



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

**IN THE MATTER OF A SETTLEMENT HEARING
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Mark Faiz Sakkejha

Heard: February 8, 2012 in Toronto, Ontario
Decision and Reasons: February 9, 2012

DECISION AND REASONS

Hearing Panel of the Central Regional Council:

Martin L. Friedland, C.C., Q.C.
Simon Destrempes
Kenneth P. Mann

Chair
Industry Representative
Industry Representative

Appearances:

Michelle Pong)	For the Mutual Fund Dealers Association of
)	Canada
Mark Faiz Sakkejha)	Personally in attendance without counsel
)	

Background

1. This is a settlement hearing under Section 24.4 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (the “MFDA”). A settlement hearing, most of which was heard *in camera* as is usual in such cases because of the nature of the proceedings, was held on Wednesday, February 8, 2012. The full Settlement Agreement entered into between Staff of the MFDA and Mark Faiz Sakkejha (“Mr. Sakkejha” or the “Respondent”) is available on the MFDA website and will not be set out in detail here. The Respondent appeared at the settlement hearing without counsel.

2. Mr. Sakkejha was at the time of the events – and still is – registered in Ontario as a mutual fund salesperson and branch manager with IPC Investment Corporation (“IPC” or the “Member”).

3. On July 17, 2008, the Member completed a compliance field examination of the Respondent’s branch in Toronto, which at the time consisted of three Approved Persons, including the Respondent. A number of deficiencies were found and reported to the MFDA.

4. Staff of the MFDA then conducted an investigation of the Respondent’s activities and concluded that the Respondent had engaged in improper conduct. A notice of hearing was issued on November 28, 2011, alleging that the Respondent:

- (a) obtained and maintained at least 85 pre-signed client account forms in respect of 16 different client accounts and used the forms to process trades in client accounts on at least 25 occasions, contrary to MFDA Rule 2.1.1: and
- (b) accepted appointments as co-power of attorney, co-trustee for a family trust and executor for clients and, in the case of client BMS, acted as the executor for client BMS’s estate, contrary to MFDA Rule 2.3.1(a) and contrary to the Member’s policies and procedures, thereby interfering with the ability of the Member to supervise the Respondent, contrary to MFDA Rules 1.1.2 and 2.5.1

Terms of Settlement

5. Mr Sakkejha admits in the Settlement Agreement that he engaged in the conduct alleged in the preceding paragraph, paragraph number 4.

6. He also agrees to the following terms of settlement:

(a) the Respondent shall pay a fine of \$7,500, pursuant to section 24.1.1(b) of By-law No. 1;

(b) the Respondent shall write an industry course deemed appropriate by MFDA Staff, pursuant to section 24.1.1(f) of By-law No. 1;

(c) the Respondent shall pay \$2,500 in respect of the costs of the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1; and

(d) the Respondent shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including MFDA Rules 2.1.1, 2.3.1(a), 1.1.2 and 2.5.1.

Approval of Settlement

7. The panel approves the terms of the Settlement Agreement. We find that the proposed penalties are reasonable and proportionate having regard to the conduct of the Respondent and the circumstances of this case.

8. The Respondent has never been the subject of a disciplinary proceeding by the MFDA and there were no client complaints and no evidence of harm to his clients. Further, by entering into a Settlement Agreement he has accepted responsibility for his misconduct and recognizes its seriousness.

9. The penalty is appropriate and is in line with other approved settlements that were cited by counsel. It is certainly within the reasonable range of appropriateness. In such cases, a panel

should be careful not to interfere with the agreement. Settlements can either be accepted or rejected. They cannot be modified by a panel.

10. Settlements can be important and useful in achieving outcomes which further the goals of the securities regulatory context. The British Columbia Court of Appeal stated with respect to a settlement by the B.C. Securities Commission (*B.C. Securities Commission v. Seifert* [2007] B.C.J. No. 2186, para. 49 (B.C.C.A.)):

“Settlements assist the Commission to ensure that its overriding objective, the protection of the public, is met. Settlements proscribe activities that are harmful to the public. In so doing, they are effective in accomplishing the purposes of the statute. They provide means of reaching a flexible remedy that is tailored to address the interests of both the Commission and the person under investigation.”

11. We are grateful to Ms. Michelle Pong for her helpful presentation.

DATED this 9th day of February, 2012.

“Martin L. Friedland”

Martin L. Friedland, C.C., Q.C.,
Chair

“Simon Destrepes”

Simon Destrepes,
Industry Representative

“Kenneth P. Mann”

Kenneth P. Mann,
Industry Representative