



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

**FILE #200710**

**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: Robert Franklin Leer**

**REASONS FOR DECISION**

Heard July 19, 2007 at Vancouver, B.C.

Hearing Panel of the Pacific Regional Council:

Stephen D. Gill, Chair

Margot Howard, Panel Member

Archie Sullivan, Panel Member

Appearances:

H.C. Clement Wai	)	For the Mutual Fund Dealers
	)	Association of Canada
Dwight M. Stewart	)	Counsel for Robert Franklin Leer

## REASONS

On April 17, 2007, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to Sections 20 and 24 of By-Law No. 1 in respect of a disciplinary proceeding commenced against Robert Franklin Leer (“Leer” or the “Respondent”). A hearing panel (the “Hearing Panel”) of the Regional Council of the Pacific Region of the MFDA was convened with respect to the disciplinary proceeding, and a hearing date of July 19, 2007 was set.

The Respondent entered into a settlement agreement with staff of the MFDA, dated July 17, 2007 (the “Settlement Agreement”) in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to Sections 20 and 24 of By-Law No. 1. The Hearing Panel convened on July 19, 2007 and at the commencement of the proceedings considered a joint motion by Staff and the Respondent to hold the proceedings “in camera”. The motion was granted.

The Hearing Panel then considered the provisions of the Settlement Agreement, aided by submissions as to the applicable law which should guide the Hearing Panel in determining whether to accept or reject the Settlement Agreement.

Counsel for the Association reviewed, in detail, the Settlement Agreement, and in particular the joint settlement recommendation and the agreed facts. We heard submissions as to the terms of settlement, and in particular why the penalty, that had been agreed upon, was appropriate to the circumstances of this particular case. The Hearing Panel also heard submissions from counsel for the Respondent. After deliberation, the Hearing Panel unanimously concluded that it was appropriate to accept the Settlement Agreement, and the Order was made.

With reference to the law, the Hearing Panel notes that in past cases MFDA Hearing Panels have taken into account the following considerations when determining whether a proposed settlement should be accepted:

- (a) Whether acceptance of the Settlement Agreement would be in the public interest and whether the penalties 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 Settlement Agreement;
- (c) Whether the Settlement Agreement addresses the issues of both specific and general deterrence;
- (d) Whether the proposed settlement will prevent the type of conduct described in the Settlement Agreement from occurring again in the future;
- (e) Whether the Settlement Agreement will foster confidence in the integrity of the Canadian Capital Markets;
- (f) Whether the Settlement Agreement will foster confidence in the integrity of the MFDA;
- (g) Whether the Settlement Agreement will foster confidence in the regulatory process itself.

*Investors Group Financial Services (Re)*, [2005] MFDA Ontario Regional Council, File No. 200401 at p.2-4,

*Zollo (Re)*, [2007] MFDA Ontario Regional; Council, File No. 200610 at pp.2-3.

In the opinion of the Hearing Panel, each of these factors is dealt with appropriately by the Settlement Agreement.

With respect to penalty, the Hearing Panel accepts that at law, the penalties set out in the Settlement Agreement should be considered acceptable provided they are within the reasonable range of appropriateness given the conduct of the Respondent.

*Clark (Re)*, [1999] I.D.A.C.D. No. 40 at p. 3,

*Milewski (Re)*, [1999] I.D.A.C.D. No. 17 at p. 10

The Hearing Panel considers the penalties in the Settlement Agreement are acceptable, and within the reasonable range in the circumstances of this case, having regard to the fact that the

Respondent has no past discipline history with the MFDA, and has been active in the securities industry for many years; and that the misconduct arose from an unusual, isolated transaction; and the Respondent has expressed his regret for his conduct to his clients, family, partners, and member company. In the opinion of the Hearing Panel, the proposed penalties will deter future misconduct by the Respondent, and deter others from engaging in similar misconduct, improve overall compliance by mutual fund industry participants, and foster public confidence in the mutual fund industry. It should be noted that the penalties include a fine and payment of costs.

For all these reasons, the Hearing Panel has accepted the Settlement Agreement and has signed the Order to implement the Settlement Agreement.

These Reasons can be signed in counterpart.

**DATED** at Vancouver, British Columbia, this 25th day of September, 2007.

“Stephen D. Gill”

Stephen D. Gill, Chair

“Margot Howard”

Margot Howard, Panel Member

“Archie Sullivan”

Archie Sullivan, Panel Member