



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: Faisal Amin Satti and Kamran Ghani

Heard: August 27, 2012 in Toronto, Ontario
Reasons for Decision: September 11, 2012

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Frederick H. Webber
David W. Kerr
Simon Destrempes

Chair
Industry Representative
Industry Representative

Appearances:

Lyla Simon)	For the Mutual Fund Dealers Association of
)	Canada
Faisal Amin Satti)	Respondent, Did not appear
)	
Kamran Ghani)	Respondent, Did not appear
)	

A. ALLEGATIONS

In the Notice of Hearing in this matter, issued April 20, 2012, the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between January 2008 and May 2008, Satti engaged in conduct unbecoming an Approved Person by intentionally submitting client account opening documents and loan applications for 22 clients that contained false and misleading information, contrary to MFDA Rule 2.1.1.

Allegation #2: In almost all instances in Allegation #1 above in which Satti submitted documents containing false or misleading information, Satti had the clients sign the documents with limited or no information populated on the documents and thereafter Satti completed the documents using information he knew to be false or misleading, thereby engaging in conduct unbecoming an Approved Person by obtaining and using blank pre-signed forms, contrary to MFDA Rule 2.1.1.

Allegation #3: Between November 5, 2007 and October 28, 2008, Satti engaged in conduct unbecoming an Approved Person by fabricating documents in respect of 15 clients that he submitted in support of new client account applications and loan applications, contrary to MFDA Rule 2.1.1.

Allegation #4: Between February 2008 and March 2008, Satti engaged in conduct unbecoming an Approved Person by opening accounts in the names of IH and SV, each of whom he had never met, and thereafter obtaining investment loans in the names of IH and SV and using the loan proceeds to purchase mutual funds for the accounts of IH and SV, all without the knowledge or approval of IH and SV, contrary to MFDA Rule 2.1.1.

Allegation #5: In or about August 2008, Satti met with MK and obtained MK's signature on another Member's account opening documents and a loan application for the purpose of implementing through that other Member a leveraged investment strategy that Satti had recommended to MK, which documents Satti then provided to Ghani in October 2008 for processing through that other Member, thereby engaging in securities related business that was

not carried on for the account and through the facilities of Satti's Member and failing to treat MK fairly, honestly and in good faith, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #6: By engaging in the conduct described in Allegation #5 above, Ghani failed to learn the essential facts relative to each client and each order accepted and failed to treat MK fairly, honestly and in good faith, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegation #7: Between February 2008 and May 2008, Satti facilitated stealth advising by Ghani, who was not registered as a mutual fund salesperson at the material time, by opening accounts for 12 clients under his (Satti's) representative code, processing investment loan applications for the clients and purchasing mutual funds for the accounts of the clients, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegation #8: On or about June 9, 2008, Satti submitted an application for employment to a Member containing false or misleading information and thereafter made false or misleading representations to the Member concerning matters relating to the application, thereby engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

B. PARTICULARS

The following is a summary of the facts alleged and relied upon by the MFDA:

Registration History – Satti

1. From November 5, 2007 to October 28, 2008 (when he was terminated), Satti was registered in Ontario as a mutual fund salesperson and branch manager¹ with Carte Wealth Management Inc. ("Carte"), a Member of the MFDA.

2. On June 9, 2008, Satti submitted an employment application seeking to become registered with FundEX Investments Inc. ("FundEX"), however he was not subsequently hired or registered with FundEX.

¹ The Branch Manager designation became active on November 6, 2007.

3. Previously, Satti had been registered in Ontario as follows:
 - (i) March 2007 to October 2007 – as a mutual fund salesperson with Hub Capital Inc. (“Hub”), another Member of the MFDA; and
 - (ii) June 2003 to December 2006 – Scholarship Plan Dealer (salesperson) with Heritage Education Funds Inc. (“Heritage”).
4. Satti is not currently registered in the securities industry in any capacity.

Registration History – Ghani

5. From January 22, 2009 to April 22, 2009, Ghani was registered in Ontario as a mutual fund salesperson and branch manager with Monarch Wealth Corporation (“Monarch”), a Member of the MFDA.
6. Prior to Monarch, Ghani was registered in Ontario as a mutual fund salesperson with FundEX Investments Inc. from October 7, 2008 to December 29, 2008.
7. Prior to being registered as a mutual fund salesperson, Ghani was registered in Ontario as a scholarship plan salesperson with Global Education Marketing Corp.² (“Global”) from May 2005 to October 6, 2008.
8. Ghani is not currently registered in the securities industry in any capacity.

