

Decision and Reasons (Penalty)

File No. 2016106



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: Tim Long Chang

Heard: August 15, 2017 in Toronto, Ontario
Misconduct Decision: August 15, 2017
Decision & Reasons (Penalty): January 5, 2018

DECISION AND REASONS (PENALTY)

Hearing Panel of the Central Regional Council:

H. Michael Kelly, QC
Brigitte J. Geisler
Paige A. Wadden

Chair
Industry Representative
Industry Representative

Appearances:

Paul Blasiak)	Counsel for the Mutual Fund Dealers
)	Association of Canada
)	
)	
Tim Long Chang)	Respondent, not in attendance or represented by
)	counsel
)	

Introduction

1. On December 16, 2016, Staff of the Mutual Fund Dealers Association of Canada (“MFDA”) issued a Notice of Hearing¹ in respect of Tim Long Chang (“Respondent”), which alleged the following:

Allegation #1: Between about November 2012 and November 2014, the Respondent engaged in a dual occupation, which was not approved by the Member, contrary to MFDA Rules 1.2.1(c) (now Rule 1.3.2) and 2.1.1.

Allegation #2: In December 2012, the Respondent misled the Member when he falsely represented to the Member that he did not have an active role and did not engage in client related activities at his dual occupation, contrary to MFDA Rule 2.1.1.

Allegation #3: Between about February 2012 and November 2014, the Respondent failed to report to the Member within 2 business days, or at all, the fact that he was named as a respondent in a regulatory disciplinary proceeding commenced against him, contrary to MFDA Policy No. 6, subsection 4.1(c) and MFDA Rule 1.2.2(b) (now Rule 1.4(b)).

Allegation #4: In May 2014, the Respondent offered to directly reimburse a client for a loss or fee that the client was to incur upon the transfer of the client’s investments to an account serviced by the Respondent, thereby engaging in personal financial dealings with the client which gave rise to a conflict or potential conflict of interest that the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rules 2.1.4 and 2.1.1.

2. The Panel is satisfied that the Notice of Hearing was properly served upon the Respondent, as set out in the Affidavit of Service of Shane Hiley, sworn February 10, 2017² and

¹ Exhibit 1

² Exhibit 2

in the Affidavit of Service of Terri Spence, sworn February 16, 2017.³ The Notice of Hearing stated that the first appearance would proceed by teleconference, on March 13, 2017, at 9:30 a.m. (Eastern). The Respondent was served with the Notice of Hearing, but did not serve or file a Reply to the Notice of Hearing.⁴

3. The Respondent did not attend the first appearance on March 13, 2017. At the first appearance, the Hearing Panel ordered that the Hearing on the merits shall take place on August 15, 2017.

4. The Panel is satisfied that, as described in paragraphs 6 to 9 of the Affidavit of Jessie Siu, MFDA Investigator, sworn August 8, 2017 (“Siu Affidavit”)⁵, the Respondent was aware of the date, time and location of the Hearing on the merits and had decided that he did not wish to attend the Hearing, and communicated that decision to MFDA counsel.

Evidentiary Protocol – Admissibility of Evidence

(a) Failure to Deliver a Reply or to Attend a Hearing

5. Under Rule 8.1 of the MFDA Rules of Procedure, a Respondent is required to serve and file a Reply within 20 days of service of the Notice of Hearing.

6. MFDA Rule 8.4 (1) provides that where a Respondent fails to serve and file a Reply to the Notice of Hearing, a Hearing Panel may do one or more of the following:

- a) proceed with the hearing without further notice to, and in the absence of, the Respondent;
- b) accept the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing as proven and impose any of the penalties and costs described in sections 24.1 and 24.2 respectively of MFDA By-law No. 1;

³ Exhibit 3

⁴ Exhibit 4 - Affidavit of Jessie Siu, sworn August 8, 2017, paragraph 11

⁵ Exhibit 4 - Affidavit of Jessie Siu, sworn August 8, 2017

- c) order that the Respondent pay costs, at any stage of the proceeding, regardless of the outcome of the proceeding and in addition to any other penalties and costs imposed on the Respondent, in an amount which reflects the extent to which, in the Hearing Panel's discretion, the hearing will be or has been unnecessarily prolonged or complicated by the failure of the Respondent to deliver a proper Reply;
- d) prohibit, restrict, or place terms on the right of the Respondent to call witnesses or present evidence at the hearing.

