

Re Manalang

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Ryan Rilloraza Manalang

2024 CIRO 53

Canadian Investment Regulatory Organization
Hearing Panel (Saskatchewan District)

Heard: December 12, 2023, January 9, 2024 and March 5, 2024 in Saskatoon, Saskatchewan (via
videoconference)

Decision (Misconduct): March 5, 2024

Reasons for Decision: May 28, 2024

Hearing Panel:

Sherri Walsh, Chair

Annette Stephens, Industry Representative

James Samanta, Industry Representative

Appearances:

Jennifer Galarneau, Enforcement Counsel

Ryan Rilloraza Manalang, the Respondent

REASONS FOR DECISION (MISCONDUCT)

I. INTRODUCTION

¶ 1 On June 30, 2023, the Canadian Investment Regulatory Organization ("CIRO") commenced disciplinary proceedings against Ryan Rilloraza Manalang (the "Respondent") by issuing a Notice of Hearing which set out the following allegations:

- a) **Allegation #1:** On April 6, 2021, the Respondent photocopied the signature pages from two account forms previously signed by a client and reused the signature pages on two account forms and submitted the forms to the Dealer Member for processing, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).
- b) **Allegation #2:** Between January 18, 2020, and April 6, 2021, the Respondent obtained, possessed, and in some instances used to process transactions, 29 pre-signed account forms in respect of 9 clients, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).

¶ 2 The Respondent filed a Reply on October 17, 2023 (the "Reply").

¶ 3 The hearing of this matter proceeded by way of video conference on December 12, 2023, January 9, 2024, and March 5, 2024 (the "Hearing").

¶ 4 The Respondent has been self-represented throughout the proceedings.

¶ 5 During the first two days of the Hearing, the Panel heard evidence adduced by both Staff of CIRO ("Staff") and the Respondent. Both parties then provided the Panel with written submissions setting out their

positions on the facts and the law. On the last day of the Hearing, the parties made final arguments by way of oral submissions, following which the Panel took a recess to deliberate.

¶ 6 After considering all of the evidence and the parties' submissions, both written and oral, the Panel returned to the Hearing to render its decision that, on a balance of probabilities, both of the allegations set out in the Notice of Hearing had been established.

¶ 7 These are the Panel's reasons for its decision.

II. EVIDENCE, PARTIES' POSITIONS AND ANALYSIS

Evidence at the Hearing – both Allegations

¶ 8 The evidence upon which the Panel relied in making its decision consisted of the following:

1. admissions contained in the Respondent's Reply;
2. the National Registration Database Report for the Respondent;
3. the Affidavit of Dawn Snyder affirmed December 11, 2023, with attached exhibits; and
4. the testimony of both Dawn Snyder and the Respondent.

¶ 9 For the most part, the evidence upon which Staff relied to support its position was not in dispute as between the parties. Where the parties departed was with respect to whether, on the established facts, the Respondent's conduct amounted to misconduct, as alleged in the Notice of Hearing.

¶ 10 With respect to admitting the evidence contained in Ms. Snyder's Affidavit, the Panel relied on Rules of Procedure 1.6 and 13.4.

¶ 11 Rule 1.6 permits a panel to admit hearsay statements into evidence:

1.6 Admissibility of Evidence

(1) Subject to sub-Rule (3), a Panel may admit as evidence any testimony, document or other thing, including hearsay, which it considers to be relevant to the matters before it and is not bound by the technical or legal rules of evidence.

(2) A Panel may admit a copy of any document or other thing as evidence if it is satisfied that the copy is authentic.

¶ 12 Rule 13.4 permits a panel to allow the evidence of a witness to be given by sworn statement:

13.4 Evidence by Sworn Statement

(1) The Hearing Panel may allow the evidence of a witness or proof of a particular fact or document to be given by sworn statement unless an adverse party reasonably requires the attendance of the witness at the hearing for cross-examination.

¶ 13 MFDA Hearing Panels and other regulatory bodies routinely consider and rely on hearsay evidence in making findings of fact.¹

¶ 14 Ms. Snyder also testified at the Hearing and was available to be cross-examined by the Respondent and to answer questions from the Panel.