Background

9. In or about January and February 2008, the Respondents made appearances in Urdu and English on radio programs on *Radio Pakistan Toronto* (FM 101.3 and AM 1320) and also advertised on City TV in Toronto, wherein they discussed various investment and financial matters including, among other things, insurance, registered investments such as RRSPs, mutual funds, and borrowing monies to invest. A number of individuals heard or saw these media appearances and contacted the Respondents to discuss implementing various strategies for them.

² Global Education Marketing Corp. is not a mutual fund dealer or Member of the MFDA.

10. At meetings with these individuals and others, the Respondents recommended that they become clients, obtain investment loans and implement a leveraged investment strategy in their accounts. The Respondents induced the clients to implement the leveraged investment strategy in part by representing to the clients that the monthly distributions from the mutual funds they invested in would be sufficient to cover the payments on their investment loans, the premiums on life insurance policies the Respondents also sold them and/or to provide them with some extra investment income.

11. On March 11, 2008, spouses AM and FM (“the M’s”) made a complaint to the MFDA, setting out that they had met with Satti to set up an RRSP after hearing him speak on a radio show and were instead convinced by him to apply for an investment loan in order to invest in mutual funds. The M’s stated that Satti:

- (i) failed to explain the terms and conditions of the loan to them;
- (ii) used the loan proceeds to purchase mutual funds on their behalf without disclosing and explaining the DSC fees associated with the mutual funds they had invested in; and
- (iii) declined to cancel their loan and investments without penalties although he had originally claimed that he would do so at any time at their request.

12. On March 19, 2008, MFDA Staff notified Carte of the M’s complaint and provided Carte with a copy of the complaint. MFDA Staff and Carte each commenced an investigation.

13. Carte’s review of the M’s complaint revealed, among other things, discrepancies between the information recorded on the M’s loan application, which Satti had had the M’s sign in blank, and their actual circumstances. In particular, the loan application represented that Mrs. M was employed as a Supervisor at Home Depot and earned \$67,000 per year. In fact, Mrs. M was unemployed and earned no income. Carte subsequently reversed the investment in the M’s account, settled their investment loan and covered any related costs of doing so.

14. In April 2008, Carte advised MFDA Staff that 135 of the 165 (82%) clients whose accounts were serviced by Satti had implemented a leveraged investment strategy in their non-

registered accounts. In light of the M's complaint and the prevalence of leveraging amongst Satti's clients, Carte placed restrictions on Satti's ability to engage in leveraging activity. Carte also implemented more rigorous standards for the supervision of leveraging following the publication of guidance on this issue by the MFDA.³

15. In May 2008, MFDA Staff requested that Carte review a sample of the files of the clients with leveraged investments.

16. In June 2008, Satti and four mutual fund salespersons who he supervised at his branch applied to transfer their registration to FundEX. (Satti's application to transfer to FundEX is the subject matter of Allegation #8.)

17. In July 2008, the transfer applications submitted by three of the four mutual fund salespersons were approved by the Ontario Securities Commission.⁴ Those three individuals joined FundEX. That same month, Ghani, who at that time was registered as scholarship plan salesperson at Global, submitted an application to become registered as a mutual fund salesperson at FundEX. Satti's application to transfer to FundEX was held in abeyance by the Ontario Securities Commission due to the ongoing investigation of his activities by the MFDA so he remained at Carte.

18. Also in July 2008, Carte completed the review of Satti's client files requested by MFDA Staff.

19. In August 2008, one of the three mutual fund salespersons from Satti's branch who had transferred to FundEX in July resigned.

20. On October 28, 2008, Carte terminated Satti. Following Satti's termination, the new mutual fund salesperson assigned to the clients whose accounts were formerly serviced by Satti started meeting with the clients and subsequently concluded that the client files contained numerous instances of documents containing false or misleading information, as well as falsified documents, as described in greater detail below.

³ On April 14, 2008, the MFDA published guidance on the issue of leveraging and suitability in the form of MR-0069 "Suitability Guidelines".