(b) Failure to Attend Hearing

7. Pursuant to **Rule 7.3 (1)** of the MFDA Rules of Procedure, where a Respondent fails to attend a Hearing, the Hearing Panel may:

- a) proceed with the hearing without further notice to, and in the absence of, the Respondent; and
- b) accept the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing as proven and impose any of the penalties and costs described in sections 24.1 and 24.2 respectively of MFDA By-law No. 1.

(c) Admissible evidence

8. MFDA Rule of Procedure 1.6 specifically permits the following to be admitted as evidence:⁶

Subject to sub-Rule (3), a Panel may admit as evidence any testimony, document or other thing, including hearsay, which it considers to be relevant to the matters before it and is not bound by the technical or legal rules of evidence.

(2) A Panel may admit a copy of any document or other thing as evidence if it is satisfied that the copy is authentic.

⁶ Rule 1.6 of the MFDA Rules of Procedure, Staff's Book of Authorities, Tab 7

(3) Nothing is admissible in evidence which would be inadmissible by reason of a statute or a legal privilege.

Likewise, MFDA Rule of Procedure 13.4 permits evidence to be adduced by way of sworn statement, as follows:⁷

The Hearing Panel may allow the evidence of a witness or proof of a particular fact or document to be given by sworn statement unless an adverse party reasonably requires the attendance of the witness at the hearing for cross-examination.

The Facts

9. In accordance with the procedural rules described above, the Panel accepts the facts as set out in the comprehensive *Siu Affidavit*,⁸ and the conclusions drawn by MFDA staff articulated in the volume entitled "Submissions of Staff of the MFDA". The pertinent facts are set out as follows.

The Respondent's Registration History

10. The Respondent was registered in the securities industry commencing in 2004. From August 2009 to November 2014, the Respondent was registered in Ontario and Québec as a mutual fund salesperson (now known as a dealing representative) with Investors Group Financial Services Inc. ("Investors Group"), a Member of the MFDA.

11. On November 27, 2014, the Respondent's employment was terminated by the Member, as a result of the matters described herein, and is not currently registered in the securities industry.

⁷ Rule 13.4 of the MFDA Rules of Procedure, Staff's Book of Authorities, Tab 8

⁸ Exhibit 4, *Siu Affidavit*

Re. Allegations #1 and #2: Unapproved Dual Occupation, and Misleading the Member (Rules 1.2.1(c) and 2.1.1)

12. In November 2012, the Respondent acquired the accounting firm Leach Bradbury Professional Corp. ("Leach Bradbury"), and applied to Investors Group for approval of this dual occupation. In December 2012, Investors Group declined approval on the basis that the submitted Outside Business Activity Approval Form ("OBA")⁹ did not adequately describe the Respondent's involvement with Leach Bradbury. More information was requested. The Respondent met with the Division Director of Investors Group on December 20, 2012 to complete a second OBA¹⁰. Based on the information provided by the Respondent, Investors Group, in January 2013, approved the dual occupation.