Registration History

¶ 15 The Respondent has been registered as a dealing representative since 2005 and with Sun Life Financial Investment Services (Canada) Inc. (the "Member") since March 12, 2015. At all material times, he conducted business in the Saskatoon, Saskatchewan area.

¹ *Tonnies (Re)*, [2005] Hearing Panel of the Prairie Regional Council, MFDA File No. 200503, Hearing Panel Decision and Reasons dated June 27, 2005, at pp. 6-7

Member's Investigation

¶ 16 Ms. Snyder is the Director of Regulatory Reporting for the Member and as such was responsible for its oversight and adherence to regulatory reporting requirements.

¶ 17 In her Affidavit she said that she had reviewed the investigation summary which was prepared by the Member after it conducted its investigation of the Respondent's business practices.

¶ 18 Her evidence was that in April 2021, during a Tier 1 supervisory review, the Member discovered the Respondent was emailing clients only the signature pages of forms and not the entire form, when obtaining their signatures.

¶ 19 She noted that in the course of the Member's review, the Respondent was asked to provide his notes, e-mails and documents relating to the client forms that appeared to have signature collection deficiencies and that the Respondent told the investigator that he had no documents other than those which he provided during the course of that review.

¶ 20 Ms. Snyder's evidence was that as the result of its review, the Member notified the Respondent by letter dated January 20, 2022, that he would be fined \$2500.00 and was required to review the Compliance Processes and Procedures Manual, the Insurance Compliance Manual and the compliance pages on Advisor Hub relating to signing blank forms, altered forms, incomplete forms and advisors' obligations for the maintenance of client records.

Dealer Member Policies and Procedures

¶ 21 Ms. Snyder testified about the Member's policies and procedures relating to "pre-signed" forms that were in place during the period of the alleged misconduct. She identified the following relevant sections of Sun Life's Mutual Fund Compliance and Policy & Procedures Manual ("CPPM") which were also attached as exhibits to her Affidavit:

SLFISI prohibits advisors from obtaining pre-signed forms from their clients in accordance with MFDA MSN-0066. An advisor may only use forms that are duly executed by the client after information on the form has been properly completed. Use of pre-signed trade order forms may be evidence of fraud, forgery, discretionary trading or other illegal or improper conduct. Some examples of pre-signed forms include, but are not limited to:

- having a client sign a form which is blank or only partially completed (a "Pre-Signed Form");
- having a client sign multiple forms for use in future trading;
- an advisor signing a client's name to a document;
- cutting and pasting, photocopying or using liquid paper on a document to "re-use" a previous signature;
- altering or correcting any information on a signed document, without the client initialing the document to show the change was approved;
- reproducing client initials beside changes made to a document where the client forgot to initial;
- using correction fluid to "white out" old instructions and write in new instructions on a signed client form;
- receiving client instructions over the phone or by e-mail and signing the client's signature on an account form to carry out the instructions; and
- photocopying a previously submitted account form and altering the trade details in order to process a new trade.

¶ 22 Ms. Snyder testified that as a Mutual Fund Advisor with the Member, the Respondent was bound by the Member's Code of Professional Conduct (the "Code") which was attached as an exhibit to her Affidavit. The Code said that Mutual Fund Advisors were responsible for, among other things:

- Reading, understanding, and complying with the Code and any internal policies or supplementary codes that apply to them;
- Familiarizing themselves and complying with the laws and regulations that apply to their role; and
- Committing to acting professionally, ethically and with integrity.

¶ 23 The Respondent acknowledged that he was bound by the Code and had access to it. He also agreed that for the years 2019-2021 he completed both an Annual Code acknowledgment and the Code of Professional Conduct on-line course. This was documented in the Respondent's Transcript Report which was an exhibit to Ms. Snyder's affidavit.

Allegation #1

On April 6, 2021, the Respondent photocopied the signature pages from two account forms previously signed by a client and reused the signature pages on two account forms and submitted the forms to the Dealer Member for processing, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).

The Evidence

¶ 24 In the Reply he filed on October 17, 2023, the Respondent acknowledged that he had engaged in the conduct alleged in the Notice of Hearing. In particular, with respect to Allegation #1 he admitted:

Allegation #1- Reused client Signatures

For paragraph 4 and 5

I did the mistake of just sending one signature page of the two forms since it is the same for both registered accounts that I open.