⁴ The fourth Approved Person subsequently decided not to proceed with his application to transfer to FundEX.

21. In November 2008, FundEX withdrew its support of Satti's application to transfer to FundEX. In December 2008, FundEX terminated Ghani and the two remaining mutual fund salespersons from Satti's branch at Carte who had transferred to FundEX in July.

22. MFDA Staff's investigation of Satti and Ghani indicated that they had engaged in the misconduct set out in the Allegations below.

Allegation #1 – False and misleading information on documents (Satti)

23. From January 2008 to October 28, 2008, Satti intentionally submitted to Carte and certain lending institutions client account opening documents and investment loan applications in respect of at least 22 clients which he knew contained false or misleading information, including exaggerated claims with respect to clients' incomes, assets, net worth and investment knowledge, as well as claims that clients were employed in certain capacities when in fact they were either not so employed or were unemployed.

24. By engaging in the conduct described above, Satti engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Allegations #2 – Blank or incomplete pre-signed forms (Satti)

25. In almost all instances in Allegation #1 above in which Satti submitted documents containing false or misleading information, Satti had the clients sign the documents with limited or no information populated on the documents and thereafter Satti completed the documents using information he knew to be false or misleading.

26. At all material times, Carte's Policies and Procedures prohibited Approved Persons from using pre-signed forms.

27. By obtaining and using blank pre-signed forms from clients as described above, Satti engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Allegation #3 - Fabricated documents (Satti)

28. From November 5, 2007 to October 22, 2008, Satti fabricated documents in respect of at least 15 clients and submitted the documents to Carte and lending institutions in support of new client account applications and investment loan applications.

29. The documents fabricated by Satti included, among other things, investment statements purporting to show investments held by clients outside of Carte which did not exist; T4 forms purporting to show employment income that was not earned by a client; and paystubs purporting to show an employment position that was not held by a client.

30. By engaging in the conduct described above, Satti engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Allegation #4 – Unauthorized client accounts (Satti)

Client IH

31. On or about February 27, 2008, Satti submitted a New Account Application Form (“NAAF”) to Carte for IH. The NAAF indicated that IH was a technician with Best Choice Electronics; had an income of \$50,000-\$100,000; “good” investment knowledge; net worth of \$50,000-\$200,000; 100% high risk tolerance; and 100% speculative/high growth investment objective.

32. Satti had never met IH. Satti opened the account in IH’s name without IH’s knowledge or approval.

33. On or about March 3, 2008, Satti submitted a loan application for a loan in the amount of \$100,000 in IH’s name which contained essentially the same information as Satti had included on the NAAF. Satti applied for the investment loan in IH’s name without IH’s knowledge or approval.

34. Carte opened an account in IH’s name and the lending institution approved a \$75,000

investment loan for IH. Satti used the entire proceeds of the investment loan to purchase units of the IA Clarington Canadian Dividend Fund for the account in IH's name.

35. Neither Carte nor the lending institution was aware that Satti had not been authorized by IH to open the account and obtain the investment loan.

36. The payments on IH's loan were made by Ghani's wife. Ghani's wife also received the distributions from the mutual fund investment.

Client SV

37. On or about February 17, 2008, Satti submitted a NAAF to Carte for SV. The NAAF indicated that SV was a nurse at York Central Hospital⁵; had an income of \$50,000-\$100,000; "good" investment knowledge; net worth of \$50,000-\$200,000; 100% high risk tolerance; and 100% speculative/high growth investment objective.

38. Satti had never met SV. Satti opened the account in SV's name without SV's knowledge or approval.

39. On or about February 26, 2008, Satti submitted an application for an investment loan in the amount of \$100,000 in SV's name which contained essentially the same information as Satti had included on the NAAF. In addition, Satti fabricated a T4 in respect of SV to in response to a request by Carte for verification of SV's income.

40. Carte opened an account in SV's name and the lending institution approved a \$100,000 investment loan for SV. Satti used the entire proceeds of the investment loan to purchase units of the IA Clarington Canadian Dividend Fund for SV's account.

41. The payments on SV's loan were made by a third party. The third party also received the distributions from the mutual fund investment.

