Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

FILE NO. : 200807

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

**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: PORTFOLIO STRATEGIES CORPORATION
SETTLEMENT HEARING

Hearing: June 19, 2008

Decision: August 6, 2008

DECISION AND REASONS

Hearing Panel of the Prairie Regional Council:

Daniel Ish, Q.C. , Chair
Terry Ford, Industry Representative

Appearances:

Hugh Corbett	**)**	**For the Mutual Fund Dealers Association of Canada**
Tom Manson	**)**	**For Portfolio Strategies Corporation**

1. THE ALLEGATIONS

In a Notice of Settlement Hearing dated April 25, 2008, the Mutual Fund Dealers Association of Canada (the "MFDA") alleged violation of the Rules of the MFDA by Portfolio Strategies Corporation, the Respondent. The allegations are that the Respondent failed to:

(a) create and maintain adequate records of a call from a client concerning the conduct of one of its approved persons and the steps the Respondent took in response to the call; and

(b) conduct a reasonable supervisory investigation of the conduct of its approved person in response to a client complaint to the MFDA and to take such reasonable supervisory and disciplinary measures as would be warranted by the results of its investigation; contrary to MFDA Rules 1.1.5(b), 2.5.1, 2.5.4 and the public interest.

2. PROCEDURE

The Settlement Hearing in this matter was conducted on June 19, 2008 in Calgary, Alberta. Mr. Hugh Corbett appeared for the MFDA and Mr. Tom Manson represented the Respondent. The Panel proceeded with two members only pursuant to Bylaw 19.9, because the third member of the Panel was not available. The parties indicated that they had no objection to the Panel proceeding.

Prior to the hearing, the Panel was provided with a written settlement agreement that had been agreed to by the parties. At the hearing, Mr. Corbett, on behalf of the MFDA, provided both written and oral submissions, and Mr. Manson, on behalf of the Respondent, made oral submissions.

The Panel, after receiving the submissions with respect to liability and penalty, made an order at the hearing on June 19, 2008 which will be confirmed and reproduced in this decision.

3. AGREED FACTS

The facts, as agreed to by the parties, are as follows:

5. The Respondent is registered as a mutual fund dealer in Alberta, British Columbia, Manitoba, Ontario and Saskatchewan and has been a Member of the MFDA since February 8, 2002.

6. The Respondent has not been the subject of previous MFDA disciplinary proceedings.

Summary of Jacobson's Conduct

7. Rodney Jacobson ("Jacobson") was registered as a mutual fund salesperson in Alberta from May 1990 to January 2007. He was an Approved Person with the Respondent from November 2001 until January 2007, at which time he was terminated by the Respondent.

8. Jacobson was the Approved Person at the Respondent responsible for the accounts of clients GL and TM.

9. As set out in more detail below, between December 2003 and November 2004, without the knowledge or approval of the Respondent, Jacobson obtained the total amount of approximately $55,000 from GL and TM for the purpose of making investments on their behalf, however, instead of purchasing investments for the clients, Jacobson deposited the monies in a bank account that he controlled and made personal use of the funds for his own benefit, thereby misappropriating the funds.

10. Between March 2004 and November 2004, Jacobson reimbursed GL and TM in cash and kind for the monies that he had received from them, in part by using his own money to purchase mutual funds in the clients' investment accounts without their knowledge or approval using blank signed forms that he had previously obtained from GL and TM. The Respondent had no knowledge that Jacobson had obtained blank signed forms from his clients and was using the blank signed forms to execute unauthorized trades in the clients' accounts.

11. In November 2004, when Jacobson learned that the MFDA was investigating his activities, he borrowed monies from his personal credit line to repay the remaining monies he had taken.

12. By Order dated June 11, 2007, an MFDA Hearing Panel accepted a settlement agreement entered into between Staff and Jacobson (the "Jacobson Settlement Agreement"), as a result of which Jacobson was permanently prohibited from conducting securities related business in any capacity and fined $15,000. Jacobson admitted that he had misappropriated client funds, engaged in discretionary trading, traded outside his authority as a mutual fund salesperson and had provided false and misleading statements to Staff during the course of Staff's investigation.

13. The Respondent was not a party to the Jacobson Settlement Agreement and had no role in determining the facts agreed upon between Staff and Jacobson. The Respondent is bound only by the facts in this Settlement Agreement and not by the facts in the Jacobson Settlement Agreement.