I unknowingly thought that its was okay since it was during unprecedented times when covid restriction is ongoing and I am not able to meet face-to-face with the client. I thought of making it convenient for the client, but nevertheless; I violated the rule and had failed to observe a high standard of conduct and ethics as per paragraph 6.

¶ 25 He further admitted to this misconduct at the Hearing in both his evidence in chief and in cross-examination.

¶ 26 The specific documents referred to in Allegation #1 involved two forms, relating to two accounts which belonged to client JK. They were: a Limited Trade Authorization Form ("LTA") and a Client Consent to electronic delivery of documents and notices Forms ("Client Consent").

¶ 27 The testimony of Ms. Snyder and the exhibits attached to her Affidavit established that in relation to client JK, the Respondent used the signature page from the LTA (4119-E-01-19) relating to a Sun Life account number ending in "02" and attached it to the LTA (4119-E-01-19) relating to Sun Life account number ending in "28". The account numbers were identified on the bottom of the documents' pages. The account number for the account ending in "28" had been visibly altered with a handwritten "28".

¶ 28 The Respondent admitted that in relation to client JK, he had modified the account number from page 2 of the LTA (4119-E-01-19) for the Sun Life account number ending in "02" and added it to the LTA (4119-E-01-19) for the account number ending in "28" and that the client never saw or signed the LTA (4772-E-01-19) for Sun Life account number ending in "28".

¶ 29 It was further established during Ms. Snyder's testimony that the Respondent used the signature page from the Client Consent (4772-E-08-18) relating to Sun Life account number ending in "02" and attached it to the Client Consent (4772-E-08-18) relating to Sun Life account number ending in "28". Again, the account number identified on the bottom of page 2 of the Consent for the second account was visibly altered with a handwritten "28".

¶ 30 The Respondent again admitted he had modified the account number on page 2 of the Client Consent (4772-E-08-18) for Sun Life account number ending in "02" and added it to the Client Consent (4772-E-08-18) for Sun Life account number ending in "28" and that the client never saw or signed the Client Consent (4772-E-

08-18) for Sun Life account number ending in "28".

Staff's Position

¶ 31 Staff submitted that this conduct constituted a form of signature falsification which hearing panels describe as "serious misconduct". Signature falsification, Staff submitted, which includes reusing a client signature, adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation.

¶ 32 Staff further submitted that, as set out in his Reply, the Respondent did not deny the facts upon which this allegation was based. In fact, he acknowledged that he made a mistake. His position was that he thought the conduct was permissible since it occurred during unprecedented times when COVID restrictions were ongoing and he was not able to meet face-to-face with the client.

Respondent's Position

¶ 33 The Respondent's position was consistent with the admission he made in his Reply. That is, he admitted that he carried out the alleged conduct but said it was an error in judgment for which he had already been penalized by the Member. He submitted that prior to this incident he had never been disciplined and that the conduct only happened because of the unprecedented circumstances relating to the pandemic.

Panel's Analysis

¶ 34 The Panel finds, on a balance of probabilities, that Allegation #1 has been clearly established.

¶ 35 As the Panel in *Rana (Re)* 2023 CIRO 40 stated at paragraph 73:

Reusing Client Signatures

¶ 73 Previous hearing Panels have described conduct similar to reusing a signature from a previously signed account form and applying the signature to a new account form as conduct that violates Rule 2.1.1.

Lewis (Re), 2018 CanLII 43822 (CA MFDAC) at paras. 30-32

Singh (Re), 2017 CanLII 89034 (CA MFDAC)

Barnai (Re), 2014 CanLII 85682 (CA MFDAC) at paras. 6-8

¶ 36 The Panel in *Rana* went on to note that the MFDA has repeatedly warned Approved Persons against reusing or photocopying a client's signature from a previously signed account form and applying the signature to a new account form, citing: MFDA Staff Notice #MSN-0066, October 31, 2007, (updated March 4, 2013, and January 26, 2017); and MFDA Bulletin #0661-E, October 2nd, 2015.²

¶ 37 Citing the panel in *Barnai (Re)*, the panel in *Rana (Re)* emphasized that reusing a client signature has been held to be particularly serious conduct:

Falsifying client signatures or initials is serious misconduct. Signature falsification (like the use of presigned forms) adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling, and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation.³

¶ 38 The Panel finds, based on the totality of the evidence, that the facts alleged in Allegation #1 have been established and that the Respondent's conduct clearly breaches Mutual Fund Dealer Rule 2.1.1.

