



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: Paul Yoannou

Heard: April 25, 2013 in Toronto, Ontario
Reasons for Decision: May 8, 2013

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Terrance A. Sweeney
Brian Nowak

Chair
Industry Representative

Appearances:

Francis Roy)	Counsel, Mutual Fund Dealers Association of
)	Canada ("MFDA")
)	
Paul Yoannou)	Did not appear either in person or by Counsel
)	
)	

BACKGROUND

1. We were constituted as a Hearing Panel of the Central Regional Council of the MFDA concerning a disciplinary proceeding commenced by the MFDA against Paul Yoannou (“the Respondent”).

2. A Notice of Hearing dated the 31st day of August, 2012,¹ was issued by the MFDA setting the date of first appearance before the Hearing Panel by teleconference in the hearing room located at 121 King Street West, Suite 1000, Toronto, Ontario on October 30, 2012 at 10:00 a.m.

3. In a press release dated September 6, 2012, the MFDA announced disciplinary proceedings would commence in respect of the Respondent. The MFDA staff alleged that the Respondent engaged in the following conduct contrary the By-laws, Rules or Policies of the MFDA as follows:

Allegation #1: Between at least February 2006 and July 11, 2011, the Respondent misappropriated at least \$7,221,398.97 from 40 clients and at least \$4,358,500 from 15 other individuals, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in a business conduct or practice which was unbecoming or detrimental to the public interest, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing on or about July 28, 2011, the Respondent has failed to attend an interview to provide a statement and to produce documents and records as requested by MFDA Staff during the course of an investigation, contrary to section 22.1 of MFDA By-law No. 1.

4. The Respondent was duly served with the Notice of Hearing², but did not appear at the hearing held on October 30, 2012.

5. On October 30, 2012, the Hearing Panel ordered that the hearing on the merits would take place before the Hearing Panel in the MFDA hearing room located at 121 King Street West,

¹ Exhibit 1

² Exhibit 2, Affidavit of Terri Spence sworn September 10, 2012

Toronto, Ontario on March 19, 2013 commencing at 10:00 a.m. The MFDA posted the Order on its website on October 30, 2012.

6. On March 8, 2013, the MFDA issued a press release adjourning the hearing to April 25, 2013 at 10:00 a.m. in the MFDA hearing room located at 121 King Street West, Suite 1000, Toronto, Ontario.

7. Our colleague, Ms. Traczuk, was unable to attend the hearing on April 25, 2013 for personal reasons. The Hearing Panel proceeded as a Hearing Panel of two as we are allowed to do.³

8. The Respondent failed to file and serve a Reply and he did not attend the hearing on April 25, 2013. On February 1, 2013, the Respondent pleaded guilty in the Ontario Court of Justice to 15 of the 32 charges for fraud brought against him. He admitted that he had defrauded 18 individuals and one company of at least \$6,000,000. He was subsequently sentenced to six years in prison and ordered to provide restitution to the individuals he defrauded.

9. In these circumstances,⁴ the Hearing Panel may accept the facts alleged and conclusions drawn by the Staff of the MFDA in the Notice of Hearing dated August 31, 2012.

10. Counsel filed an affidavit of Ian R. Smith, a senior investigator for the MFDA.⁵

11. Counsel also filed an affidavit, sworn on February 19, 2013, by a victim of the Respondent.⁶

12. The Hearing Panel issued a confidentiality order, pursuant to Rules 1.8(2) and (5) of the MFDA Rules of Procedure, to protect the identities of the Respondent's victims.

SUBMISSIONS

13. Mr. Roy filed written submissions on the allegations, the appropriate penalties and the

³ MFDA By-law No. 1, paragraph 19.9(b)

⁴ MFDA Rule 8.4(1)(b)

⁵ Exhibit 4

⁶ Exhibit 3

costs he was seeking. He also filed an extensive book of MFDA rules, By-law No. 1, penalty guidelines and relevant case law. He relied on the affidavits of Mr. Smith and the victim. Notwithstanding that the Respondent probably defrauded 32 individuals of over \$10 million, Mr. Roy focused on the admissions of the Respondent in Criminal Court to the effect that he defrauded 18 individuals and one company of at least \$6,000,000.