The Respondent's Conduct

14. GL is 76 years old. In October 2003, GL's spouse died and Jacobson handled the process of combining the spouse's account with GL's account. Jacobson had been serving as a financial advisor for GL and his spouse for more than 10 years. In December 2003, GL provided Jacobson with $20,000 to invest on his behalf in a non-mutual fund investment that Jacobson recommended. Jacobson told GL that the investment would generate income payments of $1,000 per month.

15. Jacobson did not actually have a non-mutual fund investment product in mind for GL to purchase. Instead, Jacobson deposited the $20,000 that he obtained from GL in a bank account that he controlled and used the money for his personal benefit, thereby misappropriating the funds.

16. GL was not aware that the Respondent had no knowledge of the non-mutual fund investment that Jacobson recommended to him and that the investment was not processed through the books and records of the Respondent.

17. Between March and July 2004, GL contacted Jacobson to inquire about overdue income payments that he expected to receive. On multiple occasions, Jacobson used his own money to purchase money orders in the amount of $442 which in some cases were made payable to GL personally and in other cases were used together with blank signed forms previously obtained from GL to make mutual fund purchases in GL's investment account.

18. In late July 2004, GL attended at Jacobson's offices with his daughter to complain about Jacobson's handling of his $20,000 non-mutual fund investment as the income payments that had been promised remained in arrears. During the meeting, GL demanded the return of the $20,000.

19. At the time, Jacobson did not report his meeting with GL and his daughter to the Respondent. Jacobson did not maintain any written record of the meeting.

20. Jacobson had been serving as a financial advisor for TM for close to 20 years. Jacobson knew that TM's work commitments often resulted in long absences from home. On July 30, 2004, TM gave Jacobson $35,000 to invest in mutual funds for TM's account. Instead, Jacobson deposited the $35,000 in the same bank account in which he had previously deposited funds received from GL and thereby misappropriated the funds.

21. On August 5, 2004, without the knowledge of TM or the Respondent, Jacobson used $15,000 of the $35,000 that he had received from TM to purchase mutual funds for TM. In order to process the transaction, Jacobson used blank signed forms that he had previously obtained from TM.

22. On August 13, 2004, without the knowledge of GL, TM or the Respondent, Jacobson used $18,381.42 of the $35,000 received from TM to purchase mutual funds for GL's account to reimburse GL in kind for the balance of the $20,000 that GL had given to him to invest. In order to process the transaction, Jacobson used blank signed forms that he had previously obtained from GL.

23. After receiving a trade confirmation for the August 13, 2004 mutual fund purchase, GL was upset because he had not authorized the mutual fund purchase that was recorded on the trade confirmation form, the amount of the purchase was less than the $20,000 reimbursement that GL had expected to receive from Jacobson, and the income payments of $1,000 per month that Jacobson had promised GL remained in arrears.

24. The Respondent recalls receiving a call from GL during which GL voiced concerns about missing cheques and said that he had not signed for anything. According to the Respondent, the Respondent reviewed GL's file and called GL right back. The Respondent recalls telling GL that it had a signed redemption form from him for the trade in question, and that funds had been wired directly into his personal chequing account. The Respondent also verified that the bank account void cheque on file did belong to GL. After completing its call to GL, the Respondent was left with the impression that GL's concerns had been adequately addressed. However, the Respondent did not create or maintain any notes or records of GL's call or any steps that the Respondent took to respond to it.

25. For the purposes of this Settlement Agreement, MFDA Staff accepts the Respondent's account of its dealings with GL as set out in paragraph 24 above.

26. On October 5, 2004, with the assistance of his daughter, GL submitted a written complaint to the MFDA about Jacobson's handling of his investments. After receiving the complaint, the MFDA commenced its own investigation of the matter.

27. On October 21, 2004, Staff informed the Respondent in writing that it had received a letter of complaint from GL concerning Jacobson's handling of his account. Specifically, the MFDA informed the Respondent that: "*(GL) has expressed concern regarding cheques provided to Mr. Jacobson for investments in 2003. (GL) alleges he never received confirmation as to where the funds were invested and further alleges he was not receiving monthly payments, he was told he would receive from the investments, by Mr. Jacobson"*.

28. Staff requested that the Respondent produce documentation "to aid (the MFDA) in our review of (GL)'s complaint" and invited the Respondent and Jacobson to provide a written response to GL's complaint.

