



**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: Hon Ting (Patrick) Yung**

Heard: May 19, 2022 by electronic hearing in Toronto, Ontario

Decision: May 19, 2022

Reasons for Decision: July 29, 2022

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Emily Cole

Linda J. Anderson

Guenther W. K. Kleberg

Chair

Industry Representative

Industry Representative

Appearances:

Brendan Forbes

) Enforcement Counsel for the Mutual Fund

) Dealers Association of Canada

)

Michael A. M. Mantle

) Enforcement Counsel for the Mutual Fund

) Dealers Association of Canada

)

Hon Ting (Patrick) Yung

) Respondent, not in attendance or represented

) by counsel

)

## **I. INTRODUCTION**

1. This was an uncontested disciplinary hearing pursuant to sections 20 and 24 of By-Law No.1 of the Mutual Fund Dealers Association of Canada (the “MFDA”).

2. After reviewing the Notice of Hearing, the May 18, 2022, affidavit of Daniela Capozzolo, Senior Investigator, MFDA and the May 16, 2022, affidavit of David Ranallo, Manager, Corporate Investigations, the Royal Bank of Canada (the “Bank”) and hearing the submissions of counsel for Staff, the Hearing Panel found the Respondent contravened MFDA Rules 2.1.1 and section 22.1 of MFDA By-Law No. 1 as alleged in the Notice of Hearing and set out below. Here are the reasons for our decision:

## **II. ALLEGATIONS**

3. On November 24, 2021, Staff issued a Notice of Hearing in respect of Hon Ting (Patrick) Yung (the “Respondent”) which alleged the following:

- a) Between October 2017 and October 4, 2019, the Respondent misappropriated or failed to account for monies obtained from clients and other individuals, contrary to MFDA Rule 2.1.1.
- b) Commencing November 27, 2019, the Respondent failed to cooperate with an investigation by MFDA Staff into his conduct, contrary to section 22.1 of MFDA By-law No. 1.

## **III. JURISDICTION OF THE HEARING PANEL**

### **Jurisdiction over Former Members**

4. An Approved Person is subject to the jurisdiction of the MFDA and remains subject to the MFDA’s jurisdiction after the individual has ceased to be an Approved Person. The MFDA is entitled to commence disciplinary proceedings against an Approved Person for up to five years from the date upon which the person ceased to be an Approved Person.

MFDA By-law No.1 section 24.1.4.

5. Daniela Capozzolo, Senior Investigator, MFDA investigated the Respondent’s conduct on behalf of the MFDA and swore an affidavit setting out her findings.

Affidavit of Daniella Capozzolo, sworn May 18, 2022, with exhibits. Exhibit 4.  
(Capozzolo affidavit)

6. David Ranallo, Manager, Corporate Investigations, Royal Bank of Canada led an investigation on behalf of the Bank to determine whether the Respondent had misappropriated money from clients of the Bank or its subsidiary Royal Mutual Funds Inc. (the Member) and swore an affidavit setting out his findings.

Affidavit of David Ranallo, sworn May 16, 2022, with exhibits. Exhibit 5.  
(Ranallo affidavit)

7. The Panel relied on the Capozzolo and Ranallo affidavits in reaching our conclusions. Ms Capozzolo was present and available for cross examination. Although Mr. Ranallo was not present, he was also available for cross examination. Counsel for Staff and Ms. Capozzolo were able to answer the Panel's questions. We did not have any questions for Mr. Ranallo.

### **The Respondent's Registration History**

8. The Respondent has worked in the financial services industry since 1994. Until June 2012, he worked in Hong Kong. The Respondent first became registered in Ontario as a dealing representative in April 2013. He was registered with another MFDA member for one month before joining the Member in 2014.

Capozzolo Affidavit, paragraph 4, Ex. 1

9. On October 28, 2013, the Respondent was employed by the Bank that is affiliated with the Member. Between February 21, 2014, and October 4, 2019, the Respondent was also registered as a dealing representative with the Member. Each week he spent 23 hours on banking duties and 15 hours on mutual fund sales.

