



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: Mahmoud Akberali Visanji

Heard: November 10, 2014, in Toronto, Ontario
Reasons for Decision: November 28, 2014

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

| | |
|---------------------|-------------------------|
| Paul M. Moore, Q.C. | Chair |
| Greg Juby | Industry Representative |

Appearances:

| | | |
|--------------------------|---|--|
| H. C. Clement Wai |) | Enforcement Counsel, Mutual Fund Dealers |
| |) | Association of Canada |
| |) | |
| Milan Seres |) | Counsel for the Respondent |
| |) | |
| |) | |
| Mahmoud Akberali Visanji |) | Respondent (by teleconference) |
| |) | |

A. ALLEGATIONS

1. By Notice of Hearing dated February 11, 2014, the Mutual Fund Dealers Association of Canada (“MFDA”) alleged that Mahmoud Akberali Visanji (the “Respondent”) violated the by-laws, rules and policies of the MFDA in that:

Allegation #1: Between 2003 and December 14, 2011, the Respondent misappropriated approximately \$445,426.50 from at least 12 individuals, 8 of whom were clients or former clients of the Member(s), thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Allegation #2: Between June 2010 and December 14, 2011, the Respondent engaged in personal financial dealings with 2 clients by borrowing a total of \$22,000 from them which he failed to repay in full, thereby giving rise to a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #3: Between 2003 and December 14, 2011, the Respondent had and continued in another gainful occupation which was not disclosed to and approved by the Member by participating in or operating a mortgage business, contrary to MFDA Rules 1.2.1(d)¹ and 2.1.1.

B. BACKGROUND

2. The Respondent is not currently registered in the securities industry in any capacity.

¹ Effective December 1, 2010, the MFDA’s Rules were amended. As a consequence, former MFDA Rule 1.2.1(d) was renumbered as current MFDA Rule 1.2.1(c). The wording of the re-numbered Rule was not changed.

3. During the time in question the Respondent was the sole shareholder, officer and director of 1332341 Ontario Inc. The Respondent received his mutual fund commissions through this company.

4. In April 2012, this company filed an assignment in bankruptcy.

5. In June, 2013, as a result of a rejected consumer proposal, the Respondent was petitioned into bankruptcy.

C. FACTS

6. Staff of the MFDA (“Staff”) and the Respondent signed and submitted to the panel an Agreed Statement of Facts, attached hereto as Schedule “A”, and which forms part of the record in this matter. In it the Respondent agreed to the key facts alleged by Staff and admitted that by engaging in the conduct in question he violated the By-laws, rules and policies of the MFDA as set out in the allegations.

D. THE ISSUE

7. Staff submitted and the Respondent did not oppose that, at a minimum, the appropriate penalty is a prohibition on the Respondent from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 24.1.1(e) of MFDA By-law No. 1.

8. What was in issue before the panel, however, was what additional penalty, if any, was appropriate in this case.

E. STAFF’S POSITION

9. Staff submitted that, in addition to the prohibition, it was appropriate to fine the Respondent in the range between \$360,000 and \$400,000, and for the Respondent to pay \$5,000 of costs of the MFDA in this matter.

10. Staff argued that the Respondent's conduct involved dishonesty and amounted to theft. It was carried on with several clients and non-clients over an extended period with multiple instances.

11. He pointed out that during the time in question the Respondent's conduct was carried on under the compliance radar of three different employer-Members.

12. Staff argued that a person in the industry should not be perceived as being allowed to profit from his wrongdoing at the expense of clients.

13. Staff referred us to the MFDA's Penalty Guidelines and several MFDA disciplinary cases where dishonesty, large client losses and more than isolated incidents were involved.

F. RESPONDENT'S POSITION

14. Respondent's counsel argued that it was not necessary to impose any fine or costs order against the Respondent, especially in view of the Respondent's mental state during the time of the misconduct, and that his removal from the industry through the prohibition order was sufficient to protect the public.