29. On November 2, 2004, before providing a written response to GL's complaint, Jacobson borrowed funds from his line of credit and without the knowledge of TM or the Respondent, he reimbursed the remaining money that he had misappropriated from TM in kind by purchasing mutual funds in TM's account using blank signed forms that he had previously obtained from TM.

30. In a letter dated November 4, 2004, Jacobson set out a lengthy and detailed response to GL's complaint ("Jacobson's First Response"). Jacobson's First Response

was misleading in its tone and content. Jacobson claimed that GL was "competent, but moody and forgetful". Jacobson implied that GL's recollection was unreliable due to his age and infirmity and that GL frequently had difficulty understanding his financial affairs. Jacobson acknowledged that he had recently met with GL and his daughter and described the meeting as "confrontational and awkward". Jacobson attributed this to GL's inability to accurately recall or understand his investment transactions.

31. Under cover of a letter dated November 5, 2004, the Respondent sent Jacobson's First Response to the MFDA. The Respondent advised that it had reviewed GL's file and determined everything to be in order.

32. Unknown to the Respondent, Jacobson's First Response contained false statements and material omissions in so far as Jacobson did not disclose:

(i) the existence of his holding company, Investment Plus Inc., through which he would later claim that he offered off-book investment and money management services to clients;

(ii) that GL had given him $20,000 in December 2003 to invest in an off-book investment; and

(iii) that he had deposited the $20,000 received from GL in the Investment Plus Inc. bank account and had used the funds for his personal benefit for approximately 8 months until GL had demanded reimbursement in July 2004.

33. On November 16, 2004, Staff requested additional information from the Respondent concerning GL's complaint based on its review of Jacobson's First Response including copies of all of Jacobson's bank and line of credit statements for the relevant period.

34. In the course of responding to these follow-up inquiries, Jacobson disclosed to the Respondent, for the first time, that he had a holding company called Investment Plus Inc. and that in late 2003 he had deposited $20,000 received from GL into the Investment Plus Inc. bank account as part of what he described as an "off-book investment strategy" that Jacobson claimed he was carrying out for GL's benefit.

35. By letter dated November 30, 2004 (the "Second Response"), the Respondent advised Staff that Jacobson had informed the Respondent of the following:

(i) that Jacobson had used Investment Plus Inc. as a temporary vehicle to assist GL to achieve a monthly income of $442.00;

(ii) that GL had provided Jacobson with $20,000 to invest off-book because Jacobson could offer GL a better return than was available in the market at the time;

(iii) in August 2004, Jacobson transferred the remaining monies that he held in his Investment Plus Inc. bank account to GL when it became apparent that GL did not understand the investment strategy; and

(iv) Jacobson had provided a money management service off-book to one other client with no adverse consequences.

The Respondent also reported to Staff that it had informed Jacobson that his off book "money management service" contravened firm policy and guidelines and that "he must cease the activity forthwith." The Respondent stated that Jacobson agreed to do so.

36. In the Second Response, the Respondent stated that it was its "*continuing view that Jacobson's actions were well intended and did not result in any financial harm to GL*" and that it accepted that Jacobson's strategy "*was clearly not understood by GL*".

37. In spite of continuing inquiries from MFDA Staff about what steps the Respondent was taking to investigate Jacobson's conduct, the Respondent, both believing Jacobson and believing the matter to be at an end, did not:

(a) take any steps to verify Jacobson's claims concerning his off-book activities;

(b) subject Jacobson to heightened supervision;

(c) subject Jacobson to formal disciplinary action; or

(d) provide a written direction to Jacobson to cease and desist from providing off-book money management and investment services.

38. By virtue of Jacobson's admissions as set out in the Second Response, the Respondent understood or ought to have understood by no later than November 30, 2004 that Jacobson had engaged in the following conduct contrary to MFDA Rules:

(i) conducting securities related business outside the Respondent, contrary to MFDA Rule 1.1.1;

(ii) providing off-book "money management" services to clients without disclosure to or approval by the Respondent, contrary to MFDA Rule 1.2.1(d); and

(iii) co-mingling client monies with his own monies.

