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: Keith Kee-Peng Tan

Heard: January 22, 2013 in Toronto, Ontario
Reasons for Decision: January 30, 2013

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

The Hon. John B. Webber, Q.C.	Chair
Kenneth Mann	Industry Representative
Robert C. White	Industry Representative

Appearances:

H. C. Clement Wai	)	Enforcement Counsel, Mutual Fund Dealers
	)	Association of Canada ("MFDA")
Keith Kee-Peng Tan	)	Did not appear nor was he represented by counsel
	)	
	)	

1. A hearing was scheduled before this Panel to consider a settlement agreement entered into between Staff of the MFDA and the Respondent on January 3, 2013.

2. Normally an *in camera* hearing is held to receive the details of the settlement agreement and the submissions of counsel. After that hearing the Panel would retire to consider and decide if the Panel would accept the settlement agreement. If the settlement agreement were accepted the Panel would return to the hearing room to confirm the Panel's acceptance.

3. In this case the Respondent with the consent of Enforcement Counsel was not required to attend. As the Respondent had agreed to the settlement agreement and the Panel had received and reviewed the settlement agreement prior to the hearing this step was no longer necessary.

4. The Panel was satisfied that the settlement agreement should be accepted and the Panel stated that reasons for acceptance would be subsequently released. The order that was presented by Enforcement Counsel was duly signed at the end of the hearing.

CONTRAVENTIONS

5. From September 2008 to March 2009, the Respondent received referral fees in the amount of approximately $2,800 in respect of the sale of a security by another individual to two clients outside the Member, contrary to MFDA Rules 2.4.2 and 2.1.1.

FACTS

6. The Respondent was registered as a mutual funds salesperson with Info Financial Consulting Group Inc. ("Info Financial") from April 1, 2002 until May 7, 2009 when he ceased to be registered with Info Financial, and he is no longer registered in the securities industry in any capacity. From December 1, 2006 to May 7, 2009 the Respondent was also a branch manager of Info Financial.

7. Joe Deng was a branch manager of Info Financial until his resignation on July 31, 2008, at which time he was replaced by the Respondent. Deng was also the sole owner, director and the controlling mind of MP Global Finance Limited ("MP Global") which company was said to be

in the financial services business but was unregistered pursuant to the *Ontario Securities Act*. MP Global raised money through the sale of its own debentures which were not an investment product approved by Info Financial for sale by its Approved Persons. Notwithstanding this problem Deng sold debentures to two clients of Info Financial in the amount of $50,000 and $20,000, respectively.

8. From September 2008 to March 2009 the Respondent was paid by MP Global non-disclosed referral fees of approximately $2,739.45 in respect of these sales. All of this activity is described in greater details in paragraphs 7 to 24, inclusive, of the settlement agreement.

9. The above described activity of receiving non disclosed referral fees is contrary to MFDA Rules 2.4.2 and 2.1.1.

CONSIDERATIONS AND FACTORS

10. The Panel has reviewed with care the numerous factors to be taken into account as to whether the penalty is in the public interest reasonable and proportionate, reflecting specific and general deterrence which would prevent similar future conduct and foster confidence in the integrity of the Canadian capital markets, the MFDA and the regulatory process itself.

11. The Panel has also considered the factors as to the appropriateness of the penalty which in this case include the following matters:

a) The serious nature of the described misconduct which prevents proper supervision of the debentures.

b) The Respondent has no previous MFDA history.

c) As a branch manager he had an increased responsibility as to the conduct within his branch.

d) The Respondent has recognized the serious misconduct by accepting his responsibility for his misconduct, which avoided a lengthy hearing and illustrates his remorse and cooperation.

e) The Respondent is not registered in the securities industry at present.

f) The MFDA penalty guidelines for improper referral arrangements and breaches of

standard of conduct

12. The Panel is satisfied that the penalty agreed to reflects the seriousness in similar cases, specific and general deterrence and the protection of the investing public.

IMPORTANCE OF A NEGOTIATED SETTLEMENT

13. The Panel understands that a negotiated settlement should not be disturbed. The reasons in *Milewski (Re)*, [1999] I.D.A.C.D. No. 17, p. 9, are appropriate to this particular case:

> Although a settlement agreement must be accepted by a District Council before it can become effective, the standards for acceptance are not identical to those applied by a District Council when making a penalty determination after a contested hearing. In a contested hearing, the District Council attempts to determine the correct penalty. A District Council considering a settlement agreement will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness. Put another way, the District Council will reflect the public interest benefits of the settlement process in its consideration of specific settlements.

14. In the result, the order of the Panel is that the following terms of the settlement agreement shall be imposed:

a) The Respondent shall be permanently prohibited from conducting securities related business while in the employ of or associated with any Member of the MFDA pursuant to s. 24.1.1(e) of the MFDA By-law No. 1; and

b) The Respondent shall pay costs in the amount of $5,000 pursuant to s. 24.2 of the MFDA By-law No. 1.

DATED this 30th day of January, 2013.

"John B. Webber"
The Hon. John B. Webber, Q.C.,
Chair

"Kenneth Mann"

Kenneth Mann,
Industry Representative

"Robert C. White"

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Industry Representative

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