15. He suggested that the fact the Respondent was in attendance and was not disputing the facts should count as mitigating factors.

16. He also referred us to some cases where no fines had been imposed in addition to a prohibition on continuing in the industry.

17. Finally, he introduced in evidence a letter "To Whom It May Concern" from a D. Allidina, M.B., B.S. F.R.C.P.(C) dated September 15, 2014. This letter was not part of the agreed facts upon which Staff and the Respondent jointly requested us to base our decision as to penalty. However, Staff did not object to its introduction in evidence.

18. In the letter D. Allidina refers to various aspects of the Respondent's attire, appearance, demeanor, work ethic and mental condition. He refers to the fact that prior to a "current and past illness he [the Respondent] was a stable, competent man, engaged in hobbies of sports, community activities, and good friendships." He refers to the fact that "Presently he is going through a depressive phase of moderate severity... functioning at half the capacity that he had been prior to his illness. This has been so for the last two years; prior to that, six or seven years ago, he had a similar illness of some months' duration, and then regressed into a manic phase for a few years."

G. DECISION

19. At the hearing we announced our decision that the Respondent be under a permanent prohibition to conduct securities related business in any capacity while in the employ of, or associated with any MFDA Member; and that the Respondent should pay a fine of \$450,000, and costs of \$5,000.

H. REASONS

20. As alleged and admitted, clients have suffered and not recovered much of the misappropriated funds, and the clients from whom the Respondent borrowed funds have not recovered their principle in full. Indeed, when one considers the amount of unsecured claims of these clients in the bankruptcies of the Respondent and his numbered company as indicated in the Agreed Statement of Facts, and lost opportunity costs, even after taking into account repayments which the Respondent claims have been made, material losses to the clients from the Respondent's inappropriate conduct will likely be substantially more than \$450,000.

21. In view of the dishonesty and deception involved in the conduct of the Respondent, both as regard to clients and his employer-Member, the extent of client losses, and the extensive period over which they occurred and the multiplicity of incidents concerned, and after considering the suggestions in MFDA's Penalty Guidelines and the cases to which we were referred, we determined that the appropriate penalties were as we decided.

22. We believe the penalties will be protective of the public and will serve as a warning and deterrent to others who may be tempted to profit from clients through dishonest conduct and to keep things from their Members.

23. We did not find the letter submitted in evidence to be helpful. It was vague in several respects, especially regarding the period during which the Respondent may have been suffering, which did not seem to be co-extensive with the extensive time frame of the allegations against the Respondent.

24. Furthermore, while there is reference in the letter to the Respondent's mental state, there was nothing in it that would excuse or explain away the extensive and deliberate dishonest conduct on the part of the Respondent. There was nothing mentioned in the letter that justifies a lesser penalty in the circumstances of this case.

I. PROCEDURE

25. The panel was originally constituted with a third member who was an industry representative. He was unable to attend the hearing. The remaining two panelists continued to hear the matter pursuant to MFDA By-law No. 1, section 19.9(b).

DATED this 28th day of November, 2014.

“Paul M. Moore”

Paul M. Moore, Q.C.
Chair

“Greg Juby”

Greg Juby
Industry Representative

Schedule "A"

Agreed Statement of Facts

File No. 201405



Mutual Fund Dealers Association of Canada
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**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: Mahmoud Akberali Visanji

AGREED STATEMENT OF FACTS

I. INTRODUCTION

1. By Notice of Hearing dated February 11, 2014, the Mutual Fund Dealers Association of Canada (the "MFDA") commenced a disciplinary proceeding against Mahmoud Akberali Visanji (the "Respondent") pursuant to ss. 20 and 24 of MFDA By-law No. 1.

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

Allegation #1: Between 2003 and December 14, 2011², the Respondent misappropriated approximately \$445,426.50 from at least 12 individuals, 8 of whom were clients or former clients of the Member(s), thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

² Excluding the period May 7, 2009 to September 29, 2009 when the Respondent was not registered.