⁵ In fact, SV was not employed as a nurse. Further investigation by Carte also confirmed that SV had not been in Canada on February 17, 2008, the date she purportedly signed the NAAF.

42. Neither Carte nor the lending institution was aware that Satti had not been authorized by SV to open the account and obtain the investment loan.

43. By opening the accounts in the names of IH and SV and obtaining investment loans in their names as described above, all without the knowledge or approval of IH and SV, Satti engaged in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Allegations #5 and #6: Securities related business outside the Member (Satti and Ghani)

44. As noted at paragraph 14 above, in or around April 2008, Carte placed restrictions on Satti's leveraging activity and also implemented more rigorous leveraging supervision standards. As a result, in or around June 2008, Satti had attempted to obtain additional investment loans for some existing clients or initial loans for new clients, but the requests had been declined.

45. Commencing in or around August 2008, Satti enlisted the assistance of individual(s) registered at FundEX, including Ghani, to open accounts for the clients at FundEX and obtain additional investment loans for the clients through FundEX.⁶

46. In the case of MK, Satti met with MK in August 2008 and obtained MK's signature on FundEX documents and a loan application, which Ghani processed in or around October 2008.

47. MK did not meet or speak with Ghani until March 2009, when MK first learned that Satti was not the mutual fund salesperson responsible for servicing his account. Prior to that time, MK believed that Satti was the mutual fund salesperson responsible for MK's investments.

48. By engaging in the conduct described above, Satti engaged in securities related business that was not carried on for the account and through the facilities of his Member (Carte) and failed to treat MK fairly, honestly and in good faith, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

49. By engaging in the conduct described above, Ghani failed to learn the essential facts relative to each client and each order accepted and engaged in conduct unbecoming an Approved Person, contrary to MFDA Rules 2.2.1 and 2.1.1.

⁶ As described in paragraph 17 above, in July 2008 three of Satti's former colleagues at his Carte branch had transferred to FundEX. Ghani followed them to FundEX on October 7, 2008.

Allegation #7: Stealth Advising (Satti)

50. Between February 2008 and May 2008, Satti facilitated stealth advising by Ghani, who was not registered as a mutual fund salesperson with any Member at the material times, by opening accounts for 12 clients under his (Satti's) representative code at Carte, processing investment loan applications for the clients and purchasing mutual funds for the accounts of the clients, contrary to MFDA Rules 2.2.1 and 2.1.1.

51. Ghani met with the clients and recommended that they implement the leveraged investment strategy that was subsequently implemented for them in their accounts at Carte. Ghani obtained the clients' signatures on Carte account opening documents and investment loan applications which Satti then processed through Carte. Satti did not meet with the clients at the time the accounts were opened and the leveraged investment strategy was implemented.

52. At all material times, the clients believed that Ghani was the mutual fund salesperson responsible for servicing their account, until such time as the clients came to understand or realized that their accounts were in fact under Satti's representative code at Carte.

53. By engaging in the conduct described above, Satti did not learn the essential facts relevant to each client and each order accepted for the clients and failed to treat the clients fairly, honestly and in good faith, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegation #8 – Misleading a Member re: transfer application (Satti)

54. As described in paragraph 11 above, on March 11, 2008, the M's made a complaint to the MFDA concerning the handling of their account by Satti.

55. On March 19, 2008, MFDA Staff provided Carte with a copy of the M's complaint and requested that Carte provide MFDA Staff with, among other things, a written statement signed by Satti in response to the matters raised in the M's complaint to assist MFDA Staff in its review of the complaint.

56. Satti provided a detailed written response to the matters raised in the Ms' complaint on April 11, 2008.

57. On or about June 9, 2008, in furtherance of Satti's intention to transfer from Carte to FundEX (see paragraphs 16 and 21 above), Satti completed and submitted a copy of FundEx's *Membership Application* form to FundEX (the "Application").

58. One of the questions on the Application was "Are there any allegations made by a client, your sponsoring firm or a regulatory authority that is [*sic*] currently being investigated?" Satti responded "no".

59. At the time Satti submitted the Application, he was aware that the MFDA's investigation of the M's complaint was ongoing. Accordingly, Satti's response on the Application was false or misleading.