13. However, the information provided by the Respondent, in the OBAs was misleading. The Respondent advised that he did not perform any professional function at Leach Bradbury, and was simply a majority shareholder, and in that capacity managed the cash flow of the company.¹¹ Shortly thereafter, Investors Group discovered that the Respondent was providing "Planning Services" (tax planning, succession planning, asset planning, and estate planning services) on behalf of Leach Bradbury, and instructed the Respondent to cease this activity. The Respondent failed to comply with Investors Group's directives to cease this activity.¹² Between November 2012 and November 2014, the Respondent, on behalf of Leach Bradbury, provided planning services to clients of Leach Bradbury.¹³ At no time did Investors Group grant approval to the Respondent to provide Planning Services on behalf of Leach Bradbury.¹⁴ In September 2014, Investors Group learned that the Respondent was continuing to provide Planning Services outside of Investors Group, and on receiving the Respondent's response that he was unwilling to cease that activity, Investors Group terminated the employment of the Respondent.¹⁵ The Respondent, a few months prior to the Hearing, confirmed his ongoing intention to continue that activity.

⁹ Exhibit 4, Siu Affidavit - Tab 11

¹⁰ Exhibit 4, Tabs 12 and 14

¹¹ Exhibit 4, Siu Affidavit paragraphs 23-25

¹² Siu Affidavit, para. 34.

¹³ Siu Affidavit, para. 28.

¹⁴ Siu Affidavit, paragraphs. 29-30.

¹⁵ Sui Affidavit, para. 39

Re. Allegation #3

14. In or about February 2012, the Respondent was named as a respondent in a regulatory disciplinary proceeding commenced against him by the Certified Management Accountants of Ontario (the "Disciplinary Proceeding").¹⁶ The Respondent failed to report this event to Investors Group. Investors Group became aware of the proceeding, in November 2014, when it conducted an internet search.

Re. Allegation #4: Personal Financial Dealings with client

15. When in May 2014, the Respondent was discussing with client DT the transfer of her GICs from BMO Nesbitt Burns ("BMO Nesbitt") to Investors Group, he advised DT that she would incur "interest lost" in the amount of \$1,115.01 (the "Interest Lost") when the anticipated transfer of her GICs from BMO Nesbitt Burns ("BMO Nesbitt") to Investors Group was finalized.¹⁷ On May 5, 2014, the Respondent advised client DT to contact her financial advisors at BMO Nesbitt to request that they compensate her for the Interest Lost.¹⁸

16. Later in May 2014, client DT met with the Respondent and advised him that her financial advisors at BMO Nesbitt had declined to compensate her for the Interest Lost. The Respondent then provided client DT with a cheque in the amount of \$1,115 (the "Cheque") to compensate her for the Interest Lost. The Cheque was drawn from the account of Leach Bradbury.¹⁹ Client DT did not cash the Cheque.²⁰

17. Later in May 2014, client DT advised the Respondent that she had decided to close her account at Investors Group. At the Respondent's request, client DT then returned the uncashed Cheque to the Respondent.²¹

¹⁶ Notice of Hearing, Siu Affidavit, Tab 22

¹⁷ Siu Affidavit, paras. 50-51.

¹⁸ Siu Affidavit, para. 52.

¹⁹ Siu Affidavit, paras. 53-54.

²⁰ Siu Affidavit, para. 55.

²¹ Siu Affidavit, para. 57.

Analysis and Decision

Finding of Misconduct

18. As stated above, the panel is satisfied that allegations #1, #2, #3 and #4 set out in the Notice of Hearing have been satisfactorily proven, and constitute misconduct.

Re. Allegation #1

19. During the material time, MFDA Rule 1.2.1(c) stated:

Dual Occupations. An Approved Person may have, and continue in, another gainful occupation, provided that:

...

(iii) *Member approval.* The Member for which the Approved Person carries on business either as an employee or agent is aware and approves of the Approved Person engaging in such other gainful occupation;

...

MFDA Rule 1.2.1(c),

20. Previous MFDA Hearing Panels have held that where an Approved Person engages in an unapproved dual occupation contrary to MFDA Rule 1.2.1(c) (now Rule 1.3.2)²², the Approved Person has also violated Rule 2.1.1, which sets out the standard of conduct applicable to registrants in the mutual fund industry.