Allegation #2: Between June 2010 and December 14, 2011, the Respondent engaged in personal financial dealings with 2 clients by borrowing a total of \$22,000 from them which he failed to repay in full, thereby giving rise to a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

Allegation #3: Between 2003 and December 14, 2011³, the Respondent had and continued in another gainful occupation which was not disclosed to and approved by the Member by participating in or operating a mortgage business, contrary to MFDA Rules 1.2.1(d)⁴ and 2.1.1.

II. IN PUBLIC / IN CAMERA

3. The Respondent and Staff of the MFDA (“Staff”) agree that this matter should be heard in public pursuant to Rule 1.8 of the MFDA Rules of Procedure.

III. ADMISSIONS AND ISSUES TO BE DETERMINED

4. The Respondent has reviewed this Agreed Statement of Facts and admits the facts set out in Part IV herein. The Respondent admits that the facts in Part IV 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.

5. Subject to the determination of the Hearing Panel, 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 associated with any MFDA Member, pursuant to section 24.1.1(e) of MFDA By-law No. 1.

³ See note 1 above.

⁴ Effective December 1, 2010, the MFDA’s Rules were amended. As a consequence, former MFDA Rule 1.2.1(d) was renumbered as current MFDA Rule 1.2.1(c). The wording of the re-numbered Rule was not changed.

6. Staff and the Respondent jointly request that the Hearing Panel determine, on the basis of this Agreed Statement of Facts, the appropriate fine (if any), to impose on the Respondent, pursuant to s. 24.1.1(b) of MFDA By-law No. 1, and the appropriate amount of costs (if any) of the investigation and hearing to be awarded against the Respondent, pursuant to s. 24.2 of MFDA By-law No.1.

7. Staff is seeking a permanent prohibition, a fine in the range of \$450,000 and costs of \$5,000.

8. The Respondent is seeking a penalty consisting of a permanent prohibition with no fine or costs, due to the Respondent's mental state during the time of the misconduct.

9. The Respondent claims to be impecunious and unable to pay any amount towards either a fine or costs.

IV. AGREED FACTS

10. Staff and the Respondent agree that submissions made with respect to the appropriate penalty are based only on the agreed facts in Part IV and no other facts or documents. In the event the Hearing Panel advises one or both of Staff and the Respondent of any additional facts it considers necessary to determine the issues before it, Staff and the Respondent agree that such additional facts shall be provided to the Hearing Panel only with the consent of both Staff and the Respondent. If the Respondent is not present at the hearing, Staff may disclose additional relevant facts, at the request of the Hearing Panel.

11. Nothing in this Part IV is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against him.

Registration History

12. From March 1999 to September 2008, the Respondent was registered in Ontario and Quebec as a mutual fund salesperson with Aegon Dealer Services Canada Inc., (“Aegon”), then a Member of the MFDA. Aegon became a Member of the MFDA on March 13, 2002.

13. On or around September 30, 2008, Aegon amalgamated with Investia Financial Services Inc. (“Investia”), also a Member of the MFDA, and the combined entity continued on in business under the name of Investia. The Respondent continued to be registered as a mutual fund salesperson in Ontario and Quebec with Investia until May 7, 2009, when Investia terminated him for selling labour sponsored investment funds to clients without the required proficiency.

14. On September 29, 2009, the Respondent was registered in Ontario as a dealing representative with Armstrong & Quaille Associates Inc., (“Armstrong & Quaille”) a Member of the MFDA. As a condition of his registration, the Respondent was subject to close monthly supervision for a period of one year. On December 14, 2011, Armstrong & Quaille terminated the Respondent for matters unrelated to this Notice of Hearing.

