



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: Christopher Douglas White

Heard: April 23, 2019 in Halifax, Nova Scotia
Decision: April 23, 2019
Reasons for Decision: July 5, 2019

REASONS FOR DECISION

Hearing Panel of the Atlantic Regional Council:

George W. MacDonald, QC
Barbara Leighton
Darrell Bing

Chair
Industry Representative
Industry Representative

Appearances:

Alan Melamud)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Christopher Douglas White)	Respondent, not in attendance or represented by
)	counsel
)	

1. On November 29, 2018, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing in respect of a disciplinary proceeding commenced against Christopher Douglas White (the “Respondent”). The first appearance was held by teleconference on January 29, 2019 and was attended by Counsel for MFDA and the Respondent. At the first appearance, various dates were fixed, addressing scheduling and other procedural issues and fixed the date for the Hearing on the Merits (the “Hearing”), to be held in Halifax, Nova Scotia on April 23, 2019.

2. MFDA Staff complied with all the requirements of the Order and appeared at the Hearing of the matter, which was convened as scheduled on April 23, 2019. The Respondent did not comply with any of the provisions of the Order, and did not appear at the Hearing.

3. The objectionable actions of the Respondent alleged by MFDA are as follows:

Allegation #1: On or around September 20, 2016, the Respondent falsified a limited trading authorization form, and submitted the form to the Member in response to a supervisory inquiry, contrary to the Member policies and procedures, and MFDA Rules 2.1.1 and 2.5.1 and 1.1.2.

Allegation #2: In or about May 2016, the Respondent falsely represented that he had completed a university degree in his application for employment with the Member with which he was seeking to become registered, contrary to MFDA Rule 2.1.1.

4. At the commencement of the Hearing, Counsel asked to have Affidavits of Terri Ash, sworn April 18, 2019; Robert Lambshead, sworn April 8, 2019; Patrick Dorey, sworn April 9, 2019; and Robert Tymkow, sworn April 5, 2019 marked as Exhibits 3, 4, 5 and 6. The Panel was satisfied that copies of the Affidavits had been served on the Respondent in a timely manner. Given that the Respondent did not appear in person at the Hearing, the Panel agreed there was no requirement for the various people who swore the referred to Affidavits to give *viva voce* evidence and the Affidavits were marked as Exhibits as requested.

5. The Respondent was a Registered Dealing Representative with BMO Investments Inc. (“BMO”) from June 27, 2016 until October 20, 2016. The Respondent conducted all of his business in Halifax, Nova Scotia. The policies of BMO prohibited its Dealing Representatives from taking verbal trade instructions from a client unless the client had signed a Message Agreement, which was to be kept in the client’s file. On September 20, 2016, the Respondent

completed and submitted to BMO for processing an Existing Account Transactions Non-Registered/RRSP Group Form (the “LS Purchase Form”), seeking to purchase a Mutual Fund for the Respondent’s client, LS. The LS Purchase Form was not signed by LS. The Respondent had indicated on the form that he had received verbal instructions from LS on that day at 3:30 pm.

6. BMO’s Branch Compliance Officer (“BCO”) determined there was no Message Agreement on file for LS, and advised the Respondent that a Message Agreement was required before a transaction could be processed without the client’s signature being on the Form. Very shortly thereafter, the Respondent produced a Message Agreement which appeared to be signed by LS. BMO then arranged for the purchase of the Mutual Fund to take place.

7. The Message Agreement which was produced by the Respondent purported to be signed by LS on August 17, 2016. The Respondent witnessed the purported signature of LS. Upon close inspection subsequently, however, it was determined that the Message Agreement Form, purportedly signed by LS on August 17, 2016, was only printed on September 20, 2016 at 3:29 pm. The LS Purchase Form which the Respondent had first submitted for processing demonstrated that the Form was printed on September 20, 2016 at 3:09 pm.

8. Subsequently, BMO’s Branch Compliance Officer and Branch Manager met with LS, who confirmed that the transaction which was processed on September 20, 2016 had been authorized by LS. LS confirmed, however, that LS had never signed the Message Agreement.

9. In October 2016, BMO’s Compliance Officer questioned the Respondent concerning the information contained on the résumé which the Respondent had submitted to BMO in June 2016. By this time no one at BMO had looked into the transaction which took place on September 20, 2016 in LS’s account. The Respondent admitted that, contrary to the information contained on his résumé, he had never completed a university degree. At that stage, BMO’s Compliance Officer terminated the Respondent’s employment.

