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: Joe Ohanes Yalkezian

Heard: November 16, 2021 by electronic hearing in Toronto, Ontario
Decision: November 16, 2021
Reasons for Decision: March 3, 2022

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Michael Coulter	Industry Representative
Katarzyna Samayoa	Industry Representative

Appearances:

Paul Blasiak	)	Senior Enforcement Counsel for the Mutual Fund Dealers Association of Canada
Joe Ohanes Yalkezian	)	Respondent

Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated October 13, 2021 ("Settlement Agreement") between the staff of the MFDA ("Staff") and Joe Ohanes Yalkezian ("Respondent") at a settlement hearing held electronically by videoconference in accordance with MFDA rules for an electronic hearing.

2. A copy of the Settlement Agreement is attached to these Reasons as Schedule "1". The agreed facts are set out in Sections IV and V of the Settlement Agreement.

Contraventions

3. The Respondent admitted that:

a) between June 2011 and June 2019, he engaged in personal financial dealings with clients when he:

i) paid monies to three clients so that they could pay the borrowing costs of their leveraged investments;

ii) was indebted to a client at the time when he commenced servicing the client's account and thereafter borrowed additional monies from the client; and

iii) loaned monies to nine clients;

thereby giving rise to conflicts or potential conflicts of interest which the Respondent failed to disclose to the Member, or failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to the Member's policies and procedures, and MFDA Rules 2.1.4, 2.5.1, 1.1.2, and 2.1.1;

b) in October 2013, he misled the Member with regard to the source of the monies that three clients used to pay the borrowing costs of their leveraged investments, contrary to MFDA Rules 2.2.1 and 2.1.1; and

c) between in or about 2016 and March 2020, he engaged in an unapproved outside activity, contrary to the Member's policies and procedures and MFDA Rules 1.3.2 (formerly Rule 1.2.1(c)), 2.1.1, 2.5.1 and 1.1.2.

Agreed penalties

4. Under the terms of the Settlement Agreement, the Respondent:

a) will pay a fine of $25,000;

b) will pay costs of $5,000; and

c) will be prohibited from conducting securities related business for a period of 5 years.

Considerations

5. The Hearing Panel determined that it had to be satisfied regarding three considerations before it could accept the Settlement Agreement. First, the agreed penalties had to be within an acceptable range taking into account similar cases. Secondly, the agreed penalties had to be fair and reasonable (i.e. proportional to the seriousness of the contravention taking into consideration relevant circumstances) and should appear to be so to members of the public and industry. Thirdly, the agreed penalties should serve as a deterrent to the Respondent and to industry. To be satisfied on these three considerations required an understanding of the particular facts of the case, the circumstances of the Respondent, and the impact on the Respondent of the agreed penalties.

Misconduct

Contravention #1 – Conflicts of Interest

Rules 2.1.4 and 2.1.1

6. MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry. The Rule requires that each Member and Approved Person: deal fairly, honestly, and in good faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from engaging in any business conduct or practice which is unbecoming or detrimental to the public interest.

7. Pursuant to MFDA Rule 2.1.4, Members and Approved Persons must be aware of the possibility of conflicts of interest arising in connection with dealings with clients. In the event that such a conflict or potential conflict of interest arises, Rule 2.1.4 places a mandatory obligation on the Approved Person to immediately disclose the conflict to the Member, and imposes a corresponding obligation on the Approved Person and the Member to ensure that the conflict is addressed by the exercise of responsible business judgment influenced only by the best interests of the client.

8. Previous MFDA Hearing Panels have held that where an Approved Person engages in personal financial dealings with a client, the Approved Person has breached the standard of conduct set out in Rule 2.1.1, and has entered into a conflict of interest with the client within the meaning of Rule 2.1.4.

