



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: Joplin Leclair

HEARING PANEL: The Hon. Edward Saunders, Q.C., Chair
Cheryl Hamilton
Ron Willis

HEARD: 10 June 2008

REPRESENTATION: Maria L. Abate for the MFDA
The Respondent did not attend and no one
appeared on her behalf

DECISION AND REASONS

This is a disciplinary hearing under the rules of the Mutual Fund Dealers Association of Canada (the “MFDA”). The Respondent, Leclair, was charged with the following violations:

Allegation 1: Between October 2006 and August 2007, the Respondent solicited and accepted a total of \$250,000 from two individuals which she failed to repay or otherwise account for, contrary to MFDA Rule 2.1.1.

Allegation 2: Between October 2006 and August 2007, the Respondent engaged in a gainful occupation outside the business of the Member without so advising the Member and obtaining approval of the Member, contrary to MFDA Rule 1.2.1. (d).

Allegation 3: Commencing June 25, 2007, the Respondent failed to attend and give information to the MFDA during the course of an investigation, contrary to section 22.1(c) of MFDA By-law No. 1.

On April 19, 2007, the Respondent responded to the allegations made against her concerning monies obtained from an individual. She also admitted to conducting outside business activities. (Exhibit 4 – Affidavit of Daniela Capozzolo, sworn June 2, 2008 – Tab I). Additional information was then requested by the MFDA. On April 26, 2007, the Respondent requested an extension to respond as she had been unable to contact her lawyer. Since that time there has been no communication from the Respondent in spite of numerous attempts to communicate with her. In particular, the Respondent did not serve and file a Reply as required by the Rules of Procedure of the MFDA; did not appear at the hearing on March 31, 2008; did not respond to correspondence concerning this hearing; and did not attend this hearing. On March 31, 2008, this Hearing Panel considered that the Respondent had been properly served with the Notice of Hearing under the MFDA Rules. While strictly speaking, the Respondent was not entitled to further notice, she did receive notice of this hearing.

Rule 8.4(1) of the Rules of Procedure of the MFDA provides in part as follows:

(1) Where a Respondent fails to serve and file a Reply in accordance with the requirements of Rules 8.1 and 8.2, the Hearing Panel may do any one or more of the following:

- (a) proceed with the hearing without further notice to and in the absence of the Respondent;
- (b) accept the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing as proven and impose any of the penalties and costs described in sections 24.1 and 24.2 respectively of MFDA By-law No. 1; ...

Also, Rule 7.3 (1) of the Rules of Procedure of the MFDA provide as follows:

(1) Where a Respondent fails to attend the hearing on the date and at the time and location specified in the Notice of Hearing, the Hearing Panel may:

- (a) proceed with the hearing without further notice to and in the absence of the Respondent; and
- (b) accept the facts alleged and conclusions drawn by the Corporation in the Notice of Hearing as proven and impose any of the penalties and costs described in sections 24.1 and 24.2 respectively of MFDA By-law No. 1.

Accordingly, the Hearing Panel decided to proceed with the Hearing in the absence of the Respondent.

The affidavit of Daniela Capozzolo, sworn June 2, 2008 (Exhibit 4), sets out the facts relating to the alleged violations. We accept those facts and find that the Respondent violated the By-laws of the MFDA as alleged in the Notice of Hearing.

The Hearing Panel then heard submissions from counsel concerning penalties and costs. The violations are serious. She accepted moneys from individuals which she failed to repay. She engaged in outside activities without advising the Member and obtaining its approval. We accept the recommendation of the MFDA staff. Accordingly, it is ordered:

1. pursuant to section 24.1.1(b) of MFDA By-law No. 1, a fine in the amount of \$250,000 for misappropriation of funds contrary to MFDA Rule 2.1.1;
2. pursuant to section 24.1.1(b) of MFDA By-law No. 1, a fine in the amount of \$10,000 for failing to disclose and obtain approval of outside business activities contrary to MFDA Rule 1.2.1 (d);
3. pursuant to section 24.1.1(e) of MFDA By-law No. 1, a permanent prohibition on the authority of the Respondent to conduct securities related business in any capacity while in the employ of, or in association with, any MFDA Member for failing to give information to the MFDA during the course of an investigation and failing to cooperate contrary to Section 22.1(c) of MFDA By-law No. 1; and

4. pursuant to section 24.2. of MFDA By-law No. 1, costs attributable to conducting the investigation and prosecution of this matter in the amount of \$7,500.

DATED at Toronto this 22nd day of August, 2008

Per: “Hon. Edward Saunders, Q.C.”
The Hon. Edward Saunders, Q.C., Chair

Per: “Cheryl Hamilton”
Cheryl Hamilton, Panel Member

Per: “Ron Willis”
Ron Willis, Panel Member

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