60. On June 27, 2008, FundEX conducted a telephone interview with Satti wherein various due diligence issues were discussed. During the interview, Satti was asked whether he had "received any client complaints that went to the MFDA, Securities Commission, OBSI, or dealer", to which he replied "no". In light of the ongoing investigation of the M's complaint by the MFDA, Satti's response during the telephone interview was false or misleading.

61. In the months that followed, FundEX went about the process of attempting to obtain the OSC's approval of Satti's application to transfer to FundEX. On November 7, 2008, FundEX was advised by the OSC that there was an ongoing MFDA investigation into Satti's conduct and that the transfer of his registration to FundEX could not, therefore, be completed at that time.

62. On November 11, 2008, FundEX queried Satti regarding the ongoing MFDA investigation. Satti advised FundEX that the investigation stemmed from a client complaint, that the complaint had been settled, and the client had been "made whole".

63. On November 20, 2008, FundEX withdrew its registration transfer submission regarding Satti.

64. By submitting an application for employment to FundEX containing false or misleading information and thereafter making false or misleading representations to FundEX concerning matters relating to the application, Satti acted contrary to MFDA Rule 2.1.1.

C. PROCEDURAL MATTERS

65. Neither of the Respondents filed a Response to the Notice of Hearing, nor did either of them appear at the hearing. At the hearing, an affidavit of Steven Davis, investigator for the MFDA, was entered into evidence as Exhibit 5, and Mr. Davis testified regarding certain matters contained in the Notice of Hearing and in his affidavit. Rule 1.6 of the MFDA Rules of Procedure specifically permits hearsay statements to be admitted as evidence. The Panel admitted the affidavit of Steven Davis as Exhibit 5 and heard oral testimony from him pursuant to this Rule. In addition, submissions were made orally and in writing by counsel for the MFDA.

66. Rule 7.3 of the MFDA rules of Procedure provides:

Where a respondent fails to attend a hearing, a 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 the MFDA By-law.

As is set out in the Order of the Hearing Panel dated June 25, 2012, service of the Notice of Hearing on the Respondents was effected via substituted service by posting the Notice of Hearing on the MFDA public website and issuing a MFDA news release on April 25, 2012.

67. Neither of the Respondents attended at the hearing on the merits, and the Panel decided that the hearing should proceed as scheduled.

68. Neither of the Respondents has delivered a Reply, or otherwise participated in the proceedings. Pursuant to the Rule 8.3 of MFDA Rules of Procedure, this Panel accepted as

proven the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing.

69. MFDA Rule 2.1.1 is broad in its application and articulates the standard of conduct to be followed by all MFDA Members and Approved Persons (“APs”). MFDA hearing panels have consistently stated that the Rule encompasses “the most fundamental obligations of all registrants in the securities industry”.

70. In the MFDA’s submission, the Respondents’ conduct in the present case corresponds exactly to the four-part ‘list’ set out in Rule 2.1.1, that is, the Respondents:

- (a) did not deal fairly, honestly and in good faith with clients;
- (b) failed to observe high standards of ethics and conduct in the transaction of business;
- (c) engaged in business conduct and practice which was unbecoming and detrimental to the public interest; and
- (d) were not of such character and business repute as is consistent with the industry and MFDA standards

71. The Panel agreed with the submissions of the MFDA stated in paragraph 70 and decided that all of the allegations in the Notice of Hearing had been proven. The hearing proceeded to deal with the issue of penalty.

D. PENALTY

72. MFDA Staff sought a penalty against Satti as follows:

- (i) Permanent prohibition on the authority of Satti to conduct securities related business in any capacity while in the employ of, or in association with, any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- (ii) A global fine in the range of \$100,000 to \$150,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1; and
- (iii) Costs attributable to conducting the investigation and hearing of this matter in the amount of \$7,500, pursuant to s. 24.2 of MFDA By-law No. 1.

73. MFDA Staff sought a penalty against Ghani as follows:

- (i) Permanent prohibition on the authority of Ghani to conduct securities related business in any capacity while in the employ of, or in association with, any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- (ii) A global fine in the range of \$100,000 to \$150,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1; and
- (iii) Costs attributable to conducting the investigation and hearing of this matter in the amount of \$7,500, pursuant to s. 24.2 of MFDA By-law No. 1.