39. The Respondent did not conduct a reasonable supervisory investigation into Jacobson's conduct, including Jacobson's revelations concerning his purported off-book activities. In particular,

(a) prior to November 2006, the Respondent did not:

(i)Speak to GL and TM to corroborate Jacobson's version of events;

(ii)Review copies of the banking records of Investment Plus Inc. to corroborate Jacobson's version of events and verify the whereabouts of the clients' funds; and

(b) the Respondent did not at any time:

(i) Take steps to verify whether money from any individuals other than GL and TM had been deposited in bank accounts that Jacobson controlled or provided to Jacobson in connection with his purported money management and investment services;

(ii) Require Jacobson to confirm with credible supporting documents or records the existence of the off-book money management and investment services that he purportedly provided through Investment Plus Inc.;

(iii) Request an accounting from Jacobson of GL's and TM's holdings in Jacobson's purported off-book investment;

(iv) Require Jacobson to explain the significant discrepancies between his version of events as described in the First Response and the Second Response; and

(v) Review GL's and TM's files and the trading activity in their accounts to determine whether it was consistent with the purported off-book investment described by Jacobson.

40. Had the Respondent conducted a reasonable supervisory investigation of GL's complaint, including Jacobson's revelations concerning his purported off-book activities, the Respondent would have determined that:

(i) Jacobson's version of events differed with, and in key areas was contradicted by, GL's and TM's version of events ;

(ii) Jacobson's off-book investments and money management services did not exist;

(iii) Jacobson did not have any documents, notes, records or correspondence concerning GL's and TM's purported off-book investments;

(iv) The pattern of deposits and withdrawals from the Investment Plus Inc. bank account was inconsistent with Jacobson's version of events;

(v) Jacobson's withdrawals from the Investment Plus Inc. bank account showed that Jacobson had:

(i)used monies from GL to pay down a bank account overdraft;

(ii)used monies from TM to reimburse GL;

(iii)reimbursed TM using funds obtained from a line of credit two days before the First Response; and

(iv)Jacobson had made several unauthorized trades in GL's and TM's accounts using blank, pre-signed forms previously obtained from them.

41. Between November 2004 and December 2006, the Respondent failed to take reasonable steps to supervise Jacobson in light of the admissions that Jacobson made concerning his purported off-book investment and money management services. In particular, the Respondent did not:

(i) review the files of other clients serviced by Jacobson to determine whether he had mishandled their accounts or contravened any other MFDA Rules or internal policies and guidelines of the Respondent; and

(ii)contact other clients serviced by Jacobson to determine whether he had provided or was continuing to provide them with off-book money management and investment services.

42. MFDA Staff's investigation determined that Jacobson was apparently telling the truth when he stated that his off-book activities involved only TM and GL and that no funds had been misappropriated from any other client and Jacobson did cease engaging in off-book activity after he reimbursed TM.

43. In November 2006, two years after receiving notification about the complaint from GL to the MFDA, the Respondent conducted a review of Jacobson's sub-branch including an interview with Jacobson. During the interview, Jacobson told the Respondent that he had received no direct or indirect benefit from clients. This statement was false but was accepted at face value by the Respondent.

44. On November 23, 2006, the Respondent formally reprimanded Jacobson in writing in relation to his off-book activities but took no additional disciplinary action against him in light of Jacobson's assurances that he had not received any compensation or benefit from them and the Respondent's understanding that all amounts obtained from GL and TM relating to the purported off-book investment and management services had been repaid by Jacobson in 2004. The Respondent still had not determined that Jacobson had misappropriated monies from GL and TM and that his purported off-book investment and money management services did not exist. The Respondent accepted the account of the facts that Jacobson provided in his interview statement with the Respondent in November 2006 and in his other communications with the Respondent.

45. On December 12, 2006, following an interview conducted by MFDA Staff with a representative of the Respondent during MFDA Staff's investigation of this matter, the Respondent asked MFDA Staff to inform the Respondent if the MFDA was in possession of information suggesting that Jacobson may pose a risk of harm to the public. By letter dated December 19, 2006, the MFDA advised the Respondent that based on its investigation to date, the MFDA believed that Jacobson had misappropriated client funds that he had received from GL and TM for his personal benefit and had reimbursed the clients when it appeared that his misconduct had been or would imminently be discovered. The MFDA also informed the Respondent that Jacobson had deliberately misled individuals who investigated his conduct in response to a complaint from his client. The MFDA suggested that pending the conclusion of its investigation and any subsequent disciplinary hearing, the Respondent should, at a minimum, place Jacobson under heightened supervision and monitor situations in which Jacobson was able to handle or access client funds. Upon receipt of this letter, the Respondent set up a further interview with Jacobson on January 8, 2007.

