



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: Luigi Francesco Ciardullo

Heard: March 19, 2013 in Toronto, Ontario
Reasons for Decision: April 5, 2013

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Terrance A. Sweeney
Brian Nowak

Chair
Industry Representative

Appearances:

David Halasz)	Counsel, Mutual Fund Dealers Association of
)	Canada ("MFDA")
Luigi Francesco Ciardullo)	Did not appear either in person or by Counsel
)	
)	

BACKGROUND

1. We were constituted as a Hearing Panel of the Central Regional Council of the MFDA concerning a disciplinary proceeding commenced by the MFDA against Luigi Francesco Ciardullo (“the Respondent”).

2. In the Notice of Hearing dated the 11th day of September, 2012,¹ the MFDA alleged as follows:

Allegation #1: Between March 2006 and November 26, 2010, the Respondent engaged in personal financial dealings with clients by accepting a total of at least \$385,609 from at least 15 clients, at least \$350,209 of which the Respondent has failed to repay or otherwise account for, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #2: On April 2, 2009, the Respondent made false statements to MFDA Staff during the course of an investigation when he stated that he had only engaged in personal financial dealings with one client when he knew that to be an incorrect response, thereby:

- (a) failing to comply with his obligations under s. 22.2 of MFDA By-law No. 1; and
- (b) failing to observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1.

Allegation #3: Commencing April 19, 2011, the Respondent has failed or refused to provide documents and information and to attend an interview requested by MFDA Staff during the course of an investigation, contrary to s. 22.1 of MFDA By-law No. 1.

3. On the day before the Hearing, our colleague, Ms. Traczuk, regrettably became ill. The Hearing Panel proceeded as a Hearing Panel of two as we are allowed to do.²

4. The Respondent was duly served with the Notice of Hearing, but did not appear at the hearing held on March 19, 2013.

¹ Exhibit 1

² MFDA By-Law No. 1, paragraph 19.9(b)

5. On October 30, 2012, the Hearing Panel ordered that the hearing on the merits would take place before the Hearing Panel in the MFDA hearing room located at 121 King Street West, Toronto, Ontario on March 19, 2013 commencing at 10:00 a.m.

6. The MFDA posted the Order on its website on October 30, 2012.

7. The Respondent failed to file and serve a Reply. He did not attend the Hearing on March 19, 2013. In these circumstances,³ the Hearing Panel may accept the facts alleged and conclusions drawn by Staff of the MFDA in the Notice of Hearing dated September 11, 2012.

8. Counsel filed an affidavit of Stephen Davis, a senior investigator for the MFDA.⁴ In his affidavit, Mr. Davis swore that:

(i) the Respondent engaged in personal financial dealings with clients by accepting at least \$385,609 from at least 15 clients, of which, at least, \$350,209 the Respondent has failed to repay or otherwise account for;

(ii) the Respondent lied to the MFDA Staff on April 2, 2009, in the course of an earlier investigation of the Respondent; and

(iii) the Respondent failed to reply to numerous requests from the MFDA for information and that he failed to attend an interview with Staff of the MFDA.

9. The Respondent was arrested for criminal fraud in 2012. He has a 3-day trial in the criminal court in April 2013.

SUBMISSIONS

10. Mr. Halasz filed written submissions on the allegations, the appropriate penalties and the costs he was seeking. He also filed an extensive book of MFDA rules, By-law No. 1, penalty

³ MFDA Rule 8.4(1)(b)

⁴ Exhibit 3

guidelines and relevant case law. He relied on Mr. Davis's affidavit and the details therein as to the \$379,864.82 the Respondent obtained from clients. He noted that this amount is slightly different than in the Notice of Hearing. He pointed to the affidavit as proof that the Respondent made false statements to MFDA Staff on April 2, 2009 and ignored all request from MFDA Staff for information and a meeting with MFDA Staff.

11. Mr. Halasz addressed the Hearing Panel. He discussed in detail the actions of the Respondent in respect of an elderly couple whom he defrauded of \$250,000. He procured the moneys from the couple with the promise that they would be invested in MacKenzie Investments. Instead, he diverted the funds to his own use. He compounded his fraud by issuing phoney statements on his "Pinnacle Financial Services" letterhead. These statements purported to inform the couple about their "investments". They were a complete sham.

12. Mr. Halasz argued that the MFDA Rules require an Approved Person, like the Respondent, to observe high standards of ethics and conduct in the transaction of business and not to engage in any business conduct or practice which is unbecoming or detrimental to the public interest.⁵ These rules encompass the personal financial dealings of the Respondent with his clients and his false statements to the MFDA Staff.

13. Mr. Halasz submitted that the Respondent had failed to observe high standards of ethics and that he had engaged in unbecoming conduct with clients in the transaction of business and thus breached MFDA Rules and By-law No. 1.

14. Counsel pointed out that commencing April 19, 2011, the Respondent has failed or refused to provide documents, information, and a written statement to the MFDA and to attend an interview requested by the MFDA during the course of an investigation, contrary to s. 22.1 of MFDA By-law No. 1.

15. Counsel argued that failure to cooperate with MFDA by an Approved Person is serious misconduct. If an Approved Person fails to provide information in the course of an investigation then the integrity of the self-regulatory system and the effectiveness of its operation are compromised.

⁵ MFDA 2.1.1(b)(c)

16. The Respondent ignored the MFDA's requests for information and for a meeting and in doing so breached By-law No. 1.⁶

17. Counsel argued that the Respondent should be prohibited for life from conducting securities related business in any capacity. He also asked for a fine of \$500,000. Finally, costs should be imposed to indemnify the MFDA, at least in part, for the costs incurred for preparing the case and acting at the Hearing.

DECISION

18. After Counsel had completed his submissions, the Hearing Panel ruled that he had proven his case on a balance of probabilities. Moreover, the penalties and costs were appropriate. The Hearing Panel accordingly signed the Order dated March 19, 2013, which was published on the MFDA's website. The Chair said that the Hearing Panel would, in due course, deliver brief reasons. The following are those reasons.

REASONS

19. The Respondent, as an Approved Person, became subject to the rules of the MFDA when he was registered as an Approved Person. He knew, or ought to have known, the MFDA's position on the transaction of business and cooperating with the MFDA in an investigation. Yet he chose to flaunt those rules.

20. The Respondent is a wicked man. He preyed on an elderly couple and robbed them of \$250,000. He then cruelly misled them as to what he was doing. He also bilked at least 14 other clients of substantial sums.

21. The Respondent lied to the regulator. He ignored numerous requests from the regulator to assist it in assessing the damage the Respondent may have caused. This is a serious breach of duty by the Respondent. It prevents the MFDA from performing its regulatory function. It

⁶ Section 22

inhibits its investigation as it is unable to determine all of the facts and the full extent and implications of the underlying events.

PENALTIES

22. The Respondent, by his actions, has ruined his securities career and will be punished. The Hearing Panel is, however, more concerned with protecting the public, deterring others and maintaining the integrity of the public securities markets and the MFDA's enforcement processes.

23. The Respondent stole from clients, ignored the regulator and lied to Staff. He did not appear at the hearing and has shown no remorse for his actions. He deserves the maximum penalty this Hearing Panel can impose.

24. The following penalties are appropriate and within the standards applied in previous cases.

25. For these reasons the Hearing Panel imposes the following:

- (a) a permanent prohibition from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member;
- (b) a fine of \$500,000; and
- (c) costs of \$7,500.

DATED this 5th day of April, 2013.

“Terrance A. Sweeney”

Terrance A. Sweeney,
Chair

“Brian Nowak”

Brian Nowak,
Industry Representative