



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: Suping Yan

Heard: December 14, 2017 in Toronto, Ontario

Decision: December 14, 2017

Reasons for Decision: February 7, 2018

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart

Rob Christianson

Robert J. Wright, CM, QC

Chair

Industry Representative

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers

Association of Canada

Suping Yan

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Respondent, by teleconference

I. Background

1. Proceedings were commenced against Suping Yan (“Respondent”) by Notice of Settlement Hearing, dated July 14, 2017. The settlement hearing was held under Section 24.4 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (“MFDA”) on December 14, 2017 in respect of a settlement agreement, dated July 13, 2017, (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent.

2. The Hearing Panel accepted the proposed Settlement Agreement at the conclusion of the hearing. These are our Reasons for Decision.

II. Respondent’s Admission of Violation

3. The Respondent admitted that between February and April 2016 she falsified 4 client signatures or client initials on 4 account forms in respect of 4 clients, and used the account forms to process transactions, contrary to MFDA Rule 2.1.1.

III. Terms of Settlement

4. Staff and the Respondent agreed 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 a Member of the MFDA for a period of 9 months, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$2,500 pursuant to section 24.2 of MFDA By-law No. 1; and
- c) the Respondent shall in the future comply with MFDA Rule 2.1.1.

IV. Agreed Facts

Registration History

5. Between September 2014 and April 28, 2016, the Respondent was registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with CIBC Securities Inc. (“CIBC”), a Member of the MFDA.

6. On April 28, 2016, as a result of the conduct that is the subject of the Settlement Agreement, CIBC terminated the Respondent. The Respondent is no longer registered in the securities industry in any capacity.

Falsification of Client Signatures and Initials

7. At all material times, clients JB, RJ, MR and ER were clients of CIBC whose accounts were serviced by the Respondent.

8. Between February and April 2016, the Respondent submitted to CIBC four account forms for processing.

9. CIBC identified deficiencies with these account forms and required that:

- a) in respect of clients JB and RJ, the Respondent obtain a new signed account form; and
- b) in respect of clients MR and ER, the Respondent obtain the clients’ initials where missing from the forms.

10. Rather than correcting the deficiencies in the manner that CIBC requested, the Respondent falsified the four account forms as follows:

- a) in respect of client JB, by cutting the client signature from an account form previously signed by the client and pasting it onto a new account form;
- b) in respect of client RJ, by re-using the signature page of an account form previously signed by the client to complete the transaction;
- c) in respect of client MR, by falsifying a set of client initials on an account form; and
- d) in respect of client ER, by falsifying a set of client initials on an account form (collectively, the “Falsified Forms”).

11. The Falsified Forms consisted of a Power of Attorney form, an investment plan, and two account application forms.

CIBC’s Investigation

12. On or around April 8, 2016, CIBC’s compliance department became aware of the Respondent’s conduct after it reviewed a physical copy of the client JB’s Falsified Form and identified that the client’s signature had been cut and pasted onto the form.

13. As part of its investigation, CIBC conducted a review of the Respondent’s trading activities and identified the remainder of the conduct that is the subject of the Settlement Agreement. CIBC then contacted the affected clients to confirm they authorized the transactions.

14. On April 28, 2016, as a result of the conduct that is the subject of the Settlement Agreement, CIBC terminated the Respondent.

V. Considerations

15. In determining whether to accept the Settlement Agreement, the Hearing Panel considered whether it was reasonable and proportionate, having regard to the Respondent’s conduct; whether it would serve as both a specific and general deterrent; and whether it fell

within a reasonable range of appropriateness, having regard to MFDA guidance and other similar cases.

16. The falsification of client signatures is a serious breach of MFDA Rule 2.1.1, which requires that the 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 any business conduct or practice which is unbecoming or detrimental to the public interest.

17. We note that the MFDA has been warning the industry against the use of falsified account forms for a number of years, most recently by way of MFDA Bulletin #0661-E, dated October 2, 2015, in which the MFDA warned it would be seeking increased penalties in future cases involving falsified account forms.

18. In deciding to accept the Settlement Agreement, the Panel took into consideration several mitigating factors concerning the Respondent, including that there was no evidence of financial loss suffered by the clients; there was no evidence that the Respondent received any financial benefit from the misconduct beyond the usual commissions and fees from the transactions; and the Respondent recognized the seriousness of her misconduct. We also noted that the Respondent has not previously been subject to MFDA proceedings.

19. The proposed penalty is consistent with MFDA Penalty Guidelines and with other similar cases, taking into consideration MFDA Bulletin #0661-E.

VI. Conclusion

20. We concluded that the proposed penalty was reasonable and proportionate, having regard to the Respondent's conduct, would serve as a specific and general deterrent and fell within a reasonable range of appropriateness, having regard to MFDA guidance and precedents. Accordingly, we concluded that it was in the public interest to accept the Settlement Agreement and we did so.

DATED this 7th day of February, 2018.

“Joan Smart”

Joan Smart
Chair

“Rob Christianson”

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Industry Representative

“Robert J. Wright”

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Industry Representative

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