



**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: Daniel Leon Edward Moyaert**

Heard: January 19, 2010 in Toronto, Ontario  
Reasons for Decision: January 29, 2010

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

The Hon. Edward Saunders, Q.C.  
Jeanne Beverly  
Ron Willis

Chair  
Industry Representative  
Industry Representative

Appearances:

Lyla Simon )  
)

For the Mutual Fund Dealers Association of  
Canada

Daniel Moyaert )  
)

Did Not Appear

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

**Allegation:** Commencing October 2008, by failing to comply with a request by MFDA Staff that he provide a written statement concerning matters under investigation the Respondent has failed to cooperate with an MFDA investigation, contrary to section 22.2 of MFDA By-law No. 1.

2. The Respondent has not participated in the process. 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 24, 2009; did not attend this hearing. The Respondent was personally served with notice of the hearing on August 24, 2009 and at that hearing this 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, the Panel is satisfied that the Respondent received notice of this hearing and the materials provided to this Panel by the staff of the MFDA. In addition the MFDA staff wrote several letters to the Respondent and made four (4) telephone calls without receiving any response.

3. 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...

4. Also, Rule 7.3(1) of the Rules of Procedure of the MFDA provides 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.

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

6. The affidavit of Ian R. Smith sworn December 29, 2009 and the affidavit of Chris Russell sworn January 5, 2010, set out the relevant facts relating to the alleged violation. The Panel accepts those facts and finds that the Respondent violated the by-laws of the MFDA alleged in the Notice of Hearing.

7. The Panel then heard submissions from counsel concerning penalties and costs. After consideration the Panel accepted the recommendation of MFDA staff. Accordingly it is order that:

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 \$5,000.

8. The Panel wishes to make clear that in reaching its conclusion, it did not consider the facts which gave rise to the request for the Respondent's cooperation which by virtue of By-law No. 1 he was bound to give. What was before us were charges of failure to comply with legitimate requests. The facts which gave rise to the request are not relevant to this decision.

9. We also note that the allegation should have referred to Section 22.1 of By-law No. 1 as well as to Section 22.2. This oversight, in our view, is not of significance. The material provided to the Respondent set out in detail the requirements for information which the Respondent deliberately chose not to provide.

**DATED** this 29<sup>th</sup> day of January, 2010.

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

“Jeanne Beverly”  
Jeanne Beverly  
Industry Representative

“Ron Willis”  
Ron Willis  
Industry Representative