46. On January 11, 2007, the Respondent terminated Jacobson for cause. In its termination letter the Respondent advised Jacobson, among other matters, that using client funds for personal purposes did not meet the standards expected by the MFDA or the Respondent.

47. The Respondent co-operated with MFDA Staff's investigation of the subject matter of this Settlement Agreement.

CURRENT PRACTICES

48. Since the events described in this Settlement Agreement occurred, the Respondent has hired a new Chief Compliance Officer with regulatory and compliance experience and additional compliance staff to assist the Respondent to fulfill its supervisory responsibilities. The Respondent has also substantially revised its Policy and Procedures Manual particularly with respect to "Complaint Handling, Internal Investigations, and Internal Discipline" so that in accordance with MFDA Rules and Policies, complaints to the Respondent or to the MFDA concerning the business

> conduct of Approved Persons of the Respondent will be handled promptly and fairly, appropriate records of complaints and investigations will be maintained and when warranted, reasonable supervisory investigations will be conducted and internal supervisory and disciplinary measures will be imposed.

The Respondent acknowledged and admitted responsibility in these words:

> **V. CONTRAVENTIONS**
>
> 49. The Respondent admits that in the Fall of 2004, it failed to create and maintain adequate records of the call from GL concerning Jacobson's conduct and the steps that the Respondent took in response, contrary to MFDA Rule 2.5.4.
>
> 50. The Respondent admits that between November 2004 and December 2006, it failed to conduct a reasonable supervisory investigation of Jacobson's conduct in response to GL's complaint to the MFDA and to take such supervisory and disciplinary measures as would be warranted by the results of its investigation contrary to MFDA Rules 1.1.5(b), 2.5.1, 2.5.4 and the public interest.

It is clear from the agreed facts as set out above that the Respondent did fail to create and maintain adequate records of a call from a client concerning the conduct of one of its approved persons, Rodney Jacobson. We are also satisfied that the agreed facts demonstrate that the Respondent failed to conduct a reasonable supervisory investigation of the conduct of its approved person, Mr. Jacobson, in response to a client complaint to the MFDA and failed to take reasonable supervisory and disciplinary measures as would be warranted by the results of its investigation. We find that Rules 1.1.5(b), 2.5.1, 2.5.4 and the public interest have been violated. These breaches were acknowledged by Portfolio Strategies Corporation and are also found to be substantiated by this Hearing Panel.

4. PENALTY AND ORDER

After the Panel considered the agreed facts submitted to it, the balance of the hearing on June 19, 2008 dealt with the matter of the appropriate penalty that should be imposed on the Respondent. The parties made a joint submission, as part of the Settlement Agreement, with respect to penalties. Although the parties had agreed on

penalties, the Rules of Procedure of the MFDA require that the Panel must be satisfied that the penalties imposed on the Respondent for the admitted infractions are appropriate ones in the circumstances. It is within the discretion of the Panel to determine whether to accept or reject a Settlement Agreement.

The terms of settlement proposed by the parties were:

> 51. The Respondent agrees to the following terms of settlement:
>
> (a) The Respondent will receive a reprimand, pursuant to s. 24.2.2(a) of MFDA By-law No. 1; and
>
> (b) The Respondent will pay a fine in the amount of $5,000, pursuant to s. 24.1.2(b) of MFDA By-law No. 1.
>
> 52. If this Settlement Agreement is accepted by the Hearing Panel, the Respondent will withdraw its appeal to the Alberta Securities Commission of the decision of the MFDA's Hearing Panel in respect of the MFDA's earlier settlement with Jacobson, on consent of the MFDA and without costs.

Several previous decisions of industry tribunals, including MFDA tribunals, have found that a number of factors must be taken into account in determining the appropriate sanction to impose for an infraction or infractions of the rules. In determining the appropriate penalty in this matter, the Panel took into account the following factors:

(a) the public interest and whether the penalty imposed will protect investors.

(b) whether the Settlement Agreement is reasonable and proportionate, having regard to the conduct of the Respondent, as set out in the agreement.

(c) whether the Settlement Agreement addresses the issues of both specific and general deterrance.

(d) whether the proposed penalty will prevent the type of conduct described in the Agreement from occurring again in the future.