> *Nunweiler (Re)*, [2012] Hearing Panel of the Pacific Regional Council, MFDA File No. 201030, Panel Decision dated May 28, 2012, Staff's Book of Authorities, **Tab 12.**
>
> *Rahman (Re)*, [2021] Hearing Panel of the Central Regional Council, MFDA File No. 202074, Panel Decision dated June 10, 2021, Staff's Book of Authorities, **Tab 13.**
>
> *Phillips (Re)*, [2020] Hearing Panel of the Atlantic Regional Council, MFDA File No. 2018117, Panel Decision dated March 16, 2020, Staff's Book of Authorities, **Tab 14.**
>
> *Alam (Re),* [2020] Hearing Panel of the Central Regional Council, MFDA File No. 202016, Panel Decision dated July 24, 2020, Staff's Book of Authorities, **Tab 15.**

9. In some instances, such as borrowing money from or lending money to a client, the exercise of responsible business judgement requires a prohibition on the type of transaction giving rise to the conflict.

10. As stated by the Hearing Panel in *Nunweiler (Re)* with regard to borrowing from clients:

> Where an Approved Person borrows money from a client, or arranges investments by clients in companies in which the Approved Person has a personal interest, such conduct immediately raises a significant actual conflict of interest, a conflict that in most if not all cases will be impossible to resolve in favour of the client. <u>It is patently obvious that facilitating investments by a client in your company, or borrowing money from a client is not the exercise of responsible business judgment in the best interests of the client.</u> [Emphasis added]

11. Paying the borrowing costs of a client's leveraged investments also results in a significant conflict of interest between the Approved Person and the client. For example, the client may be financially dependent on the Approved Person to pay the borrowing costs, and therefore may suffer substantial losses in the event that the Approved Person ceases to make the payments. Also, the client may be unwilling to make a complaint against the Approved Person out of concern that the Approved Person will cease paying the borrowing costs.

12. Lending to clients can also result in a significant conflict or potential conflict of interest because:

a) An Approved Person who is owed money from a client may be hesitant to execute trades in mutual funds at all, or to execute trades in higher risk

funds, even if suitable, due to a fear that the Approved Person would not be repaid;

b) An Approved Person may persuade a client to sell Deferred Sales Charge load mutual funds early, despite the fees associated with it, in order to use the proceeds to repay the Approved Person; or

c) An Approved Person may persuade a client to buy mutual funds that attract higher commissions for the Approved Person as part of a proposal to repay the Approved Person.

Shaw (Re), [2017] Hearing Panel of the Prairie Regional Council, MFDA File No. 201749, Panel Decision dated June 28, 2017, at para. 55.

13. The failure of an Approved Person to remain vigilant to potential or actual conflicts of interests with clients is an abdication of one of his or her most important responsibilities. When an actual or potential conflict of interest is present, it must be reported to the Member and resolved with only the best interests of the client in mind. Failure to keep client interests first and foremost in mind is a failure of the Approved Person to deal fairly, honestly and in good faith with clients, contrary to Rule 2.1.4 and the standard of conduct demanded by Rule 2.1.1.

Rules 2.5.1 and 1.1.2 (Policies and Procedures)

14. MFDA Rule 2.5.1 requires Members to establish, implement and maintain policies and procedures to ensure compliance with the By-laws, Rules and Policies of the MFDA and applicable securities legislation.

15. MFDA Rule 1.1.2 requires each Approved Person who participates in any securities related business in respect of a Member, to comply with the By-laws and Rules as they relate to the Member or Approved Person.

16. MFDA Rule 1.1.2 should be read in conjunction with MFDA Rule 2.5.1. As the Hearing Panel in *Frank (Re)* held with respect to the interaction between MFDA Rules 2.5.1 and 1.1.2, the requirements in Rule 2.5.1 that Members establish policies and procedures:

> are meaningless and cannot achieve their intended objectives if Approved Persons are not required to comply with them. MFDA Rule 1.1.2 is clear that Approved Persons share the responsibility of ensuring that obligations set out in the MFDA Rules are followed and must do their part to support the Member's obligations to be compliant with its regulatory obligations.

> In the context of policies and procedures of a Member, and especially policies designed to facilitate regulatory supervision by the Member, the failure of an Approved Person to comply with the Member's policies constitutes a regulatory violation. [Emphasis added]
>
> *Frank (Re)*, [2015] Hearing Panel of the Central Regional Council, MFDA File No. 201407, Panel Decision (Misconduct) dated May 5, 2015, at paras. 57-58.

