



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

File No. 200716

**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: Michael J. MacDonald

HEARING PANEL: The Hon. Edward Saunders, Q.C., Chair
Sandy Grant
Guenther Kleberg

HEARD: 7 November 2007

REPRESENTATION: Michelle Pong for the MFDA
The Respondent did not attend and no one
appeared on his behalf

DECISION

This is a disciplinary hearing under the rules of the Mutual Fund Dealers Association of Canada (the "MFDA"). The Respondent, MacDonald, was charged with the following violation:

Allegation: Since January 8, 2007, the Respondent has failed to attend at the offices of the MFDA to give information concerning an investigation of his conduct while he was an Approved Person, contrary to s.22.1(c) of MFDA By-law No. 1.

The Respondent has not participated in the process except for an e-mail message on January 11, 2006. 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 August 30, 2007; did not respond to correspondence concerning this hearing; and did not attend this hearing. On August 30, 2007, 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, we are satisfied that the Respondent received notice of this hearing and the materials provided to the Hearing Panel by the staff of the MFDA.

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;

(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 October 30, 2007 (Exhibit 7), sets out the facts relating to the alleged violation. 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. We accept the recommendation of the MFDA staff. Accordingly, we ordered:

1. pursuant to section 24.1.1(e) of 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;
2. pursuant to section 24.1.1(b) of By-law No. 1, a fine in the amount of \$50,000; and
3. pursuant to section 24.2 of By-law No. 1, costs attributable to conducting the investigation and hearing of this matter in the amount of \$7,500.

DATED at Toronto this 12th day of November, 2007.

Per: "Edward Saunders"
The Hon. Edward Saunders, Q.C., Chair

Per: "Sandy Grant"
Sandy Grant, Panel Member

Per: "Guenther Kleberg"
Guenther Kleberg, Panel Member