Dhindsa (Re), [2012] Hearing Panel of the Pacific Regional Council, MFDA File No. 201119, Panel Decision dated May 15, 2012, Staff's Book of Authorities, **Tab 10.**

Sarang (Re), [2016] Hearing Panel of the Pacific Regional Council, MFDA File No. 201535, Panel Decision dated March 21, 2016, Staff's Book of Authorities, **Tab 11.**

²² Prior to December 3, 2010, this Rule was numbered as Rule 1.2.1(d).

As stated by the Hearing Panel in *Sarang (Re)*:

Engaging in an outside occupation without approval is contrary to the MFDA Rules. The rationale for the prohibition upon unapproved outside occupations includes the necessity to guard against conflicts of interest and to ensure that the outside activities do not compromise the regulation of the industry.

Sarang (Re), *supra*, at para. 12, Staff's Book of Authorities, **Tab 11**.

Re. Allegation #2 – Misleading the Member (Rule 2.1.1)

21. MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry. The Rule requires that each Member and Approved Person: deal fairly, honestly, and in good faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from engaging in any business conduct or practice which is unbecoming or detrimental to the public interest.

MFDA Rule 2.1.1, Staff's Book of Authorities, Tab 3.

22. When an Approved Person misleads the Member about his or her outside occupations, the individual undermines the ability of the Member to fulfill its obligation to supervise the Approved Person in accordance with the MFDA's By-laws, Rules and Policies. Such conduct is detrimental to the public interest and is a breach of the high standard of conduct that is articulated in MFDA Rule 2.1.1.

23. In *Sarang (Re)*, the Hearing Panel determined that the respondent in that case violated the Rule 2.1.1 standard of conduct when he, on an annual Member compliance certification, falsely advised the Member that he did not engage in an outside occupation.

Sarang (Re), *supra*, Staff's Book of Authorities, **Tab 11**.

Allegation #3 – Failure to Disclose a Disciplinary Proceeding (Subsection 4.1(c) of Policy No. 6 and Rule 1.2.2(b))

24. MFDA Policy No. 6 establishes minimum requirements concerning events that Approved Persons are required to report to Members and events that Members are required to report to the MFDA.

25. Subsection 4.1(c) of MFDA Policy No. 6 specifically requires:

4.1 An Approved Person shall report the following events to his or her current Member in such detail as required by the Member, within 2 business days:

(c) whenever the Approved Person has reason to believe that he or she has or may have contravened, or is named as a defendant or respondent in any proceeding, in any jurisdiction, alleging the contravention of:

- (i) any securities law; or
- (ii) any regulatory requirements.

MFDA Policy No. 6, Staff's Book of Authorities, **Tab 4.**

26. In addition, during the material time, MFDA Rule 1.2.2(b) stated:

Approved Person Reporting. Every Approved Person must report to the Member such information, in a manner and within such period of time, as may be prescribed by the Corporation from time to time relating to complaints, criminal, civil and other legal proceedings, regulatory proceedings, arbitrations, contraventions and potential contraventions of legal and regulatory requirements, disciplinary action by regulatory bodies, settlements with and compensation paid to clients, registration or licensing by any regulatory body, bankruptcies, insolvencies, garnishments and related events. [Emphasis added]

MFDA Rule 1.2.2(b), Staff's Book of Authorities, **Tab 5.**

27. An Approved Person who fails to report material events to the Member in a timely fashion prevents the Member from protecting its own interests, the interests of clients, and the public interest.