74. MFDA Staff advised that it sought a higher than customary penalty for Ghani. In the Notice of Hearing, Ghani appears to be the subject of only one comparatively minor allegation (Allegation #6); however, the evidence shows that Ghani was closely involved in Satti's activities and was an 'enabler' of much of the misconduct, albeit while Ghani was at times unregistered and beyond the MFDA's jurisdiction. While Ghani's pre-jurisdiction conduct cannot be the subject of allegations against him, Staff submits that it is nevertheless relevant to the issue of penalty, having regard to the MFDA's mandate to be protective and preventative.

Factors Concerning the Appropriateness of Penalty

75. As was set out in the Supreme Court of Canada decision in *Pezim* and cited with approval in subsequent MFDA decisions such as *Re Larson*, 2009 LNCMFDA 30, the primary goal of securities regulation is the protection of investors, including ensuring efficient capital markets and public confidence in the industry.

76. As pointed out by MFDA counsel, a number of MFDA hearing panels have iterated that in exercising its discretion to impose a penalty, a hearing panel should consider:

- (i) Protection of the investing public;
- (ii) The integrity of the securities markets;

- (iii) Specific and general deterrence;
- (iv) Protection of the MFDA's membership; and
- (v) Protection of the integrity of the MFDA's enforcement processes.

77. MFDA hearing panels have set out a number of additional factors that should be considered when determining an appropriate penalty, as follows:

- (i) The seriousness of the allegations proved against the respondent;
- (ii) The respondent's experience in the capital markets;
- (iii) The level of the respondent's activity in the capital markets;
- (iv) The harm suffered by investors as a result of the respondent's activities;
- (v) The benefits received by the respondent as a result of the improper activity;
- (vi) The risk to investors and the capital markets in the jurisdiction, were the respondent to continue to operate in capital markets in the jurisdiction;
- (vii) The damage caused to the integrity of the capital markets in the jurisdiction by the respondent's improper activities;
- (viii) 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;
- (ix) The need to alert others to the consequences of inappropriate activities to those who are permitted to participate in capital markets; and
- (x) Previous decisions made in similar circumstances.

78. The Supreme Court of Canada in *Cartaway Resources Corp*, [2004] 1 S.C.R. 672 and subsequent MFDA cases have emphasized general deterrence as an important consideration for hearing panels in making "protective and preventative" orders. Regarding deterrence, the penalty levied should be sufficient so as to affirm public confidence in the regulatory system and ensure that the misconduct is not repeated by others in the industry. As was stated in *Cartaway*,

A penalty that is meant to deter generally is a penalty that is designed to keep an occurrence from happening; it discourages similar wrongdoing in others. In a word, a general deterrent is preventative. It is therefore reasonable to consider general deterrence as a factor, albeit not the only one, in imposing a sanction The respective importance of general deterrence as a factor will vary according to

the breach of the Act and the circumstances of the person charged with breaching the Act.

79. MFDA counsel also referred the Panel to the MFDA Penalty Guidelines which, while not mandatory, are an additional resource when determining appropriate penalties in disciplinary proceedings. These were reviewed by the Panel in making its decision.

Application of Factors

Respondents' past conduct & sanctions / Experience in the industry

80. Satti has not been the subject of previous MFDA disciplinary proceedings. He was employed in the insurance/financial services industries for approximately seven years, and as a Member branch manager for almost one year.

81. Ghani has not been the subject of previous MFDA disciplinary proceedings. He was employed in the insurance/financial services industries for approximately seven years, and as a Member branch manager for three months.

The seriousness of the allegations proved against the Respondents and whether they recognize the seriousness of the improper activity

82. Staff considered the allegations in this proceeding to be very serious. The Respondents have not delivered a Reply or otherwise engaged in the proceedings, and have not acknowledged the seriousness of their misconduct.

Whether the activity was an isolated incident or part of a larger pattern of conduct involving multiple clients

83. The Respondents engaged in a deliberate and widespread pattern of misconduct involving many families. The Respondents preyed on the vulnerability of, and their affinity with, members of the Toronto Pakistani community in order to gain the clients' trust and confidence.

