



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: Meng Xi Li

Heard: January 16, 2020 in Vancouver, British Columbia

Decision: January 16, 2020

Reasons for Decision: February 6, 2020

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

Michael Carroll, QC
Michelle Leung
Holly A Millar

Chair
Industry Representative
Industry Representative

Appearances:

Justin Dunphy)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Meng Xi Li)	Respondent, not in attendance or represented by
)	counsel
)	
)	

I. PROCEDURAL BACKGROUND

1. By Notice of Hearing dated May 3, 2019 (“Notice of Hearing”), the Mutual Fund Dealers Association of Canada (“MFDA”) commenced a disciplinary proceeding against Meng Xi Li (“Respondent”). This matter concerns a number of serious allegations of misconduct against the Respondent.
2. The first appearance in this proceeding was held on July 3, 2019. The Respondent was not in attendance or represented by counsel at the first appearance. At the appearance, Staff of the MFDA (“Staff”) made submissions for an order pursuant to MFDA *Rule of Procedure*, Rule 4.8(1) that substitute service of the Notice of Hearing be deemed effective by way of service to the Respondent’s last known address.
3. The Chair determined that service of the Notice of Hearing was effective and that the order arising out of the appearance and a news release should be served by delivering a copy to the Respondent’s last known address. A news release announcing the January 16, 2020 hearing date was subsequently served on the Respondent.
4. These are the Reasons for Decision of the Hearing Panel following the hearing of January 16, 2020. The Respondent did not attend the hearing or was she represented by counsel.

II. ALLEGATIONS OF MISCONDUCT

5. The Notice of Hearing made the following allegations of a violation of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between January 2016 and January 2017, the Respondent allowed a client to open and trade in an investment account at the Member using the identity and contact information of a different individual, thereby concealing the identity of the true account holder, and circumventing the Member’s account and trade supervision processes, contrary to the policies and procedures of the Member and MFDA Rules 2.1.1, 2.2.1, 2.5.1 and 1.1.2.

Allegation #2: Between January 2016 and January 2017, the Respondent recorded notes in the Member’s client management system which falsely described trade instructions for

trades submitted in a client account, thereby misleading the Member and circumventing the Member's account and trade supervision processes, contrary to MFDA Rule 2.1.1.

Allegation #3: In September 2016, the Respondent transferred \$100,000 from a client investment account to the Respondent's personal bank account, thereby engaging in personal financial dealings with the client which gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Member or address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.4 and 2.1.1.

Allegation #4: Commencing in January 2017, the Respondent made false or misleading statements to the Member and/or Staff of the MFDA during the course of investigations into her conduct, contrary to MFDA Rule 2.1.1.

Allegation #5: On November 2, 2016, the Respondent falsified a client's signature on an account form and submitted it to the Member for processing, contrary to MFDA Rule 2.1.1.

FACTS

6. From August 27, 2015 to January 20, 2017 the Respondent was registered in British Columbia as a mutual fund dealing representative with CIBC Securities Inc. (the "Member"). She was also employed as a bank employee by CIBC at the same time. Her employment with the Member was terminated for reasons which will become obvious on January 20, 2017.

7. An affidavit of Brenda Oue ("Ms. Oue"), an Investigator with the MFDA was presented as evidence at the hearing. Attached to her affidavit was an investigation report stating the following:

- a) The Respondent opened a CIBC Bank account in Individual A's name, and completed multiple transfers between Individual A's Bank account and Client X's CIBC Bank account;
- b) The Respondent opened a mutual fund account with the Member in Individual A's name, with the initial monies coming from Individual A's CIBC Bank account. Subsequent redemptions returned the monies to Individual A's CIBC Bank account;

- c) The Respondent, in September 2016, transferred \$100,000 from Individual A's CIBC Bank account to her own personal CIBC Bank account
- d) Between January 21, 2016 and January 9, 2017, the Respondent conducted 33 purchases and 9 redemptions in Individual A's mutual fund account. The proceeds from redemptions were subsequently transferred to Individual A's CIBC Bank account
- e) On January 10, 2017, the Respondent attempted to transfer approximately \$1.36 million from Individual A's CIBC Bank account to Client X in January 2017, and subsequently closed both Individual A's CIBC Bank account and mutual fund account
- f) On January 23, 2017, a person identifying himself as Individual A attended the Respondent's CIBC Bank branch, denied that he knew the Respondent, was unaware of any Bank or mutual fund accounts in his name, and claimed that Client X was his uncle and that the monies in his name belonged to Client X.

