



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: Gurpreet Singh Bansal

Heard: October 6, 2016, in Vancouver, British Columbia
Reasons for Decision: November 23, 2016

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

Robert G. Ward, Q.C.
Cecilia Wong
Bob Sokugawa

Chair
Industry Representative
Industry Representative

Appearances:

Christopher Corsetti)	Counsel for the Mutual Fund Dealers
)	Association of Canada
)	
Gurpreet Singh Bansal)	Attended by teleconference
)	
)	

BACKGROUND

1. By Notice of Hearing August 23, 2016 (the “Notice of Hearing”), a Hearing Panel of the Pacific Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) was convened to hear the merits of this matter.

2. The allegations against Gurpreet Singh Bansal (the “Respondent”) are that between July 12, 2012 and December 10, 2013 the Respondent obtained and maintained 87 pre-signed account forms for at least 37 clients. The pre-signed account forms consisted of the following:

- (a) 12 account opening forms;
- (b) 2 Registered Savings Plan application forms;
- (c) 13 change of dealer forms;
- (d) 14 account transfer forms;
- (e) 25 letters of direction;
- (f) 3 Education Savings Plan application forms;
- (g) 7 Tax Free Savings Account forms;
- (h) 8 Investor Questionnaires;
- (i) 2 account modification forms; and
- (j) 1 trade ticket.

FACTS

3. The MFDA and the Respondent agreed with certain facts for the purpose of this hearing (the “Agreed Statement of Facts”). Contained in paragraphs 4 to 16 inclusive hereof are the facts from the Agreed Statement of Facts, as agreed to between the MFDA and the Respondent, taken verbatim.

Registration History

4. From July 12, 2012 to December 10, 2013 when he resigned, the Respondent was registered in British Columbia as a mutual fund salesperson (now known as a Dealing Representative) with Desjardins Financial Security Investments Inc. (“Desjardins”), a Member of the MFDA.

5. From July 2010 to January 2012, the Respondent was previously registered in British Columbia as a mutual fund salesperson with WFG Securities Inc. (formerly known as Transamerica Securities Inc.), a Member of the MFDA.

6. The Respondent is not currently registered in the securities industry in any capacity.

7. At all material times, the Respondent carried on business from a branch office of Desjardins located in Kelowna, British Columbia.

Pre-Signed Forms

8. At all material times, Desjardins’ policies and procedures prohibited its Approved Persons from obtaining or maintaining pre-signed blank or partially completed account forms to conduct business.

9. Between July 12, 2012 and December 10, 2013, the Respondent obtained and maintained 87 pre-signed account forms for at least 37 clients. The pre-signed account forms consisted of the following:

- (a) 12 account opening forms;
- (b) 2 Registered Savings Plan application forms;
- (c) 13 change of dealer forms;
- (d) 14 account transfer forms;
- (e) 25 letters of direction;

- (f) 3 Education Savings Plan application forms;
- (g) 7 Tax Free Savings Account forms;
- (h) 8 Investor Questionnaires;
- (i) 2 account modification forms; and
- (j) 1 trade ticket.

10. Desjardins detected the conduct described herein in August 2013 during a routine audit of the client files maintained by the Respondent. Desjardins subsequently commenced an investigation into the Respondent's activities.

11. The Respondent admitted that he obtained and maintained pre-signed account forms in response to inquiries from Desjardins and the MFDA.

12. Desjardins sent letters to all of the clients serviced by the Respondent to determine whether the Respondent had engaged in any unauthorized trading in client accounts. None of the clients reported any such concerns to Desjardins.

13. On September 26, 2013, Desjardins placed the Respondent on close supervision.

14. On December 10, 2013, Respondent submitted his resignation to Desjardins.

15. There is no evidence that:

- (a) the Respondent processed any trades or changes to client information without the knowledge or authorization of his clients;
- (b) clients suffered any financial harm as a result of the Respondent's conduct;
- (c) the Respondent received any financial benefit from engaging in the misconduct beyond the commissions or fees to which he would have been ordinarily entitled had the transactions in the clients' account been carried out in the proper manner; and
- (d) any clients have complained about the Respondent's conduct.

Misconduct Admitted

16. By engaging in the conduct described above, the Respondent admits that, between July 12, 2012 and December 10, 2013, he obtained and maintained 87 pre-signed account forms for 37 clients, contrary to MFDA Rule 2.1.1.