Standard of Conduct – Mutual Fund Dealer Rule 2.1.1

¶ 39 Each of the allegations in the Notice of Hearing alleges that the Respondent's conduct violated Mutual

² *Rana (Re)*, *supra*, at para. 74

³ *Rana (Re)*, *supra*, at para. 75

Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).

¶ 40 This Rule which prescribes the standard of conduct applicable to registrants in the mutual fund industry requires, among other things that:

Each Member and each Approved Person of a Member shall:

- (a) deal fairly, honestly and in good faith with its clients;
- (b) observe high standards of ethics and conduct in the transaction of business;
- (c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; and
- (d) be of such character and business repute and have such experience and training as is consistent with the standards described in this Rule 2.1.1, or as may be prescribed by the Corporation.

¶ 41 As the Panel in *Breckenridge (Re)* stated, the Rule articulates the most fundamental obligations of all registrants in the securities industry.⁴

¶ 42 Hearing panels have consistently found that reusing client signatures and using pre-signed forms is conduct that is contrary to Mutual Fund Dealer Rule 2.1.1.⁵

¶ 43 These same panels have acknowledged that CIRO (formerly the “MFDA”) has issued bulletins and guidance to the industry regarding conduct which is similar to the conduct that is the subject of this proceeding, which clearly outlined that such conduct is a breach of Mutual Fund Dealer Rule 2.1.1.

Allegation #2

Between January 18, 2020, and April 6, 2021, the Respondent obtained, possessed, and in some instances used to process transactions 29 pre-signed account forms in respect of 9 clients, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1).

The Evidence

¶ 44 Ms. Snyder testified that in relation to the specific pre-signed forms which were the subject of Allegation #2, the Respondent emailed only the last and signature pages of the account forms to the respective clients, as set out below:

Client	Date of Email (Sent by the Respondent/Returned by the Client)	Number of Forms	Type of Form
1. (a) JC	January 27, 2021/ February 1, 2021	3	1) MFI Application Form (“MFI”) 4819-E-07-20 2) NAAF 4900-E-11-20 3) LTA 4119-E-01-19
1. (b) JC	February 12, 2021/ February 14, 2021	3	1) Risk Profile Questionnaire (“RPQ”) 2) 2 PAC Forms E252-01-19
2. EM	February 12, 2021/ February 12, 2021	4	1) NAFF-4900-E-11-20 2) LTA 4119-E-01-19 3) MFI 4819-E-07-20 4) RPQ

⁴ *Breckenridge Re* [2007] Hearing Panel of the Ontario Regional Council, FDA Hearing No. 200718, Hearing Panel Decision dated November 14, 2007 at p. 20

⁵ *Rana (Re)*, *supra*, at para. 80, *Lewis (Re)*, *supra*, at para. 24, *Ledingham (Re)*, *supra*, at para. 22

Client	Date of Email (Sent by the Respondent/Returned by the Client)	Number of Forms	Type of Form
3. IA	February 16, 2021/ February 22, 2021	4	1) NAAF 4900-E-11-20 2) LTA 4119 E-01-19 3) MFI 4819-E-07-20 4) RPQ pg. 3
4. ER	February 24, 2021/ March 6, 2021	4	1) NAAF 4900-E-11-20 2) LTA 4119-E-01-19 3) MFI 4819-E-07-20 4) RPQ
5. JM	March 23, 2021/ March 23, 2021	3	1) MFI 4819-E-10-20 2) Transfer Form 4823-E-05-20 3) RPQ
6. JK	April 2, 2021/ April 6, 2021	8	1) RPQ 2) MFI 4819-E-07-20 3) TFSA (MF) Application Form 4820-E-07-20 4) NAAF 4900-E-11-20 5) MFI 6) NAAF 4905-E-08-18 7) LTA 4119-E-01-19 8) Client Consent 4772-E-08-18
	TOTAL NUMBER OF FORMS	29	

¶ 45 At the Hearing, Staff acknowledged that there was an error in Ms. Snyder's Affidavit with respect to one form relating to client JK – specifically - the client consent for account number ending in "28". This form was not the form for which client JK signed the last page. Rather JK signed the last page of the client consent for the account number ending in "02". Ms. Snyder identified the correct form in her testimony.