17. Other MFDA Hearing Panels have similarly held that an Approved Person's failure to comply with the Member's policies and procedures is conduct which is contrary to MFDA Rules 2.5.1 and 1.1.2, and also the standard of conduct set out in Rule 2.1.1.

Nunweiler (Re), *supra*, Staff's Book of Authorities, **Tab 12.**

Phillips (Re), *supra*, Staff's Book of Authorities, **Tab 14.**

O'Connor (Re), [2018] Hearing Panel of the Prairie Regional Council, MFDA File No. 201756, Panel Decision dated October 31, 2018, at paras. 139-144, Staff's Book of Authorities, **Tab 19.**

Contravention #2 – Misleading the Member and Preventing the Member from Ensuring Suitability of Investments

Rules 2.2.1 and 2.1.1

18. As noted above, MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry.

MFDA Rule 2.1.1, Staff's Book of Authorities, **Tab 2.**

MFDA Rule 2.2.1 ("Know-Your-Client") states:

> Each Member and Approved Person shall use due diligence: […]
>
> f) to ensure that the suitability of the use of borrowing to invest is assessed:
>
> i. whenever the client transfers assets purchased using borrowed funds into an account at the Member; […]
>
> and, where the use of borrowing to invest by the client is determined to be unsuitable, the Member or Approved Person so advises the client and makes recommendations to address the inconsistency between the use of borrowed funds and the essential facts relative to the client and the Member or Approved Person maintains evidence of such advice and recommendations.

19. When an Approved Person misleads the Member with regard to the source of the monies used by a new client to pay for leveraged investments, the Approved Person engages in conduct which is contrary to Rule 2.2.1, and the standard of conduct set out in Rule 2.1.1.

20. Not only is such conduct fundamentally dishonest, it also prevents the Member from assessing the suitability of the leveraged investments as mandated by Rule 2.2.1. As a result, the client is exposed to the risk of financial loss from potentially unsuitable investments, and the Member is exposed to the risk of litigation and reputational harm should such losses materialize.

Contravention #3 – Unapproved Outside Activity

Rules 1.3.2, 2.1.1, 2.5.1 and 1.1.2

21. MFDA Rule 1.3.2 states that an Approved Person may have, and continue in, an outside activity provided that, among other things: the Approved Person discloses the outside activity to the Member; and the Approved Person obtains written Member approval of the outside activity prior to engaging in such outside activity.

22. The rationale for the prohibition on unapproved outside activities is to guard against conflicts of interest and ensure that the activities of the Approved Person do not compromise the regulation of the securities industry.

> *Sarang (Re)*, [2016] Hearing Panel of the Pacific Regional Council, MFDA File No. 201535, Panel Decision dated March 21, 2016, at para. 12**.**

23. MFDA Hearing Panels have held that engaging in an undisclosed outside activity is a serious offence, as:

> The need for a Member to know what other occupations and businesses its employee might be engaged in is obvious. There are many reasons why a Member must know what its employees are doing. We will mention only two of what seem to us to be the most important reasons. The first is that a failure to know about an employee's other commercial activities impinges upon the Member's ability to properly supervise its employee. The second reason is that the Member could be exposed to litigation alleging that the AP's activity was within the scope of his/her employment with the Member.
>
> *Vitch (Re)*, [2011] Hearing Panel of the Central Regional Council, MFDA File No. 201103, Panel Decision dated September 22, 2011, at para. 53**.**

24. When an Approved Person fails to disclose to the Member all material aspects of an outside activity, the Approved Person exposes the Member to the same risks as if there had been no disclosure at all.

25. As a result, it is imperative that Approved Persons disclose to the Member complete details of their outside activities. Otherwise, the Member is prevented from protecting its interests and

the interests of clients by, for example, assessing the proposed activity for potential conflicts of interest and the risk of investor harm.

26. Further, as described above, the failure of an Approved Person to respect and comply with the Member's policies and procedures is a regulatory violation which is contrary to MFDA Rules 2.5.1, 1.1.2 and 2.1.1.

