



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

**IN THE MATTER OF A SETTLEMENT HEARING
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Felizaida Yancha Colinares

Heard: March 6, 2013 in Toronto, Ontario
Reasons for Decision: March 24, 2014

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Linda J. Anderson	Industry Representative
Brian Nowak	Industry Representative

Appearances:

Lyla Simon)	Enforcement Counsel, Mutual Fund Dealers
)	Association of Canada
)	
Felizaida Yancha Colinares)	Respondent, by teleconference
)	
)	

Allegations

1. The Settlement Agreement concerns allegations that the Respondent:
 - a) in or about September 2012, engaged in personal financial dealings with a client by borrowing \$3,000 from the client, thereby placing her own interests ahead of the client's interests and creating a conflict or potential conflict of interest which 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 Rule 2.1.1; and
 - b) in or about 2011 and November 2012, engaged in personal financial dealings with two clients by using their credit cards to pay personal expenses, thereby placing her own interests ahead of the clients' interests and creating a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and Rule 2.1.1.

Decision

2. The panel agreed that the conduct in question constituted contraventions of MFDA Rules 2.1.4 and Rule 2.1.1 and accepted and approved the Settlement Agreement as being in the public interest.

Terms of Settlement

3. The Respondent agreed that:

Prohibition

She would be prohibited for one year from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, and

Compliance

She would in the future comply with MFDA Rules 2.1.4 and Rule 2.1.1.

No Fine or Cost Award

The Settlement Agreement does not provide for any fine or cost award against the Respondent.

Facts

4. The Respondent was registered in Ontario as a mutual fund salesperson with WFG Securities of Canada Inc., a Member of the MFDA, from August 30, 2004 to December 18, 2012, when she was terminated as a result of the events in question.

5. The Respondent had been the mutual fund salesperson responsible for servicing a client's mutual fund account.

6. She was also a licensed insurance broker.

7. In 2003, she sold the client a policy of life insurance with a face value of \$100,000.

8. In 2012, she requested the client to borrow \$3,000 under the policy and to lend the funds to her.

9. When the Respondent's Member found out about the loan, she repaid the loan, plus interest and fees of \$101.79.

10. She also admitted to her Member that she had, in 2011, used the credit card of another client who boarded with the Respondent to pay \$190 for business cards, and, in 2012, the credit card of yet another client to pay \$150 for the renewal of her insurance license. Both these amounts were repaid to the clients shortly after they were incurred by the Respondent.

11. The Respondent's Member conducted a review of all the Respondent's client files and of all clients serviced by the Respondent and did not uncover any other instances where the Respondent had borrowed from clients.

Considerations Relevant to Sanctions

12. The Respondent is 66 years old.

13. She has been out of the securities industry since December, 2012, and, in view of her age and her willingness to agree to a one year suspension, we believe it is unlikely she intends to return to the industry.

14. Her income has been marginal. She appears to be impecunious and unable to pay monetary penalties.

15. Although what the Respondent did was wrong and against the rules, she did not act dishonestly or without the consent of the clients. There has been no moral turpitude in what she has done.

16. The amounts involved are small.

17. She has repaid the clients. No one has lost money.

18. She has cooperated with the MFDA in the investigation.

19. She has no prior disciplinary history with the MFDA.

20. The Respondent has accepted responsibility for her actions and expressed to the panel her sorrow and remorse at what she has done.

21. The agreed sanctions are less than those suggested by the MFDA Penalty Guidelines of a minimum fine of \$5,000. Staff did not refer us to any case where no fine and no cost award had been imposed on a person who admitted an infraction of MFDA Rules 2.1.4 and Rule 2.1.1.

22. Nevertheless, we determined that, in all the circumstances of this case, the sanctions agreed to were acceptable.

Procedural

23. The Respondent was not represented by counsel.

24. At the commencement of the hearing, on motion by Staff, supported by the Respondent, the hearing went *in camera* until we announced that we had accepted and approved the Settlement Agreement.

Shortened References

25. In these reasons:

- a) “Respondent” refers to Felizaida Yancha Colinares.
- b) “Settlement Agreement” refers to the settlement agreement dated December 12, 2013 between the MFDA and the Respondent.
- c) “MFDA” refers to the Mutual Fund Dealers Association of Canada.

DATED this 24th day of March, 2014.

“Paul M. Moore”

Paul M. Moore, Q.C.,
Chair

“Linda J. Anderson”

Linda J. Anderson,
Industry Representative

“Brian Nowak”

Brian Nowak,
Industry Representative

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