Capozzolo Affidavit, paragraph 4, Ex 1.

10. On September 30, 2019, the Bank terminated the Respondent's employment for, among other things, the misappropriation of monies that he obtained from clients of the Bank, some of whom were also clients of the Member.

Ranallo Affidavit, paragraph 10, Ex.2.

11. The Respondent's registration history is summarized in a printout from the National Registration Database (NRD). Form 33-109F4 and a summary of the Respondent's registration information is contained in the NRD. The Respondent's registration history indicates that the Respondent has not been registered in the securities industry in any capacity since October 4, 2019, when his registration with the Member was terminated.

12. We therefore found that the MFDA had jurisdiction over the Respondent. These disciplinary proceedings were properly commenced against the Respondent within five years of October 4, 2019, the date he ceased to be an Approved Person as required by section 24.1.4 of MFDA Bylaw No 1.

### **Jurisdiction to Proceed in the Absence of the Respondent**

13. A Hearing Panel has jurisdiction to proceed with a hearing without further notice to and in the absence of the Respondent where the Respondent has been provided with reasonable notice of the proceedings.

#### MFDA Rules of Procedure Rule 7.3.

14. We found that the Respondent had been provided with reasonable notice of the proceedings. On December 14 and 15, 2021, Staff attempted to personally serve the Respondent. Those attempts were unsuccessful. By Order dated January 11, 2024, the Chair of the Hearing Panel deemed that the Respondent was properly served with the Notice of Hearing pursuant to Rule 4.2(d) of the MFDA Rules of Procedure.

15. The Respondent did not serve or file a Reply to the Notice of Hearing.

16. Despite being properly served with the Notice of Hearing, the Respondent did not attend the first appearance in this matter on January 11, 2019. At that appearance, the Hearing Panel scheduled the hearing of this matter on its merits to proceed on May 19 and 20, 2022. The May 20, 2022, date was later vacated.

17. We found that Staff has made reasonable efforts to notify the Respondent of the date, time, location, and subject matter of the hearing on the merits, including by sending a letter to the Respondent by registered and regular mail and at his last known e-mail address informing him of the time and date of the hearing as well as his right to participate in the hearing process.

18. As a result, we concluded that we had jurisdiction under the MFDA Rules particularly Rule 7.2 to hear the merits in the absence of the Respondent.

## IV. FACTS

### **Allegation 1 Misappropriation**

19. The Panel relied on admissions made by the Respondent to Mr. Ranallo during the Bank investigation and conclusions reached by the Bank and the MFDA in their investigations to find that the Respondent misappropriated \$309,956.99 from clients of the Bank and the Member.

20. As part of the Bank's investigation, Mr. Ranallo led a team which reviewed a series of potentially fraudulent account opening transactions and a series of irregular transactions discovered by the Bank that had been processed by the Respondent's employee identification number.

Ranallo Affidavit, paragraph 2

21. Every time that a Bank employee processes a transaction through either the internal accounts of the Bank (such as the Bank's General Ledger "GL account") or from an account holder, the transaction is recorded by the Bank and attributed to the employee identification number of the person who logs the transaction.

Ranallo Affidavit, paragraph 14

22. The Bank assigns each employee a unique employee identification number. The Respondent's employee identification number was 299164236.

Ranallo Affidavit, paragraph 13.

23. After reviewing transactions associated with the Respondent's employee identification number, Mr. Ranallo interviewed the Respondent. The Respondent admitted that he had withdrawn at least \$218,186.96 from the bank accounts of client A and individuals 1, 3 and 4 without the authorization of these clients and individuals.

Ranallo Affidavit, paragraph 11.

24. On September 24, 2019, Mr. Ranallo finished the Bank investigation and issued a report, concluding amongst other things between October 2017 and October 2019 the Respondent had withdrawn approximately \$218,186.97 from the bank accounts of one client of the Member and three other individuals who held accounts with the Bank, without the consent of these account holders.