8. Ms. Oue also states in her affidavit that the account notes prepared by the Respondent stated that she had met with Individual A at the Respondent's branch to open the mutual fund account, that she had met or discussed with Individual A about his account holdings on multiple occasions between January 2016 and January 2017, and that she had met with Individual A in person or spoken by phone to obtain purchase or redemption instructions.

9. However Ms. Oue also states that in an interview with MFDA Staff on November 6, 2017 the Respondent admitted the account notes were false and that she had never met or had discussions with Individual A.

10. In the same interview the Respondent also admitted that she had transferred \$100,000 from Individual A's CIBC bank account to her own CIBC bank account. She said this money had originated from Client X. She admitted she did not disclose this transfer to the Member. When asked about the purpose of the \$100,000 transfer she advised that it was a loan from Client X to her for the purpose of buying an apartment. However in an earlier interview with CIBC corporate security on January 20, 2017 she said it was repayment made for a loan that Individual A had obtained from her mother or her mother's friend.

11. The Member and CIBC became aware of the Respondent's conduct when she attempted to wire \$1,360,000 from Individual A's account to Client X's account. Individual A met with CIBC branch staff on January 23 and January 26, 2017 and stated that he had no mutual fund or bank accounts with the Member, did not know the Respondent, and that the monies in his account belonged to Client X. He said that Client X was his uncle who had told him to confirm that the money did not belong to him. According to the trading activity records of the Member the Respondent completed 33 mutual fund purchases between February 2016 and January 2017 in amounts ranging from \$50,000 to \$250,000. She also completed nine redemptions until all mutual funds were redeemed as of January 9, 2017. The Respondent admitted in the November 6, 2017 meeting with Staff that all mutual fund purchases and redemptions were made without the authorization of Individual A.

12. Ms. Oue's affidavit also states that the Respondent admitted that she falsified another client's (FRZ) signature on a New Account Application Form.

13. The Hearing Panel notes that some of the evidence before us was hearsay. However MFDA *Rule of Procedure* 1.6 permits us to admit hearsay evidence which we consider relevant. To the extent that the affidavit of Ms. Oue contains hearsay evidence we consider it relevant and admit it.

14. We also confirm our jurisdiction pursuant to MFDA *Rule of Procedure* 7.3 to proceed with the hearing despite the failure of the Respondent to attend or be represented by counsel.

III. MISCONDUCT

15. The allegations of misconduct of the Respondent are extremely serious. They have been thoroughly canvassed in paragraphs 14-33 of the written submissions of counsel for the MFDA and it is not necessary to repeat them here. In summary they seek a permanent prohibition on the authority of the Respondent to conduct securities related business while in the employ of or associated with any Member of the MFDA pursuant to s. 24.1.1(e) of By-Law No. 1 of the MFDA. They also suggest a fine of between \$50,000 to \$75,000 and costs of \$7,500.

16. We have considered the factors concerning the appropriateness of the penalties sought as set out in paragraphs 36-44 of counsel's written submissions. In our view, the protection of the

investing public, specific and general deterrence, the seriousness of the allegations proved, and public confidence are all relevant in determining the appropriate penalty in this matter.

17. The Respondent poses a significant risk to other investors and the market if she were allowed to return to the industry. The fact that there was no evidence of prior misconduct, that she was relatively junior in the mutual fund industry, and that there was no evidence of harm suffered by Individual A, does not detract from the seriousness of the Respondent's conduct. The evidence presented to the Hearing Panel allows us to draw a reasonable inference that the Respondent was part of a scheme to launder money or permit tax evasion and in so doing was guilty of misconduct and lied about it to the Member and Staff of the MFDA.

18. None of the cases submitted by counsel for the MFDA are directly relevant to the present case and in our submission except for *Visneskie (Re)* MFDA File No.201553 involve conduct of a less serious nature than the Respondent's.

19. The Hearing Panel was also provided with a Bill of Costs for this case.

IV. CONCLUSION

20. The Respondent is permanently prohibited from conducting securities related business while in the employ or associated with any Member of the MFDA pursuant to s. 24.1.1 (e) of By Law No. 1 of the MFDA. The Respondent is further ordered to pay a fine of \$100,000 pursuant to s. 24.1(b) and costs of \$7500 pursuant to s. 24.2 of By-Law No. 1 of the MFDA.

DATED this 6th day of February, 2020.

“Michael Carroll”

Michael Carroll, QC
Chair

“Michelle Leung”

Michelle Leung
Industry Representative

“Holly A Millar”

Holly A Millar
Industry Representative

DM 721885