



**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: Timothy Glenn Ocampo Solis**

Heard: June 7, 2017 in Toronto, Ontario  
Decision and Reasons: June 23, 2017

**DECISION AND REASONS**

Hearing Panel of the Central Regional Council:

Martin L. Friedland, C.C., Q.C.	Chair
Brigitte J. Geisler	Industry Representative
Joseph Yassi	Industry Representative

Appearances:

H. C. Clement Wai	)	Counsel for the Mutual Fund Dealers
	)	Association of Canada
	)	
	)	
Timothy Glenn Ocampo Solis	)	Respondent, In Person
	)	
	)	
	)	

## **Background**

1. This is a hearing under Section 20 and 24 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (“MFDA”). The hearing was held on Wednesday, June 7, 2017. The Respondent appeared in person and was not represented by counsel. An Agreed Statement of Facts entered into between Staff of the MFDA and Timothy Solis (“Mr. Solis” or the “Respondent”) is available on the MFDA website and will not be set out in detail here.

2. The Respondent and Staff of the MFDA agree that this matter should be heard in public pursuant to Rule 1.8 of the MFDA *Rules of Procedure*.

3. From July 9, 2012 to August 22, 2014, the Respondent was registered in Ontario as a Dealing Representative (formerly known as a mutual fund salesperson) with Investors Group Financial Services Inc. (“Investors Group”), a Member of the MFDA. At all material times, the Respondent conducted business at a branch of Investors Group located in Milton Ontario.

4. Investors Group suspended the Respondent on July 28, 2014, pending the outcome of its internal investigation of the events that are the subject of the present hearing, and terminated the Respondent on August 22, 2014. The Respondent has not been registered in the securities industry in any capacity since his termination by Investors Group.

## **Allegations**

5. By Notice of Hearing dated October 4, 2016, the MFDA commenced a disciplinary proceeding against the Respondent pursuant to sections 20 and 24 of MFDA By-law No. 1.

6. The Notice of Hearing set out the following allegations:

**Allegation #1:** Between November 2013 and July 2014, the Respondent misappropriated approximately \$53,000 from five clients, thereby failing to deal fairly, honestly and in

good faith with clients, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1.

**Allegation #2:** Between November 2013 and July 2014, the Respondent falsified client signatures on account forms in order to process a series of unauthorized transactions in respect of five clients, thereby failing to deal fairly, honestly and in good faith with clients, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 2.3.1 and 2.1.1.

**Allegation #3:** In April 2014, the Respondent misled the Member in response to a trade inquiry, thereby interfering with the Member's ability to supervise the Respondent's trading activity and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rules 1.1.2, 2.5.1 and 2.1.1.

### **Agreed Facts**

7. As stated above, an Agreed Statement of Facts was entered into by the MFDA and the Respondent on June 4, 2017. The Respondent admits the facts set out in the Statement and agrees (paragraph 4) that the facts "constitute misconduct for which the Respondent may be penalized on the exercise of the discretion of a Hearing Panel pursuant to s. 24.1 of MFDA By-law No. 1."

8. Staff of the MFDA and the Respondent jointly request (paragraph 5) "that the Hearing Panel determine, on the basis of this Agreed Statement of Facts, the appropriate penalty to impose on the Respondent." It was agreed (paragraph 6), that submissions were to be made based only on the agreed facts in the Statement and no other facts or documents.

9. The Respondent had filed a Reply on December 4, 2016, that was incorporated into the Agreed Statement of Facts. He also made some brief submissions at the hearing relating to his steps to reimburse persons who had been harmed by his actions.

10. At the conclusion of the hearing, the Panel reserved its decision. This is our decision on the Respondent's conduct and the appropriate penalty to be imposed.

### **Respondent's Conduct**

11. Paragraph 48 of the Agreed Statement provides as follows:

“By engaging in the conduct described... the Respondent admits that he:

- (a) misappropriated approximately \$53,000 from five clients, thereby failing to deal fairly, honestly and in good faith with clients, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1;
- (b) falsified client signatures on account forms in order to process a series of unauthorized transactions in respect of five clients, thereby failing to deal fairly, honestly and in good faith with clients, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 2.3.1 and 2.1.1, and
- (c) misled the Member in response to a trade inquiry, thereby interfering with the Member's ability to supervise the Respondent's trading activity and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rules 1.1.2, 2.5.1 and 2.1.1.”

12. The conduct is described in some detail in paragraphs 12 to 47 of the Agreed Statement of Facts and need not be set out here. In brief, there were five clients harmed by the Respondent's calculated scheme. All transactions were fairly similar, although each was tailored to the circumstances of the clients. The Respondent would arrange for the transfer of a client's funds into the client's non-registered account and then transfer them out of that account to the Respondent's non-registered account and then into a bank account which the Respondent controlled. The funds were used to pay the Respondent's personal expenses.

13. The clients were not aware of what the Respondent was doing. He would falsify their signatures on documents transferring funds and would change their addresses so the the clients would not know about the transactions.

14. The Respondent kept this information from the Member through various lies.

15. In four of the cases, the sums involved were relatively modest – a few thousand dollars – but in one case involving the Respondent’s aunt, it was \$49,000. The total amount involved was \$53,000.

