



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: Christophe Xavier Taylor

Heard: January 24, 2013 in Calgary, Alberta
Reasons for Decision: February 6, 2013

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

Robert Hucal)	Chair
Daniele Ayers)	Industry Representative
Howard Mix)	Industry Representative

Appearances:

Francis Roy)	For the Mutual Fund Dealers Association of
)	Canada
John H. Wilson, Q.C.)	Legal Counsel for Christophe Xavier Taylor
)	

1. On January 24, 2013, we heard representations from Enforcement Counsel and counsel for the Respondent, after receiving an Agreed Statement of Facts and the Admission of Misconduct by the Respondent relating to certain allegations. We further considered the submissions of both counsel relating to the appropriate penalty.

2. The parties jointly agreed that the quantum of the financial penalty, if any, we were asked to impose, should take into account the following agreed sanctions:

(a) costs in the amount of \$5,000, pursuant to s. 24.2 of MFDA By-law No. 1;

(b) a two year suspension on the authority of the Respondent to conduct securities related business in any capacity over which the MFDA has jurisdiction, pursuant to s. 24.1.1(c) of MFDA By-law No. 1 (the “Suspension”);

(c) prior to the conclusion of the Suspension:

(i) the Respondent shall divest himself completely and irrevocably of any and all of his holdings and investments in Asian Coast Development (Canada) Ltd. (“ACDL”) that he purchased via the original ACDL Investment and the Second ACDL Investment (as those terms are defined in the Agreed Statement of Facts), by transferring them to an arm’s length third party; and

(ii) the Respondent shall provide written confirmation to and satisfy Staff that he has divested himself completely and irrevocably of, and transferred to an arm’s length third party, the Respondent’s ACDL Investment;

failing which the Respondent shall be permanently prohibited from conducting securities related business in any capacity over which the MFDA has jurisdiction, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

(d) the Respondent shall write or re-write and pass an appropriate industry course on ethics acceptable to MFDA Staff, prior to being re-registered in the mutual fund industry, pursuant to s. 24.1.1(f) of MFDA By-law No. 1.

3. The original Notice of Hearing set out four allegations. The Agreed Statement of Facts, for the purposes of resolution of the proceedings, indicated that only two of the allegations were going forward and were as follows:

Allegation #2: Between April 2007 and April 2009, the Respondent engaged in securities related business that was not carried out for the account and through the facilities of the Member by selling, recommending or facilitating the sale of investments in a real estate development company to clients and other individuals, contrary to MFDA Rules 1.1.1(a) and 2.1.1.

Allegation #4: Between the fall of 2005¹ and April 2009, the Respondent failed to comply with the Member's policies and procedures by failing to respond to inquiries by the Member truthfully and, in particular, by failing to disclose to the Member his:

(a) [withdrawn];

(b) participation in the purchase of shares of a real estate development company with at least 28 clients and 9 other individuals through a corporation of which he was the sole director and officer; and

(c) participation in the purchase of shares of the same real estate development company with at least 4 clients and 1 other individual, which shares were issued and held in the Respondent's name only;

thereby interfering with the ability of the Member to supervise the Respondent and comply with its obligations under MFDA Rule 2.1.4, contrary to MFDA Rules 1.1.2 and 2.5.1, and MFDA Rule 2.1.1.

AGREED FACTS

4. The Respondent was originally registered as a mutual fund salesperson with Partners in

¹ Subsequently changed to 2007 on consent of the parties.

Planning (“PIP”) (an MFDA Member in all Canadian provinces) in Alberta from March 2003 to April 2009 and in Ontario from October 2005 to April 2009. Subsequently the Respondent has been registered with Portfolio Strategies Corp. (“PSC”) (also a member of MFDA in Alberta and British Columbia) as a mutual fund salesperson since May 2009 and exempt market dealing representative since November 2010. The Respondent has been the subject of close supervision by PSC.

5. In the spring of 2007, the Respondent approached 43 friends, family members and clients (a total of 31 clients) to pool funds in order to invest the minimum required \$500,000 in ACDL which specialized in development of Las Vegas style resorts in Asia. The Respondent incorporated an Alberta company to hold the shares of ACDL and became the sole director and officer. It was the Respondent’s intent, once the minimum capital was raised, to request that individual share certificates be issued to the various investors. The funds ranged in various amounts from \$5,000 to \$70,000. In total the Respondent raised \$637,230.

6. The Respondent did not receive fees or commissions.

7. None of the investors have redeemed their investments to date.

8. At no time did the Respondent disclose to or obtain approval from PIP with respect to his involvement in the investment with PIP clients.

9. The investments in ACDL and the securities of ACDL were not investments approved by PIP for sale, nor were the investments processed for the account of or through the facilities of PIP.