Allegation #4 – Personal Financial Dealings (Rules 2.1.4 and 2.1.1)

28. Pursuant to MFDA Rule 2.1.4, Members and Approved Persons must be aware of the possibility of conflicts of interest arising in connection with dealings with clients. In particular, Rule 2.1.4 requires that:

- (a) each Member and Approved Person shall be aware of the possibility of conflicts of interest arising between the interests of the Member or Approved Person and the interests of the client. Where an Approved Person becomes aware of any conflict or potential conflict of interest, the Approved Person shall immediately disclose such conflict or potential conflict of interest to the Member;
- (b) in the event that such a conflict or potential conflict of interest arises, the Member and the Approved Person shall ensure that it is addressed by the exercise of responsible business judgment influenced only by the best interests of the client and in compliance with Rules 2.1.4(c) and (d);
- (c) any conflict or potential conflict of interest that arises as referred to in Rule 2.1.4(a) shall be immediately disclosed in writing to the client by the Member, or by the Approved Person as the Member directs, prior to the Member or Approved Person proceeding with the proposed transaction giving rise to the conflict or potential conflict of interest; and
- (d) each Member shall develop and maintain written policies and procedures to ensure compliance with Rules 2.1.4(a), (b) and (c).

MFDA Rule 2.1.4, Staff's Book of Authorities, **Tab 6**.

29. In some instances, the exercise of responsible business judgment requires the prohibition of the type of transaction giving rise to the conflict.

MFDA Staff Notice #MSN-0047 dated October 3, 2005, at page 1, Staff's Book of Authorities, **Tab 7**.

In accordance with its obligations under Rule 2.1.4(d), Investors Group maintained policies and procedures prohibiting its Approved Persons, including

the Respondent, from directly reimbursing fees to clients and from writing personal cheques to clients.²³

30. Investors Group's prohibition on directly reimbursing fees to clients and writing personal cheques to clients is set out in MFDA Notice #MSN-0047, which states:

All monetary and non-monetary benefits provided directly or indirectly to or from clients must flow through the Member. The Member must be notified of any such arrangements, so that the Member is in a position to determine the significance of the benefit and to monitor the activity.

MFDA Staff Notice #MSN-0047 dated October 3, 2005, at page 3, Staff's Book of Authorities, **Tab 7**.

Mitchell (Re), [2017] Hearing Panel of the Central Regional Council, MFDA File No. 201689, Panel Decision dated June 23, 2017, Staff's Book of Authorities, **Tab 12**.

Quadrus Investment Services Ltd. (Re), [2017] Hearing Panel of the Central Regional Council, MFDA File No. 201690, Panel Decision dated February 2, 2017, Staff's Book of Authorities, **Tab 13**.

PENALTY

31. Pursuant to s. 24.1.1(i) of MFDA By-law No. 1, if in the opinion of a Hearing Panel, an Approved Person has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA, a Hearing Panel can impose any of the penalties set out in s. 24.1.1(a)-(f).

Section 24.1.1 of MFDA By-law No. 1, Staff's Book of Authorities, **Tab 8**.

32. In the present case, Staff proposes the following penalties against the Respondent:

- (a) a prohibition of at least 3 years on the Respondent's authority to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

²³ Siu Affidavit, para. 44.

- (b) a fine in the amount of at least \$30,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1, and
- (c) costs in the amount of \$7,500, pursuant to s. 24.2 of MFDA By-law No. 1.

Sections 24.1.1 and 24.2 of MFDA By-law No. 1, Staff's Book of Authorities, **Tab 8.**

Factors Concerning the Appropriateness of Penalty

33. In exercising its discretion to impose a penalty, the Hearing Panel should take into account the following considerations:

- (a) the protection of the investing public;
- (b) the integrity of the securities market;
- (c) specific and general deterrence;
- (d) the protection of the MFDA's membership; and
- (e) the protection of the integrity of the MFDA's enforcement process.

Nunweiler (Re), [2012] Hearing Panel of the Pacific Regional Council, MFDA File No. 201030, Panel Decision dated May 28, 2012, at para. 41, Staff's Book of Authorities, **Tab 14.**

34. Other factors that Hearing Panels frequently consider when determining whether a penalty is appropriate include the following:

- (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
- (k) previous decisions made in similar circumstances.

Nunweiler (Re), supra, at para. 42, Staff's Book of Authorities, **Tab 14**.

35. The MFDA Penalty Guidelines are an additional source of factors to be taken into account with regard to penalty. The Penalty Guidelines are not mandatory but are intended to assist Hearing Panels, Staff and Respondents in considering the appropriate penalties in MFDA disciplinary proceedings.