14. Counsel addressed the Hearing Panel. He described the Respondent's fraud as the largest in MFDA history and his conduct as outrageous. The Respondent preyed on those who had trusted him and blatantly bilked each of them of substantial sums. This undoubtedly led to considerable stress and pain.

15. Mr. Roy argued that the MFDA Rules require an Approved Person, like the Respondent, to observe high standards of ethics and conduct in the transaction of business and not to engage in any business conduct or practice which is unbecoming or detrimental to the public interest.⁷ These rules encompass the personal financial dealings of the Respondent with his clients.

16. Mr. Roy submitted that the Respondent had failed to observe high standards of ethics and that he had engaged in unbecoming conduct with clients in the transaction of business and thus breached MFDA Rules and By-law No. 1.

17. Counsel pointed out that commencing July 28, 2011, the Respondent has failed or refused to provide documents, information, and a written statement to the MFDA and to attend an interview requested by the MFDA during the course of an investigation, contrary to s. 22.1 of MFDA By-law No. 1.

18. Counsel argued that failure to cooperate with MFDA by an Approved Person is serious misconduct. If an Approved Person fails to provide information in the course of an investigation then the integrity of the self-regulatory system and the effectiveness of its operation are compromised.

19. The Respondent ignored the MFDA's request for information and for a meeting and in

⁷ MFDA 2.1.1(b)(c)

doing so breached By-law No. 1⁸.

20. Counsel argued that the Respondent should be prohibited for life from conducting securities related business in any capacity. He also asked for a fine of \$6,000,000 for theft and an additional fine of \$50,000 for failing to co-operate with the MFDA investigation. Finally, costs should be imposed to indemnify the MFDA for the costs incurred for preparing the case and acting at the hearing.

DECISION

21. After Counsel had completed his submissions, the Hearing Panel ruled that he had proven his case on a balance of probabilities. Accordingly, the members of the Hearing Panel signed the Order dated April 25, 2013.

22. The Chair said that the Hearing Panel would, in due course, deliver brief reasons. The following are those reasons.

REASONS

23. The Respondent, as an Approved Person, became subject to the rules of the MFDA when he was registered as an Approved Person. He knew, or ought to have known, the MFDA's position on the transaction of business with clients and cooperating with the MFDA in an investigation. Yet he chose to flaunt those rules.

24. The Respondent is a despicable fraudster. He stole at least \$6,000,000 from 18 clients and other individuals and used the cover of his employment by Investors Group to advance his fraudulent schemes.

PENALTIES

25. The Respondent has ruined his life. He will have six years in the penitentiary to reflect upon his crimes. The Hearing Panel is, however, more concerned with protecting the public,

⁸ Section 22

detering others, and maintaining the integrity of the public securities markets and the MFDA's enforcement processes.

26. The Respondent stole from his clients and ignored the regulator. He did not appear at the hearing and has shown no remorse for his actions. He deserves the maximum penalty this Hearing Panel can impose.

27. The following penalties are appropriate and within the standards applied in previous cases.

28. For these reasons, the Hearing Panel imposes the following:

- (a) a permanent prohibition from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- (b) a fine of \$6,000,000 in respect of Contravention #1, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- (c) a fine of \$50,000 in respect of Contravention #2, pursuant to s. 24.1.1(b) of MFDA By-law No. 1; and
- (d) costs of \$7,500 pursuant to s. 24.2 of MFDA By-law No. 1.

DATED this 8th day of May, 2013.

"Terrance A. Sweeney"

Terrance A. Sweeney,
Chair

"Brian Nowak"

Brian Nowak,
Industry Representative