15. At all material times, the Respondent carried on business in Ottawa, Ontario.

16. The Respondent is not currently registered in the securities industry in any capacity.

Facts

17. At all material times, the Respondent was the sole shareholder, officer and director of 1332341 Ontario Inc., a company incorporated in Ontario. The Respondent received his mutual fund commissions through 1332341 Ontario Inc.

18. In April 2012, 1332341 Ontario Inc. filed an assignment in bankruptcy under the *Bankruptcy and Insolvency Act*.

19. In June 2013, as a result of a rejected consumer proposal, the Respondent was petitioned into bankruptcy under the *Bankruptcy and Insolvency Act*.

Overview

20. On or about December 29, 2011, LD (a non-client) filed a complaint with the MFDA in which she alleged that the Respondent had sold her an “offshore investment” in or around 2003.⁵ According to LD, since late 2009 she had been contacting the Respondent and requesting that he redeem her investment, however, the Respondent had failed to facilitate the redemption and was no longer returning her correspondence.

21. Following receipt of LD’s complaint, MFDA Staff commenced an investigation of the Respondent’s activities. On February 18 and 19, 2013, MFDA Staff interviewed the Respondent. During the interview, the Respondent admitted to engaging in the misconduct which forms the subject matter of this proceeding. The Respondent stated that he was unable to recall the details or particulars of the misconduct and cited health issues for the impairment of his memory.

22. During the interview, the Respondent admitted to engaging in the following misconduct:

- (a) misappropriating monies from clients and non-clients;
- (b) borrowing money from clients; and
- (c) owning and operating an outside business activity without the knowledge or approval of his Member.

Allegation #1: Misappropriation

23. Between 2003 and October 2011, the Respondent misappropriated approximately \$445,426.50 from at least 12 individuals:

⁵ The Respondent’s activity in relation to LD in 2003 is the earliest known date of the Respondent misappropriating monies from an individual.

- (a) 6 clients of Investia or Armstrong & Quaile whose accounts were serviced by the Respondent at the time of the misappropriations;
- (b) 2 former clients of Aegon/Investia (WM and KM) whose accounts had been serviced by the Respondent but were no longer clients of Aegon/Investia at the time the Respondent misappropriated monies from them⁶; and
- (c) 4 individuals who were never clients of the Members at which the Respondent was registered.

24. The Respondent misappropriated the monies from all of the individuals in the same manner: by purporting to sell or facilitate the sale of investments in second mortgages, bonds, loans and other products to the individuals. The Respondent has admitted that he did not use any of the monies he received from the individuals to purchase investments for them and instead diverted the monies to bank accounts under his name or control and used the monies for his own purposes.

25. At all material times, the Members at which the Respondent was registered (Aegon/Investia and Armstrong & Quaile) were not aware of, and had not approved for sale, any of the purported investments offered by the Respondent to the individuals. None of the monies relating to the purchase (or partial repayments) of any of the purported investments were processed for the account or through the facilities of the Members.

Clients

26. Between September 2007 and September 2011, the Respondent misappropriated \$378,426.50 from the following 8 clients or former clients of Investia or Armstrong & Quaile whose account either was, at the time of the misappropriations, or had previously been, serviced by the Respondent:

⁶ For the purposes of this Notice of Hearing, these two individuals will also be referred to as “clients”.

| No. | Client | Amount Misappropriated | Amount Repaid | Balance Owing ⁷ |
|--------------|--------|------------------------|--------------------|----------------------------|
| 1. | MR | \$51,611.50 | \$16,611.50 | \$35,000 |
| 2. | SB | \$20,000 | \$5,600 | \$14,400 |
| 3. | WM | \$133,315 | \$13,315 | \$120,000 |
| 4. | DD | \$60,500 | \$13,500 | \$47,000 |
| 5. | ER | \$75,000 | \$23,000 | \$52,000 |
| 6. | JR | \$10,000 | \$0 | \$10,000 |
| 7. | SM | \$6,000 | \$0 | \$6,000 |
| 8. | KM | \$22,000 | \$14,500.00 | \$7,500 |
| TOTAL | | \$378,426.50 | \$86,526.50 | \$291,900 |