Submissions of the Respondent

17. Notwithstanding the agreement as to facts set forth above, the Respondent has submitted, without objection from Staff of the MFDA, additional evidence indicating:

- (a) That he did not know that there was anything wrong with obtaining pre-signed account forms;
- (b) that he was not adequately (or at all) trained or told by anyone that obtaining and using pre-signed forms was contrary to the MFDA Rules; and
- (c) given his lack of training and his financial circumstances, the normal penalties should be mitigated.

18. The MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry, and requires that each Member and Approved Person serve high standards of ethics and conduct in the transaction of business. Both Members and Approved Persons are expected to be aware of, and comply with, their regulatory obligations

19. The Member had explicit policies that prohibited an Approved Person from obtaining or maintaining pre-signed forms, and these policies and procedures were breached by the Respondent.

20. The MFDA has been warning Approved Persons against the use of pre-signed forms for a number of years by MFDA Staff Notices in 2004, 2007 and 2015. There is adequate authority¹

¹ *Re Byce*, 2013, Hearing Panel of Ontario Regional Council; MFDA File No. 201311, September 4, 2013;

for the proposition that obtaining or using pre-signed account forms is a contravention of the standard of conduct under MFDA Rule 2.1.1. The rules against pre-signed forms are not arbitrary; they affect the integrity and reliability of account documents, they lead to the destruction of the audit trail, they have a negative impact on Member complaint handling, and they clearly have the potential for misuse in the form of unauthorized trading.² Both *Re Price* and *Re Byce* (supra) make it clear that the prohibition on the use of pre-signed account forms applies regardless of whether the client was aware or authorized the use of the pre-signed forms, and regardless also of whether the forms were actually used.

Principles Governing the Determination of the Panel

21. It was explained in *Re Headley*, 2006 MFDA File No. 200509 at pages 25 to 26 that the following should be considered:

- (a) the seriousness of the allegations proved against the Respondent;
- (b) the Respondent's past conduct, including prior sanctions;
- (c) the Respondent's experience and level of activity in the capital markets;
- (d) whether the Respondent recognizes the seriousness of the improper activity;
- (e) the harm suffered by investors as a result of the Respondent's activities;
- (f) the benefits received by the Respondent as a result of the improper activity;
- (g) the risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
- (h) the damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- (i) the need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
- (j) the need to alert others to the consequences of inappropriate activities to those who are permitted to participate in the capital markets; and

Re Price, 2011, Hearing Panel of Ontario Regional Council, MFDA Policy File No. 200814, April 18, 2011
² *Re Price* [supra] paras. 122-4.

- (k) previous decisions made in similar circumstances.

22. While they are not binding, where an Approved Person fails to adhere to the standard of conduct, the MFDA Penalty Guidelines recommend a minimum fine of \$5,000, writing or re-writing an appropriate industry course, suspension or a permanent prohibition in egregious cases.

Specific Factors Applicable Herein

- (a) The misconduct took place over the course of a year and a half.
- (b) 84 forms were obtained and 37 clients implicated. It was a standard practice.
- (c) The Respondent was registered with two separate Members prior to the misconduct and was bound to comply with MFDA Rules and Member policies but failed to do so.
- (d) Desjardins had a policy and procedure prohibiting Approved Persons obtaining or maintaining pre-signed or partially completed account forms to conduct business.
- (e) There is no evidence that clients were harmed.
- (f) There is no evidence that the Respondent received any financial benefit for engaging in the misconduct.
- (g) While the Panel has some sympathy with the Respondent's economic circumstance and professed lack of knowledge, the Respondent was obligated to know and comply with his regulatory obligations, whether or not he was aware of those obligations.
- (h) The Respondent has not previously been subject to MFDA disciplinary proceedings.
- (i) The Respondent has proved to be cooperative and has accepted responsibility for his misconduct.
- (j) We have considered a number of authorities in coming to our decision, including *Re Mansu Ding*, [2015] MFDA File No 201518, *Re David Ewart*, [2015] MFDA File No. 201528 and *Re Lachman Balani* [2015] MFDA File No. 201402.

Decision and Penalty

23. It is the decision of the Hearing Panel that a fine in the amount of \$12,500 and costs in the amount of \$2,500 are a significant penalty, and is adequate to address the issue of specific and general deterrence, to maintain confidence in the integrity of the MFDA and its regulatory process, and is in the public interest. In the result, we so order.

DATED this 23rd day of November, 2016.

“Robert G. Ward”

Robert G. Ward, Q.C.
Chair

“Cecilia Wong”

Cecilia Wong
Industry Representative

“Bob Sokugawa”

Bob Sokugawa
Industry Representative

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