10. Pursuant to section 4.9 of PIP’s Policies and Procedures Manual in effect at the material time, PIP required its registered mutual fund salespersons to inform it of:

(a) business activities that were not carried on for the account of PIP;

(b) serving as an officer, director or partner of a business organization other than PIP;
and

(c) shareholdings in any business related, directly or indirectly, to the conduct of a securities business or not, that is not carried on for the account of PIP.

11. In both 2007 and 2008, the Respondent provided signed acknowledgements to PIP stating that he had fully read, understood and agreed with the contents of PIP's Policies and Procedures Manual.

12. As part of its 2007 and 2008 annual reviews of the Respondent, PIP questioned the Respondent as to whether he was involved in any business activity outside of the securities industry or whether he had ever sold limited partnership securities or other exempt products. The Respondent responded "No" to these questions, omitting reference to his involvement in the ACDL Investments.

13. As part of its 2008 annual review of the Respondent, PIP also asked the Respondent if he "had any non-client accounts" or if he or his spouse had "any partnership, corporation or other business entity in which [he] or [his] spouse have any interest, have any financial dealings with [his] clients including, but not limited to, borrowing money, lending money to or other business relations." The Respondent responded "No" to these questions, omitting reference to the ACDL Investments.

14. The Respondent never disclosed to PIP the incorporation of his Alberta holding company and his participation in the original and Second ACDL Investments with numerous PIP clients and other individuals.

15. By acknowledging the conduct described above, the Respondent confirms the breach of the MFDA Rules as set out in Allegation #2 and Allegation #4 aforesaid.

PENALTY

16. In making our determination, we have considered the submission of MFDA's and Respondent's counsel and noted the admitted contraventions. Our focus is therefore mainly limited to the financial penalty sought.

17. We considered as well:

(a) the seriousness of the allegations;

(b) the fact that no prior disciplinary or conduct problems existed;

(c) the full cooperation of the Respondent with MFDA investigators;

(d) the fact that no personal benefits were received;

(e) the fact that no losses to date have been incurred by the investors; and

(f) the admission by the Respondent of his misconduct and the agreement to the sanctions imposed.

18. We were asked by MFDA counsel to impose a fine pursuant to s. 24.1.1(b) of MFDA By-law No. 1, of \$25,000 to \$30,000. The Respondent's counsel was seeking a minimal fine of \$5,000 or less.

19. We also considered the MFDA penalty guidelines including the distinction between unintentional or negligent misconduct and misconduct which was fraudulent or deceptive. We are satisfied that the Respondent's situation was isolated and not a repeated or systemic violation of MFDA By-laws, Rules and Policies.

20. In making this Order, we have taken the above factors into consideration and are of the opinion that this Order protects the integrity of the capital markets and sends a message of deterrence that similar behaviour by others will not be tolerated.

21. We note the various decisions presented by both counsel.²

² re R. M. Smylski MFDA Prairie Regional Council; File #200707 July 13, 2007
re A. R. Kruss MFDA Central Regional Council; File #200934 May 13, 2012
re B. M. Gabrielson MFDA Prairie Regional Council; File #200938 January 17, 2011
re W. Larson MFDA Prairie Regional Council; File #200826 August 27, 2009
re R. M. A. Laverdiere MFDA Pacific Regional Council; File #200936 May 12, 2010

ORDER

22. It is ordered that:

- (a) the Respondent shall pay a fine of \$10,000 as to the breach of Rules 1.1.1(a) and 2.1.1 (securities related business) and a fine of \$5,000 as to the breach of Rules 1.1.2, 2.5.1 and 2.1.1 (Standard of Conduct);
- (b) the Respondent shall have four months to pay the total fine payable in four equal installments, commencing immediately. Failure to comply shall result in a permanent prohibition from conducting securities related business in any capacity with any MFDA dealer.

23. We additionally confirm and order:

- (a) the agreed to payment of costs in the amount of \$5,000, pursuant to s. 24.2 of MFDA By-law No. 1;
- (b) a two-year suspension on the authority of the Respondent to conduct securities related business over which the MFDA has jurisdiction, pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
- (c) divestiture by the Respondent of any interest in ACDL purchased via the original investment, failing which the Respondent shall be permanently prohibited from conducting securities related business over which MFDA has any jurisdiction, pursuant to s. 24.1.1(e) of MFDA By-law No. 1; and
- (d) the Respondent is to write or re-write and pass an appropriate industry course in ethics acceptable to MFDA Staff prior to being re-registered in the mutual fund industry, pursuant to s. 24.1.1(f) of MFDA By-law No. 1.

DATED this 6th day of February, 2013.

“Robert Hucal”

Robert Hucal,
Chair

“Daniele Ayers”

Daniele Ayers,
Industry Representative

“Howard Mix”

Howard Mix,
Industry Representative

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