Client MR

27. MR was a client of Investia until February 19, 2010 and has been a client of Armstrong & Quaile since February 2010.

28. From February 1, 2011 to March 1, 2011, the Respondent purported to purchase or facilitate the purchase of four investments in second mortgages for client MR. The Respondent solicited and accepted monies from client MR for the investments and in return provided client MR with a promissory note issued by his company, 1332341 Ontario Inc. as the borrower, in respect of each such investment:

| Date | Amount | Rate | Term | Final Payment Date | Final Amount to be Paid |
|------------------|--------------------|------|----------|--------------------|-------------------------|
| February 1, 2011 | \$35,000 | 6% | 7 months | September 1, 2011 | \$35,175.00 |
| February 1, 2011 | \$1,327 | 0% | 7 months | September 1, 2011 | \$1327.00 |
| March 1, 2011 | \$15,000 | 6% | 3 months | June 1, 2011 | \$15,262.50 |
| March 1, 2011 | \$284.50. | 0% | 3 months | June 1, 2011 | \$284.50 |
| Total | \$51,611.50 | | | | \$52,049.00 |

29. The Respondent has admitted that he did not use client MR's monies to purchase any investments for client MR and instead used the monies for his own purposes.

⁷ The balance owing is the difference between the amount the Respondent misappropriated from the individual and the amount the Respondent repaid the individual. It does not include the costs (if any) incurred by the individual to collect the amounts misappropriated or any interest payments or returns purportedly generated by investments, mortgages and loans and paid to the individual by the Respondent.

30. The Respondent has repaid client MR approximately \$16,611.50 on account of the purported investment. Client MR is an unsecured creditor in the amount of \$35,000 in both the Respondent's and 1332341 Ontario Inc.'s bankruptcy proceedings.

Client SB

31. SB was a former client of Aegon/Investia and is currently a client of Armstrong & Quaile. The Respondent was the mutual fund salesperson responsible for servicing SB's account during the period he was registered at each Member.

32. The Respondent recommended to client SB that she purchase a particular investment that the Respondent could arrange on her behalf. The Respondent informed client SB that the investment was for a term of two years and that the principal was "insured". Relying on the Respondent's recommendation, client SB provided the Respondent with a cheque in the amount \$20,000 to purchase the investment on her behalf.⁸

33. The Respondent did not provide client SB with any documentation in respect of the investment.

34. Upon the expiry of the two year term of the investment, the Respondent failed to repay client SB the monies owing to her.

35. The Respondent claims that he has no recollection of the particulars of the investment. There is no evidence that the Respondent used client SB's monies to purchase any investments for her. The Respondent has repaid client SB \$5,600 on account of her purported investment. Client SB is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$14,400.

⁸ Staff's investigation was unable to determine whether the purported investment occurred while the Respondent was at Aegon/Investia or at Armstrong & Quaile.

Client WM

36. WM was a client of Investia until October 15, 2009.

37. On March 24, 2011 the Respondent purported to facilitate three investments for WM. The Respondent led WM to believe that WM was investing in a second mortgage, a bridge loan and US Treasury Bills. The Respondent solicited and accepted \$133,315 from WM for the investments and in return provided MW with three promissory notes identifying the Respondent as the borrower and purporting to provide particulars of the investments, as set out in the table below:

| Investment | Amount | Rate | Term | Due Date | Payable at Maturity |
|-------------------|---------------|-------------|-------------|-----------------|----------------------------|
| Second Mortgage | \$100,000 | 12.25% | 12 Months | April 1, 2012 | \$101,020.83 |
| Bridge Loan | \$18,315 | 0% | 3 Months | July 1, 2011 | \$18,315.00 |
| US T-Bills | \$15,000 | 15% | 3 Months | July 1, 2011 | \$15,187.50 |
| | \$133,315 | | | | \$134,523.33 |

38. The Respondent has admitted that he did not use WM's monies to purchase investments for WM but instead used the monies for his own purposes.