Excerpts of the MFDA Penalty Guidelines, Staff's Book of Authorities, **Tab 9**.

36. Importantly, the Panel must also take into consideration mitigating factors that address appropriate penalty.

37. In cases involving the misconduct at issue in this proceeding, the MFDA Penalty Guidelines recommend the following penalties:

Outside Business Activity: minimum fine of \$10,000; writing or re-writing an appropriate industry course; period of increased supervision; suspension; permanent prohibition in egregious cases;

Standard of Conduct: minimum fine of \$5,000; writing or re-writing an appropriate industry course; suspension; permanent prohibition in egregious cases.

Personal Financial Dealings: minimum fine of \$10,000; writing or re-writing an appropriate industry course; period of increased supervision; suspension; permanent prohibition in egregious cases.

Excerpts of the MFDA Penalty Guidelines, Staff's Book of Authorities,
Tab 9.

Considerations in the Present Case as Presented by Staff

38. Staff has taken the factors set out above into account in determining the **proposed** penalty, as follows:

Nature of the Misconduct

- (i) The Respondent has engaged in serious misconduct.
- (ii) By engaging in an unapproved dual occupation, failing to disclose a disciplinary proceeding, and offering to directly reimburse a client for fees, the Respondent prevented Investors Group from:
 - (a) monitoring the Respondent's activities to ensure compliance with all applicable regulatory requirements and its own policies and procedures;
 - (b) identifying and taking steps to address any actual or potential conflicts of interest created by the Respondent's conduct; and
 - (c) ensuring that clients are aware that Investors Group is not responsible for the Respondent's outside activities and otherwise taking steps to minimize reputational risk and the risk of potential litigation against Investors Group.
 - (d) The Respondent's misconduct is aggravated by the fact that:
 - on two occasions, he misled Investors Group about his dual occupation at Leach Bradbury;²⁴
 - he failed to comply with Investors Group's directives to cease his activities on behalf of Leach Bradbury;²⁵ and

²⁴ Siu Affidavit, paras. 23-25 and 32-33.

²⁵ Siu Affidavit, paras. 34 and 36-38.

- he misled MFDA Staff when, during an interview with Staff, he falsely indicated that the Cheque that he provided to client DT in May 2014 was in respect of client DT having referred clients to Leach Bradbury.²⁶

Benefits Received by the Respondent

39. The Respondent acknowledged that Leach Bradbury earned fees from the Planning Services that he provided to clients of Leach Bradbury.²⁷ As the owner of Leach Bradbury, the Respondent likely stood to benefit from these fees. The precise quantum of this benefit is not known.

The Respondent's Recognition of the Seriousness of the Misconduct

40. The Respondent does not recognize the seriousness of his misconduct. The Respondent's failure to participate in the proceeding against him demonstrates his unwillingness to comply with the regulation of the securities industry and a lack of remorse.

The Respondent's Past Conduct

41. The Respondent has not been the subject of previous MFDA disciplinary proceedings.

Risk to Investors and the Capital Markets

42. The Respondent misled Investors Group about his dual occupation at Leach Bradbury.²⁸ He also misled MFDA Staff about his personal financial dealings with client DT.²⁹ Through his conduct, the Respondent has demonstrated a willingness to deceive his regulator and his Member and has therefore raised doubts concerning his governability. A lengthy prohibition is required in order to preserve the integrity of the enforcement process.

²⁶ Siu Affidavit, paras 59-60.

²⁷ Siu Affidavit, para. 28.

²⁸ Siu Affidavit, para. 23-25 and 32-33.

²⁹ Siu Affidavit, paras. 59-60.

Deterrence

43. The proposed penalties are necessary in order to communicate to other Approved Persons that the misconduct at issue in this proceeding has no place in the mutual fund industry.

