.

- (a) The Respondent expressed regret in the letter he sent to investors, but in self-serving terms that failed to acknowledge the crucial fact that he had diverted much of their money to his own personal use.
- (b) The letter must also be understood in its proper context. The Respondent was still cheating people as late as April and October 2015, when he defrauded IV and HS

of \$37,500 and \$7,900, respectively. Moreover, the letter was sent just after the Respondent disappeared; he cannot in any meaningful sense be understood as accepting responsibility for his misconduct when he was endeavouring to escape its consequences.

- (c) It is to the Respondent's credit that he pleaded guilty to fraud in the criminal courts. It is obvious from the evidence as a whole, however, that the agreed statement facts filed in the criminal case does not come close to reflecting the true scale of his wrongdoing. It follows that the Respondent's expression of remorse in the agreed statement of facts must be given limited weight, especially when considered in light of his failure to co-operate with the MFDA Staff's investigation.

60. Enforcement Counsel reviewed the Hearing Panel's jurisdiction to impose sanctions and the relevant principles articulated in the case law. These are well-known and, in a sense, form part of the familiar background whenever penalties are to be determined. In a case as serious as this one, it is appropriate to discuss them briefly.

61. Section 24.1.1 of MFDA By-law No. 1 confers on a hearing panel the jurisdiction to impose the following penalties on an Approved Person who has failed to comply with any By-law, Rule, or Policy of the MFDA:

- (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[.]

62. In cases where a registrant has failed to account for client monies, hearing panels typically find that the amount of the fine should be at least equal to the amount of money obtained from the clients.

Latour (Re), MFDA File No. 201561, Hearing Panel of the Central Regional Council, Decision and Reasons (Penalty) dated December 19, 2016.

Longchamps (Re), MFDA File No. 200829, Hearing Panel of the Central Regional Council, Decision and Reasons dated September 22, 2010.

Ng (Re), MFDA File No. 201539, MFDA Hearing Panel of the Central Regional Council, Decision and Reasons dated July 8, 2016.

63. The function of penalties in MFDA proceedings is to serve the larger goals of securities regulation generally, namely, protecting the investing public and fostering public confidence in the capital markets and the securities industry.

Pezim v. British Columbia (Superintendent of Brokers), [1994] 2 S.C.R. 557, at paras. 59, 68.

64. Since sanctions are intended to serve purely protective purposes, the discretion to order penalties must always be exercised with a view towards preventing likely future harm. A penalty order should be forward looking, not retrospective or punitive.

65. The Supreme Court of Canada has been definitive in holding that general deterrence is an appropriate factor consideration when determining penalty within the securities regulatory context.

A penalty that is meant to deter generally is a penalty that is designed to keep an occurrence from happening; it discourages similar wrongdoing in others. In a word, a general deterrent is preventative. It is therefore reasonable to consider general deterrence as a factor, albeit not the only one, in imposing a sanction . . . The respective importance of general deterrence as a factor will vary according to the breach of the Act and the circumstances of the person charged...

Cartaway Resources Corp. (Re), [2004] 1 S.C.R. 672 at para. 61.

66. Following this reasoning, the MFDA Staff submitted that the following penalties are proportionate to the gravity of the Respondent's misconduct and necessary for specific and general deterrence purposes:

- (a) a permanent prohibition from conducting securities related business in any capacity with any MFDA Member;
- (b) a fine of not less than \$1,000,000, to be reduced by any amounts paid in restitution by the Respondent by August 9, 2020; and
- (c) costs in the amount of \$17,875.

Investor losses

67. BC, LC, AC, IV, and HS were the victims identified in the criminal prosecution. They were found to have sustained a total of \$161,900 in losses as result of the Respondent's fraud and, accordingly, his sentence included restitution orders requiring him to repay the victims to that aggregate amount.

68. BK, EK, TK, SV, NP, FP, and DG were the victims separately identified by the MFDA Staff's investigation. The Respondent has failed to account for or return a total of approximately \$1,040,907.42 of the money he solicited and obtained from them by promoting the fictitious MFB Funds. Of these outstanding funds, \$321,053.64 was raised before the Respondent came under the MFDA's jurisdiction and \$719,853.78 was raised afterwards.

69. According to the available evidence, then, the aggregate amount lost by the Respondent's victims while he was under the MFDA's jurisdiction was not less than \$881,753.78.

Orders

70. It is difficult to conceive of more grievous of misconduct than fraud, which in this case is compounded by seriously aggravating factors. We agree with MFDA Staff that a permanent prohibition is warranted.

71. In determining the appropriate monetary penalty, the Respondent's fraudulent mistreatment of investors and his failure to co-operate need to be examined separately.

- (a) With respect to allegations one, two, and four, the evidence establishes that the Respondent perpetrated his frauds over an extensive period of many years. In the Hearing Panel's judgment, the deliberate and wilful nature of his misconduct and the serious harm he imposed on investors justifies a deterrent response in the form of a monetary penalty equal to three times his illegal profit, or \$2,645,261.34.
- (b) An Approved Person's obligation to co-operate is an integral element of the MFDA's public protection mandate: co-operation is always necessary, but it is absolutely essential when investors have sustained losses. The Respondent's failure to co-operate with the investigation materially obstructed the MFDA Staff from uncovering the full scope of his misconduct. A penalty of \$100,000 is a proportionate response to the gravity of his failure to co-operate.

72. With respect to costs, the MFDA Staff submitted a bill of itemized costs in support of its request. Upon review of the bill, we are satisfied that the requested order is appropriate.

73. For these reasons, at the conclusion of the Hearing we ordered that:

- (a) The Respondent is permanently prohibited from conducting securities related business in any capacity while in the employ of, or in association with, any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- (b) The Respondent shall pay a fine in the amount of \$2,745,261.34, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- (c) The amount of the fine payable shall be reduced by any amounts the Respondent shall have paid during the period commencing from the date of this Order to August 9, 2020 to his former clients BK, EK, TK, NP, FP, and DG, the individual SV, and the individuals named in the restitution order made against the Respondent in Victoria Court File No. 170775-1;
- (d) The Respondent shall pay costs of this proceeding in the amount of \$17,875, pursuant to s. 24.2 of MFDA By-law No. 1; and
- (e) If at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the

MFDA Privacy Policy, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the *MFDA Rules of Procedure*.

DATED this 8th day of February, 2019.

“Joseph A. Bernardo”

Joseph A. Bernardo
Chair

“Barbara E. Fraser”

Barbara E. Fraser
Industry Representative

“Susan Monk”

Susan Monk
Industry Representative

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