10. In the Fall of 2016, BMO Compliance had been informed of allegations of forgery conducted by the Respondent. An investigation was conducted at that time and on December 2, 2016 BMO filed a report with MFDA, indicating it had determined that the Respondent had forged client signatures on Mutual Fund account documents. The Respondent had

already ceased to be employed by BMO and was not interviewed at that time. Subsequently, in October 2017, the Respondent was interviewed by an MFDA Senior Investigator and Counsel. During that interview, the Respondent denied on several occasions that he had forged the signature of LS in connection with the September 20, 2016 Mutual Fund purchase.

11. The Panel finds that MFDA has established beyond question that the Respondent falsified a client's Message Agreement. It has been held on many occasions that signing a client's signature to a form is contrary to the standard of conduct required under MFDA Rule 2.1.1. There have been cases where an Approved Person signed a client's name to a form, having received the authorization of the client to do so. Such action is contrary to the standard of conduct required of Approved Persons, and will result in a fine being assessed. Committing an outright forgery of a client's signature with no authorization whatever is a much more serious matter. Such an action leads to the potential for abuse of any form of unauthorized trading, fraud, and misappropriation. As stated in *Price (Re)*, 2011 CanLII 72458 at paras. 122-124 (MFDA):

Pre-signed forms present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading....At its worst, pre-signed forms create a mechanism for an Approved Person to engage in acts of fraud, theft or other forms of harmful conduct towards a client...Pre-signed forms also subvert the ability of a Member to properly supervise trading activity. They destroy the audit trail. The presence of the client's signature on a trade form can no longer be taken as confirmation that the client authorized a particular trade. It also compromises the ability of the Member to subsequently investigate and respond to a client complaint concerning the propriety of trading activity in his or her account.

12. *In Barnai (Re)*, 2015 LNC MFDA 17, after referring to other Decisions, it is stated at paras. 9 and 10 as follows:

9 Acts of falsification which are performed without the knowledge of the client, or resulted in loss or disadvantage to the client or Member, will be treated as more serious forms of misconduct. Conversely, falsification which occurs with the knowledge or approval of the client, and can be shown to have given effect to the client's instructions, will generally be considered to be less serious misconduct.

10 The seriousness of the falsification of a client signature or initials also varies by the type or nature of the document involved.

Falsification of a client's signature or initials on trade-related documents and Know-Your-Client ("KYC") forms will generally be treated more seriously than similar conduct carried out in relation to non-transaction oriented documents because of the greater risk of client harm.

13. In this case, the Respondent deliberately forged his client's signature without authorization. The evidence established that the Respondent printed off the Message Agreement Form at 3:29 pm on September 20, 2016. He completed the LS Purchase Agreement, which stated that verbal instructions to purchase were received from LS at 3:30 pm. The Respondent obviously knew that LS had never signed a Message Agreement when he forged her signature. He spoke to LS a very short time before committing the wrongful act. Subsequently, over one year later, he compounded his wrongdoing during an interview with an MFDA Investigator and Counsel when he denied forging LS's signature.

14. The Respondent deliberately violated the MFDA Rules. He has never expressed any remorse, or even acknowledged he acted improperly. The conduct of the Respondent in this case causes the Panel great concern. We consider it important that the Respondent's conduct be strongly condemned to make it clear that Approved Persons must be trustworthy. We consider a significant deterrent is warranted in this case, particularly where the Respondent has not accepted any responsibility for his misconduct, and given that the Message Agreement form could have been used for multiple future transactions without proper authorization.

15. We have reviewed the previous Decisions of Panels dealing with forgery cases. None of them dealt with such deliberate and wrongful acts as those committed by the Respondent. We consider the sanctions to be applied must demonstrate our concern that such conduct is to be strongly discouraged.

16. We were also provided with a Bill of Costs for this case. MFDA Staff sought an award of costs of \$6,275.00.

17. Accordingly, the Panel has decided that:

- a) the Respondent be prohibited for a period of twelve (12) months from the date he has paid the fine assessed in this matter from conducting securities related business in any capacity while in the employ of, or in association with, any MFDA Member;
- b) The Respondent shall pay a fine in the amount of \$25,000; and
- c) the Respondent shall pay costs in the amount of \$6,250.00.

DATED this 5th day of July, 2019.

“George W. MacDonald”

George W. MacDonald, QC
Chair

“Barbara Leighton”

Barbara Leighton
Industry Representative

“Darrell Bing”

Darrell Bing
Industry Representative

DM 686136