39. The Respondent has repaid WM \$22,000 on account of the purported investments. WM is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$120,000. WM is also listed as an unsecured creditor in 1332341 Ontario Inc.'s bankruptcy proceedings in the amount of \$124,614.

Client DD

40. DD was a client of Aegon/Investia until October 28, 2009 and has been a client of Armstrong & Quaille since October 26, 2009.

41. Beginning on or before August 2010⁹, the Respondent purported to purchase or facilitate the purchase of at least five investments for client DD. The Respondent led client DD to believe that client DD was investing in second mortgages. The Respondent solicited and accepted \$60,500 from client DD and in return provided client DD with promissory notes and other documents which identified the Respondent and other individuals as the borrowers. The details of the investments purportedly made by the Respondent for client DD are as follows:

| Date | Amount | Rate | Term | Due Date | Payment at Maturity |
|--------------------|---------------|-------------|-------------|-------------------|----------------------------|
| August 17, 2010 | \$10,000 | 15% | 4 Months | December 20, 2010 | \$10, 500.00 |
| September 13, 2010 | \$5,500 | 12% | 12 Months | October 1, 2011 | \$6160.00 |
| December 27, 2010 | \$5,000 | 15% | 4 Months | May 1, 2011 | \$5,250.00 |
| Undated | \$35,000 | Unknown | Unknown | February 3, 2012 | \$35,000 |
| Undated | \$5,000 | Unknown | Unknown | End of March 2012 | \$5,000 |
| | \$60,500 | | | | \$61,910 |

42. With the exception of the September 13, 2010 investment, the Respondent has admitted that he did not use any of client DD's monies to purchase investments for client DD but instead used the monies for his own purposes.

43. According to the Respondent, the September 13, 2010 investment was a second mortgage that the Respondent facilitated between client DD and another individual. There is no evidence however of a mortgage of any type between client DD and another individual. According to the Respondent, he may have guaranteed the repayment of the monies secured by the second mortgage to client DD.

44. According to the Respondent, he has repaid client DD \$15,000 on account of the purported investments.

⁹ In August 2010, the Respondent was registered at Armstrong & Quaille and the DD was a client of Armstrong & Quaille.

45. Client DD is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$47,000.

Client ER

46. ER was a client of Aegon/Investia until May 18, 2011.

47. In or around September 2007¹⁰, the Respondent purported to purchase or facilitate the purchase of an investment in the amount of \$75,000 for client ER. The Respondent led client ER to believe that client ER was providing monies to the Respondent that would be invested in a pool of second mortgages. The Respondent solicited and accepted the monies from client ER and in exchange provided client ER with a document describing a demand loan in relation to the investment and identifying the Respondent and another company as the mortgagor. The term of the loan was ten years with a "Mortgage Percent" of 9.5%.

48. The Respondent has admitted that client ER's monies were not used to purchase any investments for client ER but instead the Respondent used the monies for his own purposes.

49. According to the Respondent, he has repaid certain amounts to client ER on account of the purported investment however \$51,852.42 remains outstanding. Client ER is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$52,000.

Client JR

50. JR was a client of Aegon/Investia until February 23, 2010. During part of this period, the Respondent was the mutual fund salesperson responsible for servicing JR's account.¹¹

¹⁰ In September 2007, the Respondent was registered at Aegon and ER was a client of Aegon.

¹¹ The Respondent's registration with Investia was terminated on May 7, 2009. The Respondent remained unregistered until September 29, 2009, when he was re-registered at Armstrong & Quaille. The Respondent continued at Armstrong and Quaille until his termination on December 14, 2011.

51. The Respondent purported to purchase or facilitate the purchase of an investment in the amount of \$10,000 for client JR. The Respondent led client JR to believe that client JR was investing in a “bond-type investment”.