Conclusion

27. In conclusion, we determined that the alleged misconduct was in contravention of the MFDA Rules cited above.

Other considerations in determining acceptability of agreed penalties

Nature of the Misconduct

28. The Respondent's misconduct was very serious. The MFDA Rules concerning conflicts of interest and outside activities exist to protect clients, both by placing requirements on Approved Persons themselves and ensuring notification and involvement of Members.

29. An aggravating factor is that the Respondent's misconduct was not isolated. Rather, it was part of a larger pattern of conduct, which occurred over a period of almost 9 years, involved numerous contraventions of the MFDA's Rules (i.e. paying clients' borrowing costs, borrowing from a client, lending to clients, misleading the Member, and having an unapproved outside activity), and included personal financial dealings with a total of 13 clients.

30. Another aggravating factor is that the client from whom the Respondent borrowed monies (client RB) was a senior, and was therefore a vulnerable client by virtue of his age. The issue of protection of seniors and vulnerable persons remains a priority for regulators, including the MFDA. Seniors are a growing demographic group. Senior investors may be a vulnerable group due to concerns relating to capacity and other health issues, social isolation, and the high level of trust placed in financial advisors.

31. In addition, by misleading the Member with regard to the source of the monies that three clients used to pay the borrowing costs of their leveraged investments, the Respondent inhibited the Member's supervisory function and engaged in fundamentally dishonest conduct which has no place in the mutual fund industry.

Benefits Received by the Respondent

32. The Respondent benefited from his conduct by obtaining access to capital through loans obtained from client RB. The Respondent owed $50,000 to client RB at the time when he commenced servicing his account, and thereafter borrowed an additional $60,000 from client RB. The Respondent benefited from the use of these funds for a period of approximately 4 years prior to fully repaying client RB.

The Respondent's Past Conduct including Prior Sanctions

33. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

The Respondent's Recognition of the Seriousness of the Misconduct

34. By entering into this Settlement Agreement, the Respondent has accepted responsibility for his misconduct and has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

Costs

35. The costs award is reasonable.

Conclusion

36. The agreed penalties are within the recommendations of the MFDA Sanction Guidelines and the reasonable range of appropriateness with regard to MFDA decisions submitted to us by Staff, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

37. We concluded that the Settlement Agreement was in the public interest and, consequently, we accepted it.

DATED this 3rd day of March, 2022.

"Paul M. Moore"

Paul M. Moore, Q.C.
Chair

"Michael-Murray Coulter"

Michael-Murray Coulter
Industry Representative

"Katarzyna Samayoa"

Katarzyna Samayoa
Industry Representative

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: Joe Ohanes Yalkezian

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central Regional Council (the "Hearing Panel") of the MFDA should accept the settlement agreement (the "Settlement Agreement") entered into between Staff of the MFDA ("Staff") and the Respondent, Joe Ohanes Yalkezian (the "Respondent").

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff conducted an investigation of the Respondent's activities. The investigation disclosed that the Respondent had engaged in activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No.1.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule "A".

4. Staff and the Respondent agree that the terms of this Settlement Agreement, including the attached Schedule "A", will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

III. ACKNOWLEDGEMENT

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

IV. AGREED FACTS

Registration History

6. Commencing in 1998, the Respondent was registered in the securities industry.

7. From February 2005 to August 28, 2013, the Respondent was registered in Ontario as a dealing representative with Audentium Financial Corp. ("Audentium"), a former Member of the MFDA.[1] During this period, the Respondent was the sole owner and Ultimate Designated Person of Audentium.

8. From August 28, 2013 to March 26, 2020, the Respondent was registered in Ontario as a dealing representative with GP Wealth Management Corporation ("GP"), a Member of the MFDA.

9. Effective March 26, 2020, the Respondent resigned from GP and he is not currently registered in the securities industry in any capacity.

10. At all material times, the Respondent carried on business in the Cobourg, Ontario area.

Paying Clients' Borrowing Costs of Leveraged Investments

11. At all material times, GP's policies and procedures prohibited its Approved Persons from engaging in personal financial dealings with clients, including borrowing from clients, lending to clients, and extending credit to clients, without receiving GP's approval.