Whether the Respondents were aware of the prohibited nature of the activity and whether they concealed it or attempted to conceal the activity from the Member

84. It is evident that the Respondents were aware of the prohibited nature of their activities given:

- (i) their training and experience as APs and branch managers;
- (ii) their respective Members' comprehensive compliance manuals;
- (iii) the client file reviews that were carried out on Satti's files and his responses to same; and
- (iv) the industry-wide knowledge of the prohibition on the types of misconduct they engaged in.

85. Much of the Respondents' misconduct was facilitated by the Respondents themselves explicitly concealing the activity from the relevant Member, including stealth advising, submitting falsified client information and fabricated documents, and in Satti's case, misleading the prospective employer Member with respect to his employment application.

Benefit to Respondent / Client harm and to what extent

86. There was a direct financial benefit to the Respondents from their misconduct. Satti earned approximately \$559,165 in commissions during the six month period from October 2007 to April 10, 2008. While there was no direct evidence on this issue, it appeared likely to the Panel that some of this commission was shared with Ghani.

87. The Respondents actively misled the clients about the particulars of the loans and the investments, falsified client information, and fabricated supporting documents. Most of the clients still hold the loans that were obtained, and remain invested in the mutual funds they purchased.

88. In the MFDA case of Sivasubramanian, 2011 LNCMFDA 10, the Hearing Panel stated:

The evidence shows that the Respondent gained the confidence of members of the Tamil community by way of radio broadcasts. And even though he had other

clients as well, the fact that he could communicate with most of his victims in their own language made them feel secure and he took full advantage of that.

89. In MFDA's submission, in addition to the financial harm that clients may have experienced, they, similar to the circumstances in Sivasubramanian, experienced being taken advantage of by a member of their own community.

Previous decisions made in other cases

90. The Respondents' conduct included acts of misrepresentation and falsification. These acts were relied upon by both the MFDA Members with whom they were registered in the course of approving new accounts, and the lending institutions from which the Respondents sought and obtained investment loans for clients. The jurisprudence is clear that these actions are a breach of the standard of conduct required of securities registrants, as prescribed under MFDA Rule 2.1.1. MFDA counsel submitted that the penalties proposed in the present case are consistent with previous dispositions rendered in other similar MFDA and IIROC (formerly the IDA) cases, to which counsel referred the Panel.

91. In coming to its decision regarding the appropriate penalty in this case, the Panel wishes to emphasize the principle of deterrence, both specific to the Respondents and general deterrence. Specific deterrence can be accomplished by a permanent prohibition against the Respondents' future participation on the industry as requested by the MFDA, and this Panel has so ordered.

92. The permanent prohibition will contribute to the general deterrence of persons other than the Respondents, but is not sufficient to do so, nor is the fine proposed by the MFDA. This Panel believes that the fine imposed on the Respondents should be at least commensurate with the benefit which they obtained from the impugned activity. The fine should not appear to be a license to engage in the impugned conduct. The evidence established that Satti received commissions of \$559,165 and normally a fine in that amount would be appropriate from the general deterrence standpoint. However it appeared to the Panel that an undetermined portion thereof was shared with Ghani and consequently the Panel adjusted the fine against Satti to \$500,000. There was no evidence of the amount of benefit received by Ghani, but the Panel

decided that a fine in the upper range of the amounts suggested by MFDA would be appropriate and has therefore imposed a fine of \$150,000 against Ghani.

E. ORDER

93. The formal Order in this matter was signed and issued on August 27, 2012 and is summarized as follows:

- (i) Satti is permanently prohibited from conducting 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;
- (ii) Ghani is permanently prohibited from conducting 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 By-law No. 1;
- (iii) Satti shall pay a global fine in the amount of \$500,000, pursuant to s. 24.1.1(b) of By-law No. 1;
- (iv) Ghani shall pay a global fine in the amount of \$150,000, pursuant to s. 42.1.1(b) of By-law No. 1;
- (v) Satti shall pay costs in the amount of \$7,500, pursuant to s. 24.2 of By-law No. 1;
and
- (vi) Ghani shall pay costs in the amount of \$7,500, pursuant to s. 24.2 of By-law No. 1.

DATED this 11th day of September, 2012.

“Frederick H. Webber”

Frederick H. Webber,
Chair

“David W. Kerr”

David W. Kerr,
Industry Representative

“Simon Destrepes”

Simon Destrepes,
Industry Representative

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