Reasons for Decision

File No. 200917

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: Paul Anthony Henry

Heard: March 29, 2010 in Toronto, Ontario
Reasons for Decision: April 5, 2010

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

The Hon. Edward Saunders, Q.C.	Chair
Darcy M. Lake	Industry Representative
Heather A. Phillips	Industry Representative

Appearances:

Maria L. Abate	))	For the Mutual Fund Dealers Association of Canada
Paul Anthony Henry	))	Appeared in Person

1. By Notice of Hearing dated June 25, 2009, the MFDA made the following allegations against the Respondent:

> **<u>Allegation #1</u>**: Between June 6, 2006 and July 6, 2007, the Respondent accepted $6,440 for investment from client LG, of which amount he failed to invest, return or otherwise account for $2,440, thereby misappropriating those monies and failing to deal fairly, honestly and in good faith with client LG, contrary to MFDA Rules 2.1.1.
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> **<u>Allegation #2:</u>** On or about November 2, 2006, the Respondent fabricated and mailed an "Investment Statement" to client LG that was untrue, misleading and detrimental to the interests of client LG, contrary to MFDA Rules 2.8.2(a) and (c) and Rule 2.1.1.
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> **<u>Allegation #3:</u>** On or about June 8, 2007, the Respondent received a written complaint from client LG which he failed to report to the Member, contrary to MFDA Policy 6, section 4.1(b)(ii) and MFDA Rules 1.1.2 and 2.1.1.

2. The Respondent co-operated in the investigation of the allegations and the parties jointly prepared and filed an agreed statement of facts. In addition, the Respondent filed, at the Hearing, a letter explaining his conduct. (Exhibit 4).

3. The facts are set out in the agreed statement of facts and it is unnecessary to repeat them in these Reasons. In short, it is alleged that the Respondent accepted money from a client, part of which he did not promptly invest, and the remainder which he did not invest at all; he fabricated an investment statement that was false and misleading and provided it to his client; and he did not report a complaint from the client to his employer member of the MFDA. In paragraphs 11-30 to the agreed statement, the Respondent admits the allegations in the Notice of Hearing and the background facts that support them.

4. As the allegations are admitted, the only issue is penalty. The staff of the MFDA recommends a permanent prohibition to conduct securities related business; a fine of $10,000; and costs of $2,500.

5. We have no difficulty with the fine and the amount of costs, we consider the prohibition to be too severe in view of the mitigating factors.

6. The Respondent has not previously been the subject of disciplinary proceedings in the nearly 18 years he has been in the industry. The allegations refer to an isolated series of transactions that were not part of a wider activity. The Respondent has repaid the money he did not invest for the client. He has admitted his wrong-doing and co-operated with the investigating staff of the MFDA. He has expressed his remorse for what he has done which we accept as genuine.

7. The misconduct of the Respondent is serious and would usually call for a permanent prohibition. After much discussion, we consider the interests of the investing public would be adequately served by a suspension of two (2) years from the date of the Hearing. In addition, the Respondent should take, and successfully complete the IFSE (IFIC) Mutual Fund Dealers Compliance Course. An order will go on the foregoing terms.

DATED this 5th day of April, 2010.

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

"Darcy M. Lake"
Darcy M. Lake
Industry Representative

"Heather A. Phillips"
Heather A. Phillips
Industry Representative

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