[1] Audentium was a Member of the MFDA from February 7, 2005 to November 28, 2013.

12. At all material times, the Respondent was the Approved Person at Audentium and subsequently at GP who was responsible for servicing the accounts of client BV, and the accounts of clients GS and ERS (spouses).

13. In 2007, based upon the Respondent's recommendation to borrow to invest, client BV, and clients GS and ERS implemented leveraged investment strategies in their accounts at Audentium whereby they obtained loans and used the proceeds from the loans to purchase mutual funds (the "Leveraged Investments"). In particular:

a) client BV obtained a mortgage loan in the amount of $150,000 (the "Mortgage") and used the proceeds from the Mortgage to purchase mutual funds in the amount of $124,000; and

b) clients GS and ERS obtained an investment loan in the amount of $250,000 (the "Investment Loan") and used the proceeds from the Investment Loan to purchase mutual funds in the amount of $250,000.

14. Commencing in June 2011, and continuing after the Respondent became an Approved Person with GP in August 2013 and client BV and clients GS and ERS transferred their accounts to GP, the Respondent made monthly payments (the "Monthly Payments") to client BV and to clients GS and ERS, which the clients used to pay the borrowing costs of their Leveraged Investments. In particular:

a) between June 2011 and June 2019, the Respondent made Monthly Payments to client BV in the total amount of $71,227, which client BV used to pay the monthly principal and interest that was due on his Mortgage; and

b) between June 2012 and January 2015, the Respondent made Monthly Payments to clients GS and ERS in the total amount of $22,938, which they used to pay the monthly interest that was due on their Investment Loan.

15. The Monthly Payments that the Respondent paid to client BV and clients GS and ERS constituted personal financial dealings with the clients that gave rise to conflicts or potential conflicts of interest that the Respondent failed to disclose to GP.

16. The Respondent states that he made the Monthly Payments because the clients had been withdrawing funds from their Leveraged Investments in order to pay the borrowing costs of the Mortgage loan (client BV), and the Investment Loan (clients GS and ERS).

17. The clients have not repaid any of the amounts that the Respondent provided to them, and the Respondent states that he does not expect repayment.

18. By virtue of the foregoing, the Respondent engaged in personal financial dealings with client BV and clients GS and ERS, which gave rise to conflicts or potential conflicts of interest that the Respondent failed to disclose to GP or address by the exercise of responsible business judgment influenced only by the best interests of the clients.

19. In December 2019, client BV and clients GS and ERS redeemed their Leveraged Investments. The clients did not incur a loss when they redeemed their Leveraged Investments when taking into account amounts previously withdrawn.

20. In December 2019, clients GS and ERS fully repaid their Investment Loan, and in January 2020, client BV fully repaid his Mortgage.

21. The Respondent states that he was not involved in the repayment of client BV's Mortgage or the Investment Loan of clients GS and ERS.

Misleading the Member and Preventing the Member from Ensuring Suitability of Investments

22. In October 2013, while Respondent was registered with GP and at or around the time when clients BV, GS and ERS became clients of GP, the Respondent completed and submitted to GP two Leverage Approval Forms in order to transfer the Leveraged Investments described above that client BV and clients GS and ERS had held with Audentium to GP.

23. On client BV's Leverage Approval Form, the Respondent stated that the "client's account" was the "source(s) of the funds to cover" the interest payments on client BV's Leveraged Investment.

24. On the Leverage Approval Form for clients GS and ERS, the Respondent stated that the "client's revenue" was the "source(s) of the funds to cover" the interest payments on their Leveraged Investment.

25. The Respondent's statements on the Leverage Approval Forms were false because at the time when he completed the Leverage Approval Forms, the Respondent was making the Monthly Payments described above to client BV and clients GS and ERS, which the clients used to pay the borrowing costs of their Leveraged Investments.

26. Based on the representations on the Leverage Approval Forms, including the false statements made by the Respondent described above, GP approved the transfer of the Leveraged Investments of client BV and clients GS and ERS to GP.