(e) whether the Settlement Agreement will foster confidence in the integrity of the canadian securities market.

(f) whether the Settlement Agreement will foster confidence in integrity of the MFDA.

(g) whether the Settlement Agreement will foster confidence in the regulatory process itself.

The submissions by both the MFDA and the Respondent made a number of points to justify the penalty, which the Panel observed appeared on its face to be a relatively small penalty. The factors referred to by both Counsel included the fact that the Respondent was not a primary actor in the infractions. Rather, the offending conduct was that of Mr. Rodney Jacobson, one of the Respondent's approved persons. Moreover, when the Respondent initially queried Mr. Jacobson about the transactions in question, he misrepresented the situation to the Respondent.

Another factor referred to is that the Respondent fully cooperated with the MFDA once the facts were known to it, notwithstanding that a more thorough investigation may have revealed the facts to the Respondent sooner. The cooperation, together with the Settlement Agreement, avoids costs and an uncertain outcome.

Another consideration put before the Panel was that only two clients were involved, only one of whom initially complained. In addition, the clients were fully compensated by Mr. Jacobson and ultimately no money was lost.

Another response of both Counsel in questions from the Panel about the adequacy of the terms of settlement was that the facts in this case occurred relatively early, in 2003 and 2004, shortly after the time the MFDA became involved in enforcement. In these early days of compliance regulation, the importance and awareness of the need for strict compliance was not as heightened as it is today.

Another matter questioned by the Panel was the term of settlement that will see the Respondent withdrawing its appeal to the Alberta Securities Commission of the decision of an MFDA's Hearing Panel in respect of an earlier Settlement Agreement with Rodney Jacobson. We were advised that this perhaps may be the first case in which as part of the settlement there has been a collateral withdrawal of proceedings. While we

were interested in this term of settlement, we were not prepared to indicate either approval or disapproval at this time; it does not appear as part of our Order in this case.

After hearing the submissions of Counsel, the Panel adjourned to consider whether the Settlement Agreement would be accepted, including the penalty provisions. Upon return to the hearing room, the Panel indicated that it was in agreement with the joint submission and made an Order to that effect on June 19, 2008. In making the Order with respect to penalty we are particularly mindful of the fact that these events occurred early in the days of the MFDA regulatory compliance regime. In the intervening period the MFDA has, through its policies and notices, provided considerable guidance to the dealer community on their supervisory obligations. Issues surrounding appropriate complaint handling procedures and diligent review of outside business activity are clearly of concern when considering investor protection matters and market integrity. MFDA members should now be fully aware of the importance of these issues. If the same supervisory failures occurred today, it is our view that the penalty should and would be considerably higher than the $5,000 penalty that we are prepared to accept in this case. We were also influenced by the fact that no actual monetary harm was ultimately incurred by clients and that there was no complaint history against the Respondent. In addition, we were impressed by the remedial actions taken by the Respondent, as reflected in paragraph 48 of the Settlement Agreement, to the effect that it has increased its regulatory and compliance capacity subsequent to the facts of this case coming to light.

We hereby confirm the Order that we made on June 19, 2008 which states:

WHEREAS on Friday, April 25, 2008, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of MFDA By-law No. 1 in respect of Portfolio Strategies Corporation (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated Monday, March 31, 2008 (the "Settlement Agreement"), in

which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of MFDA By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that:

(a) the Respondent failed to create and maintain adequate records of the call from GL concerning Jacobson's conduct and the steps that the Respondent took in response, contrary to MFDA Rule 2.5.4; and

(b) between November 2004 and December 2006, the Respondent failed to conduct a reasonable supervisory investigation regarding the conduct of its former Approved Person Rodney Jacobson ("Jacobson") in response to GL's complaint to the MFDA and to take such supervisory and disciplinary measures as would be warranted by the results of its investigation contrary to MFDA Rules 1.1.5(b), 2.5.1, 2.1.1(c) and the public interest.

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall receive a reprimand, pursuant to s. 24.1.2(a) of MFDA By-law No. 1; and

2. The Respondent shall pay a fine in the amount of $5,000, pursuant to s. 24.1.2(b) of MFDA By-law No. 1.

Dated this 13th day of August, 2008.

"Daniel Ish"
Daniel Ish, Q.C., Chair

"Terry Ford"
Terry Ford, Industry Representative

Doc #148007