¶ 46 As discussed above, the Respondent admitted during his testimony that with respect to this form, client JK only signed the last page of the client consent for the account number ending in "02". He then modified and re-used the signature page for the Client Consent for a different account – the one which ended in "28".

¶ 47 The evidence that was adduced at the Hearing through both Ms. Snyder's Affidavit and her testimony identified one additional New Account Application Form dated January 18, 2020, signed by client AB which, Staff submitted, was also pre-signed. The evidence relating to this form was that there were two new Account Application Forms completed for the same account for client AB by the Respondent: one which was computer-filled; and one which was handwritten.

¶ 48 On the handwritten version of the form, the section relating to the client's investment knowledge was not completed.

¶ 49 The Respondent's evidence was that that information was contained on the computer-filled form, which he had prepared. However, at the time he met with the client to obtain their signature, because he did not have the computer-generated form with him, he filled the form out again in handwriting and although his intention was to simply reproduce what was contained in the computer-filled form, he inadvertently omitted to fill out the section relating to the client's investment knowledge.

¶ 50 He acknowledged that the document which was put before the client to be signed did not have the

investment knowledge section completed.

¶ 51 In their cross-examination of the Respondent, Staff also identified a number of sections in the subject forms, which were not completed, including, for example:

- a) the date the document was signed;
- b) the province where the signature was provided;
- c) the client's title and sex;
- d) the title's home and mailing address confirmation;
- e) the beneficiary's date of birth; and
- f) the witness signatures.

¶ 52 Staff also adduced evidence about the Risk Profile Questionnaire forms that the Respondent asked clients to sign. In cross-examination, the Respondent admitted that clients would not have seen the entire questionnaire document when they signed it although he noted that they would have ultimately reviewed its contents during the annual reviews he conducted with them.

¶ 53 He also agreed with Staff that there was a miscalculation on one of the Risk Profile Questionnaires that had the effect of putting the client in a different risk level category.

¶ 54 With respect to the additional information that Staff noted was not filled out on forms for which he asked the client to sign the last page without having all of the document in front of them, the Respondent's evidence was that the information that was missing was not mandatory information because the system let him process the document and did not notify him that any of the documents he submitted were "not in good order".

¶ 55 He did agree with Staff's suggestion that the Member had, through its policies, explained why it was important to make sure that all forms were completed before being presented to the client to be signed.

¶ 56 The Respondent acknowledged both in his Reply and his testimony that with respect to the 29 account forms that are the subject matter of Allegation #2, he emailed his clients only the last and signature pages of the account forms for the clients to sign and that at no time prior to the clients' signing did the Respondent provide them with any of the other pages of the forms.

¶ 57 In particular, the Respondent admitted the following in his Reply:

I am probably not understanding this about pre-signed.

From what I understand pre-signed is signing a blank form or incomplete forms.

As per # 8, 9

The 29 forms were new account submission forms and already prefilled.

All forms were already prefilled as client data's were inputted during my non-face to face contact with the client and the only difference from regular process of account opening is how I obtain the clients signatures. If it hasn't for unprecedented circumstances, I would not have done the process that I did to collect client signatures.

10

This is the process how I collect client signatures, by emailing just the signature pages of the completed and filled account submission forms in the thought of making it convenient for the client.

I was oblivious that this process was wrong during the unprecedented time of covid restrictions and meeting client face to face, but all the submission forms were completely filled

¶ 58 The Respondent testified that he was not comfortable using E-signatures for clients; that he was used to printing documents first and then having the client sign them. He also testified that he honestly believed that

the process he was following was permissible at the time and that in any event he believed his errors were administrative or clerical, in nature.

Staff's Position

¶ 59 With respect to this allegation, Staff submitted that the Respondent had failed to establish a defence.

¶ 60 They submitted that the evidence of Ms. Snyder was uncontested that the Respondent obtained client signatures on the forms referred to in Allegation #2 after sending only the last and signature pages to them; and that the Respondent did not send the completed forms to the clients at the time they affixed their signature.