52. The Respondent solicited and accepted \$10,000 from JR but did not provide any documentation to JR with respect to the investment.

53. The Respondent has admitted that he did not use client JR’s monies to purchase any investments for client JR but instead used the monies for his own purposes. JR is listed as an unsecured creditor in the Respondent’s bankruptcy proceedings in the amount of \$10,000.

Client SM

54. SM is a client of Investia. In or around 2009 or 2010¹², the Respondent purported to purchase or facilitate the purchase of an investment in the amount of \$6,000 for client SM. The Respondent led client SM to believe that client SM was investing in an “overseas bond”.

55. The Respondent solicited and accepted \$6,000 from SM to invest on SM’s behalf but did not provide any documentation to SM on account of the investment.

56. The Respondent has admitted that the “overseas bond” never existed, that he did not use SM’s monies to purchase any investments for SM and that he instead used SM’s monies for his own purposes. SM is listed as an unsecured creditor in the Respondent’s bankruptcy proceedings in the amount of \$6,000.

Client KM

57. KM was a client of Aegon/Investia until October 14, 2009.

¹²It is unknown whether the Respondent was registered at Investia, or registered at all, at the time he purportedly purchased the investment for SM. See note 10.

58. On or about July 15, 2010¹³, the Respondent purported to purchase or facilitate the purchase of an investment in the amount of \$22,000 for client KM. The Respondent led client KM to believe that client KM was providing monies to the Respondent to invest in a second mortgage.

59. The Respondent has admitted that he did not use client KM's monies to purchase investments for client KM but instead used the monies for his own purposes.

60. According to the Respondent, client KM has been repaid \$14,500. Client KM is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$7,500.

Non-Clients

61. Between 2003 and 2011, the Respondent also misappropriated \$67,000 from the following four individuals, none of whom were ever clients of Aegon/Investia or Armstrong & Quaille:

| No. | Individuals | Amount Provided to Visanji | Amount Re-Paid by Visanji | Balance Outstanding |
|--------------|------------------|----------------------------|---------------------------|---------------------|
| 1. | LD | \$9000 | \$5250.00 | \$3,750 |
| 2. | CM ¹⁴ | \$9000 | Unknown | Unknown |
| 3 | IF | \$41,000 | \$0 | \$41,000 |
| 4. | KM | \$8,000 | \$0 | \$8,000 |
| TOTAL | | \$67,000 | | |

62. The Respondent misappropriated the monies by purporting to facilitate various investments on the behalf of LD, CM, IF and KM. The purported investments included GIC's, offshore investments, Israeli bonds and second mortgages. The Respondent has admitted that he

¹³ In July 2010, the Respondent was registered at Armstrong & Quaille.

¹⁴ The Respondent claims that CM has been repaid the amount of \$9,000, Staff is unable to confirm or deny the Respondent's claim.

did not use the individuals' monies to purchase investments for them but instead used the monies for his own purposes.

63. By soliciting and accepting the monies from the clients and non-clients purportedly for the purpose of purchasing investments for them and then using the monies for his own purposes, the Respondent misappropriated the monies from the clients and non-clients.

64. In total, the Respondent misappropriated approximately \$445,426.50 from at least 12 individuals, eight of whom were clients or former clients of either Aegon/Investia or Armstrong & Quaille.

Allegation #2: Borrowing from Clients

Client GA

65. GA has been a client of Armstrong & Quaille since at least March 2010.

66. On or about June 16, 2010¹⁵, the Respondent and client GA entered into an agreement whereby client GA loaned \$12,000 to the Respondent at an annual interest rate of 12.5%. Client GA received monthly payments of \$130.21 from the Respondent until June 15, 2011, at which time the payments stopped. According to client GA, the Respondent has repaid \$1,500 on account of the loan and \$10,500 remains outstanding.

67. The Respondent has admitted to borrowing \$12,000 from client GA but claims that he cannot recall any particulars of the loan.