27. By virtue of the foregoing, the Respondent misled GP with regard to the source of the monies that client BV and clients GS and ERS used to pay the borrowing costs of their Leveraged Investments, thereby preventing GP from ensuring that the suitability of the Leveraged Investments was assessed when they were transferred to GP.

Borrowing from a Client

28. At all material times, GP's policies and procedures prohibited its Approved Persons from borrowing from clients.

29. On June 12, 2012, the Respondent borrowed $50,000 from RB (the "First RB Loan"). At that time, RB was not a client of Audentium or GP.

30. The Respondent recorded the First RB Loan in a promissory note, which stated that on June 12, 2013, the Respondent would repay RB the amount of the First RB Loan with interest at a rate of 5% per annum.

31. On June 12, 2013 and then again on June 12, 2014, the Respondent deferred repayment of the First RB Loan. The loan repayment was deferred until June 12, 2015.

32. In January 2015, RB became a client of GP, and the Respondent became the Approved Person responsible for servicing RB's account.

33. At the time when RB became a client of GP, RB was 82 years old and was a vulnerable client by virtue of his age.

34. At the time when the Respondent became the Approved Person responsible for servicing RB's account, the Respondent had not repaid any of the principal or interest that he owed to RB in respect of the RB Loan.

35. The Respondent was indebted to RB when RB became a client of GP, which gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to GP. Consequently, GP was unable to ensure that the conflict or potential conflict of interest was addressed by the exercise of responsible business judgment influenced only by the best interests of the client.

36. On March 20, 2015, in the period after RB became a client of GP, the Respondent borrowed an additional $40,000 from (now) client RB (the "Second RB Loan").

37. The Respondent recorded the Second RB Loan in a promissory note, which stated that on June 12, 2015, the Respondent would repay client RB the amount of the Second RB Loan with interest at a rate of 5% per annum.

38. On June 12, 2015 and again on June 12, 2016, the Respondent deferred repayment of the First RB Loan and the Second RB Loan. The loan repayments were deferred until June 12, 2017.

39. On June 12, 2016, the Respondent also borrowed an additional $20,000 from client RB (the "Third RB Loan").

40. As of June 12, 2016, the Respondent owed a total of $123,283.66 to client RB, which consisted of the principal and interest that was outstanding on the First RB Loan, the Second RB Loan and the Third RB Loan. The Respondent recorded the total amount owing in a promissory note that he signed, which stated that on June 12, 2017, the Respondent would repay the total amount of $123,283.66 that he owed to client RB with interest at a rate of 5% per annum.

41. On June 12, 2017, the Respondent deferred repayment of the total amount that he owed to client RB until June 12, 2018.

42. On June 12, 2018, the Respondent repaid $45,306.74 to client RB.

43. After the Respondent made this payment, he owed a total of $90,613.49 to client RB. The Respondent deferred repayment of half of this amount until December 12, 2018, and he deferred repayment of the remaining half until June 12, 2019.

44. On December 12, 2018 and April 12, 2019, the Respondent made payments to client RB totaling $93,378.82, thereby fully repaying all of the outstanding principal and interest that he owed to client RB.

45. The Respondent states that he used the monies that he borrowed from client RB to pay his personal and business expenses.

46. The loans that the Respondent obtained from client RB described above constituted personal financial dealings with a client that gave rise to a conflict or potential conflict of interest

that the Respondent did not disclose to GP or ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client.

Lending Monies to Clients

47. At all material times, GP's policies and procedures prohibited its Approved Persons from lending to clients.

48. As set out in the table below, between July 2014 and August 2018, the Respondent provided 11 loans (the "Loans") totaling $142,400 to 9 clients whose accounts he serviced at GP.