Ranallo Affidavit, paragraph 6, Exhibit 1, Investigation Report

25. After issuing the Bank's Investigation Report, Mr. Ranallo determined that the Respondent had obtained an additional \$91,770 from three people including an additional client of the Member, an additional individual who held accounts with the Bank, and one individual who held accounts with the Bank previously described in paragraph 24 above without the consent of these account holders. In total, the Bank concluded that the Respondent obtained \$309,956.99 from six people, two of which were clients of the Member and four of which were individuals who held accounts with the Bank, without the consent of these account holders.

Ranallo Affidavit, paragraph 7

26. Mr. Ranallo was able to determine that the Respondent had obtained monies from one of the Member clients and four individuals who held accounts with the Bank by reviewing transactions processed using the Respondent's employee identification number.

Ranallo Affidavit, paragraph 8

27. In each of these instances the Respondent obtained monies from account holders using one or more of the following actions:

- a) processing an early redemption from a Guaranteed Investment Certificate (GIC) held by the client or individual.
- b) depositing the proceeds from the GIC redemption into the account holder's bank account.
- c) issuing a bank draft from the account holder's bank account.
- d) depositing the bank draft in the GL Account which is an internal account at each bank branch which is used to record debits and credits for each transaction processed at the Bank; and
- e) from the GL Account, allocating the monies to either the Respondent's spouse's bank account or her Tax-Free Savings Account (TFSA) or by withdrawing the monies in cash.

Ranallo Affidavit, paragraph 8

28. Based on the evidence admitted at the hearing, including the Respondent's admissions, the Bank's review of the transactions processed through the Respondent's unique identification number, and the fruits of Staff's investigation, we agree with Staff's submission and find that between October 2017 and October 4, 2019, the Respondent misappropriated approximately \$309,956.99 from two Member clients and four Bank clients.

29. As the Hearing Panel in *Re Lee* stated “misappropriation of client funds is antithetical to the standard of conduct” expected of an Approved Person. We determined that the Respondent’s misappropriation of client funds is a contravention of MFDA Rule 2.1.1.

The misappropriation of client funds is antithetical to the standard of conduct. It is an egregious form of misconduct, which involves a significant breach of trust, causes serious harm to the clients and others affected, and shakes public confidence in the Canadian mutual fund industry. Accordingly, Hearing Panels have repeatedly found that the misappropriation or failure to account for client monies is a contravention of MFDA Rule 2.1.1.

*Re Lee* [2019] Hearing Panel of the Central Regional Council, MFDA File No 201914, Hearing Panel Decision dated September 3, 2019. (*Re Lee*)

## **Allegation 2 Failure to Cooperate**

30. As described in the Capozzolo affidavit, the Respondent was aware of Staff’s investigation. Initially the Respondent responded to emails from Staff requesting information. After further requests made by Staff, the Respondent stopped cooperating. He ignored Staff’s emails and failed to respond to Staff’s attempts to contact him at his residence.

31. The affidavit evidence admitted at the hearing established that the Respondent failed to comply with reasonable requests to provide information and documents to Staff during Staff’s investigation contrary to s. 22.1 of MFDA By-law No. 1

Capozzolo Affidavit, paragraphs 36 -37.

## **V. PROPOSED PENALTY**

32. Staff proposed the following penalties against the Respondent:

- a) A permanent prohibition on the Respondent’s authority to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member;
- b) a fine in the amount of at least \$275,000;
- c) costs in the amount of \$10,000.

## **VI. THE SERIOUSNESS OF THE MISCONDUCT**

33. The Respondent’s misconduct was serious. The Respondent misappropriated \$309,956.99 from clients of the Bank and the Member. The seriousness of the Respondent’s misappropriation misconduct was aggravated by his failure to cooperate with Staff’s investigation.

## **Allegation 1 Misappropriation**

34. Misappropriation of client funds is serious contravention of MFDA rules. Trust is the foundation of a healthy relationship between clients and Approved Persons. Misappropriation is an irreparable breach of trust.

35. As stated in *Re Lee, supra* “misappropriation is among the most serious types of misconduct encountered by securities regulators. . .”

