



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: Omar Hayat

Heard: April 29, 2013 in Toronto, Ontario
Reasons for Decision: May 21, 2013

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

The Hon. Edward Saunders, Q.C.	Chair
Brigitte J. Geisler	Industry Representative
Robert C. White	Industry Representative

Appearances:

Shari L. Boyd)	Counsel, Mutual Fund Dealers Association of
)	Canada (“MFDA”)
Omar Hayat)	Did not appear and no one appeared on his behalf
)	
)	

1. By Notice of Hearing dated December 13, 2012, the MFDA alleged the following violations of its Rules or Policies by Omar Hayat (the “Respondent”):

Allegation #1: Between June 2006 and May 2010, the Respondent engaged in conduct unbecoming an Approved Person by falsifying the signatures of at least six clients on account documents, contrary to MFDA Rule 2.1.1.

Allegation #2: On or about July 19, 2010, the Respondent paid compensation directly to client FH without obtaining the prior written consent of the Member, contrary to MFDA Policy No. 3.

2. From June 2006 to September 2010, the Respondent was registered in Ontario as a mutual fund salesperson with Investors Group Financial Services Inc. (“Investors Group”), a Member of the MFDA. The Respondent was terminated by Investors Group on March 28, 2011 and is not currently registered in the securities industry in any capacity.

3. The Respondent did not submit a Reply and did not appear at the hearing. Nor did anyone appear on his behalf. The evidence discloses that the Respondent received the Notice of Hearing in Pakistan. Counsel advised the Panel that the Respondent had been furnished with all the exhibits in this matter. In accordance with the MFDA Rules of Procedure, the Panel in its discretion decided to proceed with the hearing in the absence of the Respondent.

4. The evidence in support of the allegations was contained in the affidavit of Sheila Daneshvaziri sworn April 5, 2013. The Respondent admitted to falsifying the signatures of at least six Ontario clients on account documents. Of these clients, five had authorized the Respondent to sign on their behalf. The sixth client had authorized the transaction but was unaware that signatures were required. Falsifying signatures is a well-recognized violation of the standard of conduct prescribed in Rule 2.1.1 of the MFDA.

5. The Respondent also admitted that he had reimbursed a client for accrued interest on an RRSP loan without advising Investors Group that he had done so. That action was contrary to paragraph 10 of MFDA Policy No. 3 which provides that no Approved Person shall without prior written consent of the Member pay any compensation to or make any restitution to a client. On

the basis of the evidence, we determined at the hearing that both the allegations against the Respondent had been established.

6. The MFDA's Staff sought the following penalty against the Respondent:

- (i) a 12 month suspension on the authority of the Respondent to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 24.1.1 of MFDA By-law No. 1 commencing the date of the Order of the Panel in this matter, April 29, 2013;
- (ii) a total fine of \$7,500, pursuant to section 24.1.1 of MFDA By-law No. 1; and
- (iii) costs attributable to conducting the investigation and hearing of this matter in the amount of \$5,000, pursuant to section 24.2 of MFDA By-law No. 1.

7. Falsification of signatures is always serious. In this case, it was an on-going practice of the Respondent. There are also good policy reasons for requiring prior notice to the Member before any compensation or restitution is made to a client. On the other hand, there is no evidence of client harm or any benefit to the Respondent as a result of his actions. The Respondent has not previously been the subject of any MFDA disciplinary proceedings although there may be proceedings in Quebec where the Respondent was also registered.

8. In determining a penalty, each case has its own particular facts and although considering penalties imposed in previous cases is helpful, they are not determinative. The Panel considered the quantum of the fine and whether it would be appropriate to require the Respondent to take an industry course if he were to seek to register again in Ontario. After consideration, the Panel decided that the penalty suggested by the MFDA Staff was reasonable and appropriate in the circumstances. We therefore signed the Order in the form submitted by counsel.

DATED this 21st day of May, 2013.

“Edward Saunders”

The Hon. Edward Saunders, Q.C.,
Chair

“Brigitte J. Geisler”

Brigitte J. Geisler,
Industry Representative

“Robert C. White”

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Industry Representative

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