Loan No.	Client	Date of Loan	Amount of Loan	Date of Repayment to Respondent	Amount of Repayment to Respondent
1	DM	July 18, 2014	$5,000	April 3, 2018	$5,000
2	SW	February 20, 2015	$10,000	February 24, 2015	$10,000
3	SW	March 23, 2015	$5,000	March 30, 2015	$5,000
4	EK	July 7, 2015	$2,000	N/A	$0
5	SA	August 26, 2015	$6,000	September 3 and 30, 2015	$6,000
6	PF	January 9, 2017	$2,000	N/A	$0
7	JST	April 12, 2017	$14,000	April 20, 2017	$14,000
8	BT	August 31, 2017	$5,200	Sept. 6, 2017	$5,200
9	CM	June 5, 2018	$35,700	August 13, 2018 – combined repayment of Loans 9 and 10)	$86,592 – combined repayment of Loans 9 and 10 (with interest)
10	CM	June 7, 2018	$50,000		
11	BE	August 7, 2018	$7,500	August 18, 2018	$7,525 (with interest)
		Total	**$142,400**		**$139,317**

49. As described in the table above, the clients repaid a total of $139,317 to the Respondent. Clients SW and JST redeemed mutual funds from their accounts at GP in order to repay their loans to the Respondent.

50. The Respondent did not document in writing the terms of the Loans described above.

51. The Loans to the 9 clients constituted personal financial dealings with the clients that gave rise to conflicts or potential conflicts of interest that the Respondent did not disclose to GP or ensure were addressed by the exercise of responsible business judgment influenced only by the best interests of the clients.

52. The Respondent states that he made the Loans described above to help the clients pay personal expenses.

Unapproved Outside Activity

53. At all material times, GP's policies and procedures prohibited its Approved Persons from engaging in outside business activities or dual occupations that were not approved by GP.

54. At all material times, the Respondent operated a holding company with the approval of GP. The approval was limited to the holding company receiving commission payments and paying office expenses.

55. Commencing in or about 2016 and continuing to when the Respondent resigned from GP in March 2020, the Respondent, via his holding company, entered into a lending arrangement with a non-profit organization (the "Organization") whereby the Respondent's holding company loaned monies to the Organization, which then used the monies to provide microfinancing loans to individuals in need of financial assistance.[2]

56. During the period when the Respondent was registered with GP, the Respondent, via his holding company, loaned approximately $230,000 to the Organization pursuant to the lending arrangement described above. The Respondent's holding company used the Respondent's own monies as the source of the loans to the Organization.

57. For each loan, the Respondent's holding company received interest from the Organization at a rate of 4% annually. The Respondent states that apart from one interest payment, his holding company did not retain the interest received from the Organization and instead added the interest to the principal amount of subsequent loans provided to the Organization.

58. At no time did the Respondent disclose to GP that he or his holding company was engaged in the lending arrangement described above and he did not obtain GP's approval to engage in the lending arrangement.

59. By virtue of the foregoing, the Respondent engaged in an unapproved outside activity.

[2] The Organization and the individuals who received the microfinance loans were not clients of GP.

GP's Investigation

60. In or about September 2019, GP commenced an investigation into the Respondent's conduct as a result of a matter unrelated to the conduct described herein.

61. During the course of GP's investigation, in or about September 2019, the Respondent disclosed to GP for the first time that he had:

a) paid the borrowing costs of client BV's and client GS's and ERS' Leveraged Investments as described above;
b) borrowed monies from client RB as described above; and
c) loaned monies to 9 clients as described above.

Additional Factors

62. No clients have complained with regard to the Respondent's conduct described above.

63. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

64. By entering into the Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

V. CONTRAVENTIONS

65. The Respondent admits that between June 2011 and June 2019, the Respondent engaged in personal financial dealings with clients when he:

a) paid monies to three clients so that they could pay the borrowing costs of their leveraged investments;
b) was indebted to a client at the time when he commenced servicing the client's account and thereafter borrowed additional monies from the client; and
c) loaned monies to nine clients;

thereby giving rise to conflicts or potential conflicts of interest which the Respondent failed to disclose to the Member, or failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to the Member's policies and procedures, and MFDA Rules 2.1.4[3], 2.5.1, 1.1.2, and 2.1.1.

[3] On June 30, 2021, Rule 2.1.4 was reworded.

66. The Respondent admits that in October 2013, the Respondent misled the Member with regard to the source of the monies that three clients used to pay the borrowing costs of their leveraged investments, contrary to MFDA Rules 2.2.1 and 2.1.1.