44. Further, the proposed sanctions will prevent future misconduct by the Respondent, deter others from engaging in similar misconduct, improve overall compliance by mutual fund industry participants and foster confidence in the mutual fund industry.

Penalty Guidelines

45. The proposed penalties are consistent with the MFDA Penalty Guidelines.

Previous Decisions Made in Similar Cases

46. The proposed penalties are appropriate based on previous decisions made in similar circumstances, as set out in the chart below.

Case	Facts	Outcome
<i>Dhindsa (Re)</i> , <i>supra</i> , Staff's Book of Authorities, Tab 10.	<ul style="list-style-type: none">• The Respondent had and continued in undisclosed gainful occupations (he was a president and/or director or officer of 3 corporations).• The Member had previously warned the Respondent against engaging in unapproved dual occupations.• The Respondent stated that he did not make any money from the dual occupations.	<ul style="list-style-type: none">• Permanent prohibition• Fine of \$15,000• Costs of \$5,000

<p><i>Sarang (Re)</i>, <i>supra</i>, Staff's Book of Authorities, Tab 11.</p>	<ul style="list-style-type: none"> • The Respondent borrowed \$29,015 from a client or arranged for the client to loan \$29,015 to a third party. • The Respondent repaid the loan. • The Respondent engaged in an undisclosed outside business activity (he was a shareholder and director of a corporation). • On an annual Member compliance certification, the Respondent misled the Member by falsely stating that he had not had personal financial dealings with clients and did not engage in an outside business activity. • The Respondent entered into a Settlement Agreement with Staff. 	<ul style="list-style-type: none"> • Permanent prohibition • Fine of \$7,500 • Costs of \$2,500
<p><i>Prueter (Re)</i>, [2015] Hearing Panel of the Pacific Regional Council, MFDA File No. 201510, Panel Decision dated August 26, 2015, Staff's Book of Authorities, Tab 15.</p>	<ul style="list-style-type: none"> • The Respondent had and continued in at least 3 undisclosed gainful occupations (he was a director/principal of 3 corporations). • The Respondent entered into a Settlement Agreement with Staff. 	<ul style="list-style-type: none"> • 2 year prohibition • Fine of \$10,000 • Costs of \$2,500

Costs

47. Staff also requests that an order for costs be made against the Respondent in the amount of \$7,500. This amount will permit the MFDA to recover from the Respondent a portion of the costs attributable to conducting the investigation and prosecution of this matter.

Staff Summary on Penalty

48. Staff submits that the proposed penalties are in keeping with the purpose of the MFDA to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry by ensuring a high standard of conduct by Members and Approved Persons.

Panel Decision on Penalty

49. It is clear to the Panel that the Respondent regarded his Accounting Practice at Leach Bradbury to be his primary professional focus, and throughout had no intention to abandon it. He applied to Investors Group for approval of this dual occupation, but anticipating that approval would likely be denied should the true nature of his involvement with Leach Bradbury be known by the Member, he falsified the description of his involvement. He clearly demonstrated that he was not governable by the Member. His failure to disclose to the Member his involvement in a disciplinary hearing reflects the same mindset. As well, the undisclosed personal financial dealings with an Investors Group client fits that pattern. A mitigating factor is that no client of his, at Investors Group, suffered monetary loss directly related to his misconduct. On November 27, 2014, the Respondent's employment was terminated by the Member, as a result of the matters described herein, and is not currently registered in the securities industry.

50. The Panel is satisfied that the appropriate penalty is as follows:

- a) a prohibition of two years on the Respondent's authority to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- b) a fine in the amount of \$20,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- c) costs in the amount of \$5,000, pursuant to s. 24.2 of MFDA By-law No. 1.

DATED this 5th day of January, 2018.

“H. Michael Kelly”

H. Michael Kelly, QC
Chair

“Brigitte J. Geisler”

Brigitte J. Geisler
Industry Representative

“Paige A. Wadden”

Paige A. Wadden
Industry Representative

DM 590280