



**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: Sital Singh Harjinder Dhillon**

Heard: November 9, 2015 in Toronto, Ontario  
Reasons for Decision (Penalty): December 31, 2015

**REASONS FOR DECISION  
(Penalty)**

Hearing Panel of the Central Regional Council:

|                        |                         |
|------------------------|-------------------------|
| Frederick W. Chenoweth | Chair                   |
| Leo M. Hill            | Industry Representative |
| Greg Stoeckl           | Industry Representative |

Appearances:

|               |   |                                     |
|---------------|---|-------------------------------------|
| Lyla Simon    | ) | Counsel for the Mutual Fund Dealers |
|               | ) | Association of Canada               |
|               | ) |                                     |
| Bruce O'Toole | ) | Counsel for the Respondent          |
|               | ) |                                     |
|               | ) |                                     |

## **BACKGROUND**

1. On August 19, 2015, the Hearing Panel issued Reasons for Decision with respect to the misconduct of Sital Singh Harinder Dhillon (the “Respondent”) in this matter, concluding that between May and June 2010, the Respondent made leveraged investments in two clients’ accounts without the knowledge or approval of WH Stuart Mutuals Ltd. (the “Member”), thereby failing to comply with the Member's policies and procedures regarding leveraging and interfering with the ability of the Member to supervise trading activities in the clients’ accounts contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1
2. The Hearing Panel reconvened November 9, 2015, to hear submissions and to consider the appropriate penalty for the misconduct described above.
3. The factual background relating to the misconduct is set out in detail in the Reasons for Decision (Misconduct) dated August 19, 2015, and need not be repeated here.

## **PENALTY**

4. In coming to its conclusion with respect to penalty, the Hearing Panel considered the submissions of Enforcement Counsel of the MFDA, the submissions of counsel for the Respondent, the facts, and the case law referred to before the Panel. In addition, the Panel considered the penalty guidelines and its authority with respect to penalty, set out in section 24.1.1 of MFDA By-law No. 1.
5. The Panel also considered the substantial body of case law confirming that the primary goal of securities regulation is the protection of the investors, including ensuring efficient capital markets and public confidence in the industry. Finally, the Panel was aware of the case law to which it was referred, confirming that the general deterrence objective is said to be the main objective when determining the appropriate penalty to impose. This objective included sending a message to the industry regarding the given misconduct, as it tends to promote the prevention of

future harm to the capital markets, thus also advancing the goal of enhancing protection of the investor.

6. In considering the seriousness of the Respondent's misconduct, the Panel noted the Reasons in the MFDA case of *Frank*, to which it was referred:

MFDA Rule 2.5.1 requires Members to establish, implement and maintain policies and procedures to ensure that the handling of its business is in accordance with MFDA By-laws, Rules and Policies and with applicable securities legislation. Such policies and procedures are meaningless and cannot achieve their intended objectives if Approved Persons are not required to comply with them. MFDA Rule 1.1.2 is clear that Approved Persons share the responsibility of ensuring that obligations set out in the MFDA Rules are followed and must do their part to support the Member's obligations to be compliant with its regulatory obligations. In the context of policies and procedures of a Member, and especially policies designed to facilitate regulatory supervision by the Member, the failure of an Approved Person to comply with the Member's policies constitutes a regulatory violation.

*Frank*, 2015, LNCMFDA 75, Decision of the Central Regional Counsel dated May 5, 2015 at paras. 56-58. Staff's Book of Authorities (Penalty) at Tab 6.

7. Further, with respect to the seriousness of the misconduct, Respondent's counsel submitted to the Panel that the misconduct involved two isolated incidents and not an established pattern of behaviour. The Panel, however, was mindful of the fact that the actions of the Respondent were blatant. The Respondent acknowledged in his cross-examination, that he understood the Member's Policy and Procedures Manual with respect to leveraged investments and understood that the Member's approval needed to be obtained prior to proceeding with a leveraged investment. In any event of this knowledge, the Respondent had chosen to proceed with full knowledge that the necessary approval had not been received. When given a number of opportunities by the Member to alter his path of conduct, the Respondent chose to proceed in any event, with full knowledge of his breach of the Member's Policy and Procedures Manual. Accordingly, the Panel concluded that the misconduct found was serious in nature.

8. The Panel also noted that the Respondent was an experienced registrant having been employed as a mutual fund sales person, and thereafter, a dealing representative, since February

1999. Accordingly, it appeared that this was a case of deliberate misconduct by an experienced and seasoned Approved Person.

9. In coming to its conclusion, the Panel considered that the Respondent has not been the subject of a prior MFDA disciplinary proceeding, nor does it appear that any client harm resulted from the Respondent's activities. Additionally, there is no evidence of any benefits received by the Respondent as a result of his activities other than the potential for commissions.

10. In its Reasons for Decision, the Panel also found that the Respondent's evidence at the Hearing was contradictory, tangential, and frequently self-serving. The Panel further found that the Respondent provided an entirely new defence in his cross-examination and stated for the first time that the Member's Chief Compliance Officer had provided verbal approval for the trades, an explanation that was in direct contradiction to the evidence given by the Member's Chief Compliance Officer, and not generally sustainable based on the totality of the facts and evidence.

11. The Panel concluded that faced with the Member's specific and clear requirements that Approved Persons send all loan applications to head office for review and approval, the Respondent forged ahead, taking care to conceal his conduct from the Member. The Respondent appears to have acted as though the rules did not apply to him and that regardless, they did not matter.

12. Accordingly, for all the above reasons, the following penalties are imposed upon the Respondent:

- a) The Respondent is prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of six months, commencing from the date of the Order, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- b) The Respondent shall pay a fine in the amount of \$15,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- c) The Respondent shall pay costs in the amount of \$5,000, pursuant to s. 24.2 of MFDA By-law No. 1;

- d) If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

**DATED** this 31<sup>st</sup> day of December, 2015.

“Frederick W. Chenoweth”

Frederick W. Chenoweth  
Chair

“Leo M. Hill”

Leo M. Hill  
Industry Representative

“Greg Stoeckl”

Greg Stoeckl  
Industry Representative

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