¶ 61 Staff submitted that the Respondent's position that the forms were not pre-signed was without merit because the forms were required to be fully completed and placed before the client for their review prior to being signed which, by the Respondent's own admission, was not done. In their submission, there was nothing that prohibited the Respondent from sending completed forms to the client at the time of signature.

¶ 62 They submitted that by obtaining the client's signature on forms without providing all of the pages which contained all the required information at the time the client provided their signature, the Respondent engaged in conduct which amounted to obtaining, possessing and using pre-signed forms.

¶ 63 Staff also submitted that the Respondent's position that he had completed the forms prior to emailing the signature and last pages of the documents to the clients for signing was incorrect in light of the evidence at the Hearing which established that many of the forms had sections which were in fact incomplete at the time of signing.

¶ 64 Staff submitted, therefore, that these incomplete forms, together with evidence of a miscalculated Risk Profile Score, provided additional evidence to establish that the forms that were not sent to the client before the client gave their signature, were partially blank at the time the client signed them and as such were "pre-signed" for that reason as well.

¶ 65 They argued that providing a completed form to the client ensures that the client is aware of and able to review all the material information on the forms and is able to authorize the purpose for which the form is completed - whether it be for the purpose of opening an account or a specific transaction.

¶ 66 Similar to their argument with respect to Allegation #1, Staff submitted that to suggest that the form does not have to be in front of the client at the time they sign it, results in forms that adversely affect the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation.

¶ 67 In their oral submissions, Staff acknowledged that although the Notice of Hearing alleged that the Respondent obtained, possessed and in some instances used to process transactions, 29 pre-signed forms in relation to nine clients, the evidence which was adduced at the Hearing established that there were 30 pre-signed forms in relation to seven clients.

¶ 68 It was Staff's submission, however, that this discrepancy should have no impact on the Panel's ability to make a determination that Allegation #2 has been established.

¶ 69 In making this argument Staff cited the Panel's decision in *Botha (Re)* where, citing *del Bianco v Alberta (Security Commission)*, 2004 ABCA 344 at para. 11, it said that a Notice of Hearing should not be scrutinized for perfection; rather, its purpose is to give a Respondent adequate notice of the case to be met.⁶

The Respondent's Position

¶ 70 The Respondent's position, consistent with the admissions contained in his Reply and confirmed in his testimony was that he was unaware that his conduct constituted a breach of the Rules.

⁶ *Botha (Re)*, 2021 ABASC 11, at para. 114

¶ 71 He also relied on what he stated in his Reply and in his testimony, that because he did not receive any information from the Member that any of the forms he submitted were "not in good order", he believed there was nothing wrong with the process which he followed to collect client signatures. He reiterated that he simply emailed the signature pages of the completed and filled account forms for the convenience of his clients and that he was not aware that this process was wrong to follow during the unprecedented time of COVID restrictions.

¶ 72 He submitted, as well, that his conduct amounted to an administrative oversight and that he had no ill intention or motive except to serve his clients well, as he had been doing since 2005.

Panel's Analysis

¶ 73 Based on the totality of the evidence, the Panel finds on a balance of probabilities that the facts alleged in Allegation #2 have been established and that the Respondent's conduct clearly breaches Mutual Fund Dealer Rule 2.1.1.

¶ 74 We find that in both his Reply and his testimony the Respondent admitted the underlying facts of this allegation. Although this was not necessary for our determination. We also agree with Staff's submission that some of the forms which are the subject of this proceeding were incomplete at the time the Respondent sent the signature pages to the clients.

¶ 75 The Panel also finds that for the two New Account Application forms relating to client AB which were completed for the same account: one computer-filled and one handwritten, regardless of the order in which the Respondent prepared those documents, the document which contained the client's signature, was partially blank because the section relating to the client's investment knowledge was not filled in. Therefore, in our view, this document also constitutes a pre-signed document.

¶ 76 We find that this conduct in which the Respondent engaged amounted to obtaining, possessing and using pre-signed forms. In so finding, we rely on the description of pre-signed forms which was set out by the Panel in *Rana (Re)*:

"Pre-Signed Forms" is a generic term that applies to a variety of situations in which an Approved Person obtains a client's signature on a document before all of the material information on the document has been completed. Most commonly, an Approved Person obtains a client's signature on a partially or completely blank account form. Members and Approved Persons are only permitted to obtain, use and process forms that are executed by the client after all material information on the form has been properly completed.