36. Clients not only suffer a monetary loss, but they also lose their faith in the Approved Person who misappropriated their money and often the Bank and the Member. Misappropriation of funds has a negative ripple effect on all those who work in the securities industry. The misconduct of one Approved Person may tarnish the reputation of every other Approved Person and taints the integrity of the securities industry.

## **Allegation 2 Failure to Cooperate**

37. Although the Respondent was aware of the MFDA investigation he failed to respond to reasonable requests for information. The Respondent’s failure to cooperate with Staff ignored his duties and responsibilities as an Approved Member and thwarted Staff’s ability to complete its investigation into certain matters.

38. The Hearing Panel in *Re Chow* stated that failure to cooperate is serious misconduct because it prevents the MFDA from fulfilling its mandate to protect investors and foster confidence in the capital markets:

When a Member or Approved Person refuses to fully comply with their obligation to cooperate with Staff’s enforcement efforts to investigate complaints and concerns, they prevent the MFDA from performing its obligation to ensure the regulatory system achieves its goals of protecting the investor and fostering public confidence in the Markets and the securities industry as a whole.

This is why a failure to cooperate is typically considered to be serious misconduct. In most cases it is also evidence that the Member or Approved Person does not take their regulatory obligations seriously and is not interested in protecting the best interests of the client – the very individual whom the system is designed to protect...

For these reasons, a determination that an Approved Person has breached their obligation to cooperate with an MFDA investigation attracts significant penalties including, in most instances, a permanent ban on their ability to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member.

*Chow (Re)*, [2022] Hearing Panel of the Prairie Regional Council, MFDA File No. 202054, Hearing Panel Decision (Penalty) dated January 18, 2022, at paras. 68-71.

## **VII. AGGRAVATING AND MITIGATING FACTORS**

39. The Hearing Panel noted that the Respondent had not previously been the subject of MFDA disciplinary proceedings but did not give this factor significant weight.

## **VIII. GENERAL AND SPECIFIC DETERRENCE.**

40. The Respondent's misconduct was so serious that it is necessary to protect the public from a recurrence by removing the Respondent from the securities markets. A permanent prohibition is appropriate because the Respondent misappropriated funds from clients and caused significant financial harm to those individuals. A permanent prohibition is also appropriate because the Respondent failed to cooperate with MFDA Staff.

41. In this case, a fine is also necessary to achieve general and specific deterrence. An appropriate financial fine which will deter the Respondent, is one that at a minimum disgorges any financial benefit to him thereby removing any financial benefit that could have incentivized him to contravene his regulatory obligations.

42. To calculate the net financial benefit to the Respondent, we subtracted the repayments by the Respondent and his spouse from the total \$309,956.99 misappropriated by the Respondent. Specifically, the Respondent authorized the Bank to recover \$1,167 from his tax-free savings account and the Respondent repaid \$46,904.14 to the estate of one of the individuals harmed. The Respondent's spouse further authorized the Bank to debit her bank accounts in the amount of \$99,214.84 to repay amounts misappropriated by the Respondent. Therefore, the net financial benefit to the Respondent was \$162,671.01.

43. To ensure others are deterred from engaging in similar conduct in the future, it is necessary to add a premium to the net financial benefit.

44. We also added an additional amount to reflect the Respondents failure to cooperate with Staff.

45. In all the circumstance of this case, we determined that a global fine in the amount of \$300,000 is an appropriate financial penalty.

46. Based on the Bill of Costs provided by Staff at the hearing which totalled \$17,362.50, we find an order of costs of \$10,000 to be appropriate.

**IX. CONCLUSION**

47. We order the following penalties against the Respondent:

- a) A permanent prohibition on the Respondent's authority to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member;
- b) a fine in the amount of \$300,000;
- c) costs in the amount of \$10,000.

**DATED** this 29<sup>th</sup> day of July, 2022.

“Emily Cole”

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Emily Cole  
Chair

“Linda J. Anderson”

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Linda J. Anderson  
Industry Representative

“Guenther W. K. Kleberg”

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Guenther W. K. Kleberg  
Industry Representative

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