16. The Respondent has repaid one of the clients and Investors Group has repaid three additional clients. The Respondent’s aunt, who lost \$49,000 is being repaid by the Respondent under a plan whereby \$2,000 was initially paid by the Respondent and \$700 is being repaid each month. The Respondent’s parents have guaranteed the repayment plan. Evidence was presented to us by the Respondent confirming that about \$14,000 has now been repaid. The amount lost by the aunt should all be repaid by 2022. After that date, the Respondent intends to repay Investors Group. Staff of the MFDA worked with the Respondent to try to ensure that a reasonable scheme for repayment of the aunt’s losses could be arranged.

17. The Respondent’s conduct clearly breaches the MFDA Rules. Hearing Panels have consistently held that misappropriation of client funds by an Approved Person is dishonest conduct, which is inconsistent with the standard of conduct set out in MFDA Rule 2.1.1. Similarly, Hearing Panels have held that falsifying forms is a contravention of the standard of conduct set out in MFDA Rule 2.1.1. Further, misleading a Member is a violation of the Rules as it hinders the Member’s ability to supervise the conduct of the Approved Person.

### **Penalty**

18. It is our task to determine what the penalty should be.

19. The Agreed Statement of Facts states in paragraph 5 that “Staff and the Respondent jointly request that the Hearing Panel determine, on the basis of this Agreed Statement of Facts, the appropriate penalty to impose on the Respondent.”

20. Paragraph 11 goes on to say, with respect to a ‘permanent prohibition from conducting securities related business:’ “Staff submits and the Respondent does not oppose that, at a minimum, the appropriate penalty to impose on the Respondent is a permanent prohibition from conducting securities related business in any capacity while in the employ of, or in association with, any MFDA Member, pursuant to s. 24.1.1(e) of the MFDA By-law No. 1.”

21. In the Panel’s view a “permanent prohibition” is the right minimum penalty and is required in this case involving such egregious conduct. It is the penalty imposed for such conduct in other similar cases.

22. It is also the penalty suggested in the MFDA Penalty Guidelines. Under the heading of the Guidelines for Approved Person relating to “Forgery/Fraud/Theft/Misappropriation and Misapplication” it is stated: “In almost all cases a permanent prohibition will be sought.”

23. There are six specific factors to consider under this provision and all apply to the Respondent:

1. Nature of circumstances and conduct.
2. Client knowledge/consent.
3. Loss to client (s).
4. The Respondent’s intent.
5. Whether the Respondent was unjustly enriched and obtained/attempted to obtain a financial benefit from the fraudulent conduct.
6. Whether the Respondent concealed or attempted to conceal the activity from the Member or the MFDA.

24. Misappropriation is among the most serious types of misconduct encountered by securities regulators. Signature falsification is also serious, particularly when the falsification facilitates other misconduct. Similarly, misleading a Member is serious because it prevents the Member from supervising the Approved Person's conduct.

25. We therefore impose: "A permanent prohibition on the authority to conduct securities related business in any capacity while in the employ of, or in association with, any MFDA Member, pursuant to s.24.1.1(e) of MFDA By-law No. 1."

26. Additional sanctions are also requested by staff of the MFDA:

- a) A fine in the amount of \$50,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1; and
- b) Costs attributable to conducting the investigation and hearing of this matter in the amount of \$7,5000, pursuant to s. 24.2 of MFDA By-law No. 1.

27. We agree with Staff of the MFDA that awarding costs of \$7,500 is reasonable. As Counsel for the MFDA argued: "The amount requested will permit the MFDA to recover from the Respondent a portion of the costs attributable to conducting the investigation and this hearing, such that these costs do not have to be borne by the MFDA or subsidized by those Members and Approved Persons of the MFDA who do not engage in this type of activity."

28. The main issue for the Panel concerns the fine to be imposed. The Respondent did not suggest a specific figure, but, as discussed above, presented evidence about his plan to reimburse persons who lost money from his actions. He would obviously like a lesser fine than \$50,000.

29. The Panel agrees with the MFDA that \$50,000 is an appropriate penalty for the conduct in this case. As stated above, the Respondent comes under all six of the headings in the Guidelines for determining the penalty for fraudulent conduct. The conduct was egregious; it was done without the clients' knowledge; there were losses to the clients; the Respondent had clear intent to engage in the conduct; the Respondent was unjustly enriched and attempted to obtain a

financial benefit from the fraudulent conduct; and the Respondent attempted to conceal the activity from the Member.

30. The minimum suggested fine for such transgressions is \$25,000. That is for conduct at the lower end of a scale of seriousness. The conduct in the present case is towards the top end of such a scale. Moreover the guidelines state that the “fine should include the amount of any financial benefit to the Respondent,” which in the present case was greater than \$50,000.

31. Such a fine is consistent with the cases cited to us by the MFDA.

32. There are a number of factors in the Respondent’s favour: he cooperated with the MFDA by not requiring a full hearing concerning the facts; he appears to be genuinely remorseful; he has taken steps to reimburse the clients; and he has not been the subject of earlier disciplinary proceedings. Such conduct was no doubt taken into account in setting a suggested figure of \$50,000. Without, such factors, the suggested penalty would likely have been higher.

33. The result is that we order the following sanctions against the Respondent:

- a) 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, pursuant to s.24.1.1(e) of MFDA By-law No. 1.
- b) A fine in the amount of \$50,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1; and
- c) Costs attributable to conducting the investigation and hearing of this matter in the amount of \$7,500, pursuant to s. 24.2 of MFDA By-law No. 1.

**DATED** this 23<sup>rd</sup> day of June, 2017.

“Martin L. Friedland”

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

“Brigitte J. Geisler”

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Industry Representative

“Joseph Yassi”

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