67. The Respondent admits that between in or about 2016 and March 2020, the Respondent engaged in an unapproved outside activity, contrary to the Member's policies and procedures and MFDA Rules 1.3.2 (formerly Rule 1.2.1(c))[4], 2.1.1, 2.5.1 and 1.1.2.

VI. TERMS OF SETTLEMENT

68. The Respondent agrees to the following terms of settlement:

(a) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 5 years from the date that this Settlement Agreement is accepted by a Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No.1;

(b) the Respondent shall pay a fine in the amount of $25,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;

(c) the Respondent shall pay costs in the amount of $5,000, pursuant to s. 24.2 of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;

(d) the Respondent shall in the future comply with MFDA Rules 2.1.4, 2.2.1, 2.1.1, 2.5.1, 1.1.2 and 1.3.2; and

(e) the Respondent will attend by videoconference on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

69. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the contraventions described in Part V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the

[4] On March 17, 2016, former Rule 1.2.1(c) was reworded and renumbered as Rule 1.3.2.

contraventions set out in Part V, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

70. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

71. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the Settlement Hearing. Staff and the Respondent also agree that if this Settlement Agreement is accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive any rights to a full hearing, a review hearing or appeal before the Board of Directors of the MFDA or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction.

72. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to s. 24.1.1 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1.

73. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against him.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

74. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under section 24.3 of the By-laws of the MFDA against the Respondent

based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the hearing panel that accepted the Settlement Agreement, if available.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

75. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule "A" is not made by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

76. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

XI. DISCLOSURE OF AGREEMENT

77. The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law.

78. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

XII. EXECUTION OF SETTLEMENT AGREEMENT

79. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

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

DATED this 13th day of October, 2021.

"Joe Ohanes Yalkezian"
Joe Ohanes Yalkezian

"HO"	HO
Witness – Signature	Witness – Print Name

"Charles Toth"
Staff of the MFDA
Per: Charles Toth
Vice-President, Enforcement

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: Joe Ohanes Yalkezian

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the " MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of MFDA By-law No. 1 in respect of Joe Ohanes Yalkezian (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of MFDA By-law No. 1;

AND WHEREAS on the basis of the facts admitted in Part IV of the Settlement Agreement and the contraventions admitted in Part V of the Settlement Agreement, the Hearing Panel is of the opinion that the Respondent:

(a) between June 2011 and June 2019, engaged in personal financial dealings with clients when he:

i. paid monies to three clients so that they could pay the borrowing costs of their leveraged investments;

ii. was indebted to a client at the time when he commenced servicing the client's account and thereafter borrowed additional monies from the client; and

iii. loaned monies to nine clients;

thereby giving rise to conflicts or potential conflicts of interest which the Respondent failed to disclose to the Member, or failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to the Member's policies and procedures, and MFDA Rules 2.1.4, 2.5.1, 1.1.2, and 2.1.1;

(b) in October 2013, misled the Member with regard to the source of the monies that three clients used to pay the borrowing costs of their leveraged investments, contrary to MFDA Rules 2.2.1 and 2.1.1; and

(c) between in or about 2016 and March 2020, engaged in an unapproved outside activity, contrary to the Member's policies and procedures and MFDA Rules 1.3.2 (formerly Rule 1.2.1(c)), 2.1.1, 2.5.1 and 1.1.2.

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 5 years from the date that this Settlement Agreement is accepted by the Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No.1;

2. The Respondent shall pay a fine in the amount of $25,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by the Hearing Panel;

3. The Respondent shall pay costs in the amount of $5,000, pursuant to s. 24.2 of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by the Hearing Panel;

4. The Respondent shall in the future comply with MFDA Rules 2.1.4, 2.2.1, 2.1.1, 2.5.1, 1.1.2 and 1.3.2; and

5. If at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the MFDA Privacy Policy, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits to the non-party

without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

DATED this [day] day of [month], 20[ ].

Per: _____

[Name of Public Representative], Chair

Per: _____

[Name of Industry Representative]

Per: _____

[Name of Industry Representative]

DM 861292