Client MG

68. MG has been a client of Armstrong & Quaille since April 2010.

¹⁵ In June 2010, the Respondent was registered at Armstrong & Quaille.

69. On or about September 1, 2011¹⁶, the Respondent and client MG entered into an agreement whereby client MG loaned \$10,000 to the Respondent at an annual interest rate of 12% for a term of six months.

70. The Respondent has admitted to borrowing \$10,000 from client MG but claims that he cannot recall if he has made any payments on account of the loan.

71. Client MG is listed as an unsecured creditor in the Respondent's bankruptcy proceedings in the amount of \$14,600.

72. At all material times, Armstrong & Quaille's policies and procedures prohibited its Approved Persons, including the Respondent, from borrowing monies from clients. The Respondent did not disclose to Armstrong & Quaille that he had borrowed monies from either client GA or client MG.

Allegation #3: Unapproved Outside Business Activity and Referral Arrangement

73. While registered as a mutual fund salesperson with both Aegon/Investia and Armstrong & Quaille, the Respondent participated in or operated a mortgage business which provided advice and recommendations in respect of mortgages, as well as arranging and making referrals in respect of mortgages.

74. The Respondent operated his mortgage business from the same office out of which he conducted his mutual fund business.

75. The Respondent was not registered as a mortgage broker. The Respondent hired a mortgage broker to conduct business on his behalf. The Respondent paid 70% of the commissions earned by his mortgage business to the mortgage broker.

¹⁶ In September 2011, the Respondent was registered at Armstrong & Quaille.

76. The Respondent claims that he cannot recall the number of referrals or the dollar amount of the mortgages processed through his mortgage business.

77. At all material times, Aegon, Investia and Armstrong & Quaile prohibited Approved Persons from engaging in any outside business activities without first obtaining the written approval of the Member.

78. The Respondent did not seek or obtain approval from Aegon, Investia or Armstrong & Quaile with respect to his involvement in or operation of a mortgage business. Aegon, Investia and Armstrong & Quaile were not aware of and did not approve of the Respondent's involvement in or operation of his mortgage business.

79. In the Armstrong & Quaile New Associate Information Sheet, the Respondent stated that he had no outside business activity. The Respondent disclosed to Armstrong & Quaile in his Agent/Associate Profile that his only outside business activity were rental properties.

Misconduct Admitted

80. By engaging in the conduct described above, the Respondent admits that:

- a) Between 2003 and December 14, 2011¹⁷, he misappropriated approximately \$445,426.50 from at least 12 individuals, 8 of whom were clients or former clients of the Member(s), thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.
- b) Between June 2010 and December 14, 2011, he engaged in personal financial dealings with 2 clients by borrowing a total of \$22,000 from them which he failed to repay in full, thereby giving rise to a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

¹⁷ Excluding the period May 7, 2009 to September 29, 2009 when the Respondent was not registered.

- c) Between 2003 and December 14, 2011¹⁸, he had and continued in another gainful occupation which was not disclosed to and approved by the Member by participating in or operating a mortgage business, contrary to MFDA Rules 1.2.1(d)¹⁹ and 2.1.1.

Execution of Agreed Statement of Facts

81. This Agreed Statement of Facts may be signed in one or more counterparts which together shall constitute a binding agreement.

82. A facsimile copy of any signature shall be effective as an original signature.

DATED this 6th day of November, 2014.

“Mahmoud Akberali Visanji”

Mahmoud Akberali Visanji

“Shelly Moledina-Visanji”

Shelly Moledina-Visanji

“Shaun Devlin”

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President, Member Regulation -
Enforcement

DM 404099 v3

¹⁸ See note 16 above.

¹⁹ Effective December 1, 2010, the MFDA’s Rules were amended. As a consequence, former MFDA Rule 1.2.1(d) was renumbered as current MFDA Rule 1.2.1(c). The wording of the re-numbered Rule was not changed.