



**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: Victor Antonio Machon**

Heard: July 26, 2018 in Toronto, Ontario

Decision: July 26, 2018

Reasons for Decision: October 30, 2018

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC  
Edward V. Jackson  
Guenther W.K. Kleberg

Chair  
Industry Representative  
Industry Representative

Appearances:

Sarah Glickman	)	Counsel for the Mutual Fund Dealers
	)	Association of Canada
	)	
	)	
Victor Antonio Machon	)	Respondent, not in attendance or represented by
	)	counsel
	)	

## **Background**

1. By Notice of Hearing dated December 13, 2017 (“Notice of Hearing”), Staff of the MFDA alleged that between January 2015 and January 2016, Victor Antonio Machon (the “Respondent”) signed the signature of four clients on six account forms, and submitted the account forms to the Member for processing, contrary to MFDA Rule 2.1.1. The relevant facts are set out in the Notice of Hearing.
2. At the hearing, Staff advised that it would only be moving on four of the six client signatures referenced in the Notice of Hearing.
3. The Respondent was registered as a mutual fund salesperson with Scotia Securities Inc., a Member of the MFDA but is now not registered in the securities industry in any capacity.

## **No Reply and No Appearance**

4. After admitting certain contraventions to Staff, the Respondent ceased to participate in the investigation and proceedings related to the allegation. He failed to file a Reply and chose not to attend the hearing.
5. The panel announced that it would proceed with the hearing in the absence of the Respondent and would accept as proven against the Respondent the facts and conclusions drawn in the Notice of Hearing, including the particulars, as permitted by section 20.4 of MFDA By-law No. 1, and Rules 7.3 and 8 of MFDA Rules of Procedure.
6. Staff introduced in evidence the affidavit of Tim Fallow, MFDA investigator, which substantiated the facts in the Notice of Hearing.

## **Decision on the Merits**

7. The panel determined that the facts and conclusions alleged against the Respondent in the Notice of Hearing had been proven and that the conduct alleged did contravene MFDA Rule 2.1.1.

## **Penalty Decision**

8. The panel decided on the following penalties:

- a) a fine of \$10,000;
- b) a costs award of \$3,000; and
- c) a six months prohibition from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member (which commenced on July 26, 2018, being the date of its order implementing its decision).

9. In its order implementing its decision the panel also ordered that the Respondent shall in the future comply with MFDA Rule 2.1.1.

## **Reason for Penalty**

10. Staff recommended as a penalty a fine of \$10,000 to \$15,000 and a one or two month prohibition.

11. The panel believed that a six month prohibition was more appropriate in this case since the Respondent was out of the industry and did not have a book of business that would be adversely impacted, while the longer period (six months instead of one or two recommended by Staff) would send a message that the misconduct was considered to be serious.

12. After considering precedent cases referred to us by Staff and the MFDA penalty guidelines, the panel determined that a \$10,000 fine was more appropriate than a higher fine in view of the limited number of clients and forms involved.

13. We would have considered a lower fine if there had been evidence of remorse on the part of the Respondent.

14. The fact that the Respondent did not participate in the process against him did not dispose us to be lenient towards him. We did not, on the other hand, consider his failure to participate as an indication that he had failed to cooperate with the MFDA in its investigation. This was not alleged against him.

15. We noted that the Respondent is no longer in the industry. There was no evidence of client loss, or undue benefit to the Respondent from his misconduct, or any prior disciplinary action against the Respondent.

#### **Costs**

16. Staff presented us with a bill of costs for \$5,750 which did not include charges for time attributable to travel, preparation of evidence or preparation of legal submissions, or disbursements attributable to transcription preparation, photocopies, courier and office supplies.

17. While the panel believes that full costs should normally be awarded against an unsuccessful respondent when there is an appropriate bill of costs, we were reluctant to award costs in this matter much higher than the usual \$2,500 for settlements of similar matters, especially when a \$5,750 award would be greater than 50% of the fine amount in this uncontested matter.

**DATED** this 30<sup>th</sup> day of October, 2018.

“Paul M. Moore”

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Paul M. Moore, QC  
Chair

“Edward V. Jackson”

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Edward V. Jackson  
Industry Representative

“Guenther W. K. Kleberg”

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