Obtaining or using a document signed by a client before all material information has been added/completed has come to be known as a "pre-signed form" issue.⁷

¶ 77 The Hearing Panel in *Carter (Re)* citing the Panel in *Price (Re)* explained the dangers associated with the use of pre-signed forms:

The use of pre-signed account forms adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling, and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation. As the Hearing Panel explained in *Price (Re)*:

"Pre-signed forms present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading . . . At its worst, pre-signed forms create a mechanism for an Approved Person to engage in acts of fraud, theft or other forms of harmful conduct towards a client . . . Pre-signed forms also subvert the ability of a Member to properly supervise trading activity. They destroy the audit trail. The presence of the client's signature on a trade form can no longer be taken as confirmation that the client authorized a particular trade. It also compromises the ability of the Member to subsequently investigate and respond to a client complaint concerning the propriety of trading activity in his or her

⁷ *Rana (Re)*, *supra*, at pp. 78-79

account.”

Price (Re), [2011] Hearing Panel of the Central Regional Council, MFDA File No. 200814, Decision and Reasons (Misconduct) dated April 18, 2011 at paras. 122-124⁸

¶ 78 The prohibition on the use of pre-signed account forms applies regardless of whether the client was aware or authorized the use of the forms and whether the forms were actually used by the Approved Person for discretionary trading or other improper purposes. It also applies even where the Approved Person's intention is to provide convenience to the client as the Respondent indicated was his intention in this matter.

¶ 79 On this last point, the Hearing Panel in *Byce (Re)*, stated:

The actions which the Respondent has admitted, as set out in paragraph 2 above, are infractions which merit sanctions from the standpoint of both specific and general deterrence. Even though there was no evidence that the Respondent intended to use the pre-signed forms for any improper purpose, the use of such forms is prohibited because the presence of client's signatures on such forms can no longer be taken as confirmation that the client authorized a particular trade and also compromises the Member's ability to investigate and respond to a client complaint concerning the propriety of trading in his/her account. For these reasons, pre-signed forms are prohibited regardless of whether the Approved Person's intention is to enhance client convenience, and irrespective of whether a client had ostensibly endorsed the practice.⁹

¶ 80 We also agree with Staff's submission that insofar as the evidence adduced at the Hearing established that the Respondent obtained 30 pre-signed forms in relation to seven clients rather than 29 pre-signed forms in relation to nine clients, as articulated in the Notice of Hearing, this distinction is not significant for the purpose of our finding that Allegation #2 has been established.

¶ 81 As the Panel in *Botha (Re)* commented, a Notice of Hearing should not be scrutinized for perfection; its purpose is to give a Respondent adequate notice of the case to be met. We find that there is no question, based on all of the evidence adduced at the Hearing including the Respondent's admissions contained in his Reply, his testimony together with his submissions that he was aware of and had adequate notice of the case he had to meet.¹⁰

¶ 82 With respect to the Respondent's position that he was not aware that his conduct amounted to a breach of the Rules, the Panel finds that the Respondent had a responsibility to be aware of his regulatory requirements and of the Member's policies and procedures.

¶ 83 As the Alberta Securities Commission stated in *Botha (Re)*, *supra* at paras. 149-150:

Specifically with respect to a registrant's obligation to keep informed of applicable regulatory requirements, an Investment Industry Regulatory Organization of Canada (IIROC) hearing panel arrived at a similar conclusion in *Re Pariak-Lukic* (2014 IIROC 1 at para. 89):

. . . as a registrant, [the respondent] had an obligation to know and understand the policies and procedures of [her employer] and the obligations and duties imposed on registered representatives by the by-laws and rules of applicable regulatory organizations. Her ignorance or misunderstanding of the rules in this matter was no excuse.

In the MFDA context, the hearing panel in O'Connor found (at para. 72): "Approved Persons are expected to be familiar with requirements of their regulator."

¶ 84 The Respondent acknowledged there was also nothing that prevented him from scanning and providing

⁸ *Carter (Re)* [2023] Hearing Panel (Ontario District) CIRO File No. 202271, Hearing Panel Reasons for Decision dated January 15, 2024

⁹ *Byce (Re)*, MFDA File No. 201311, Hearing Panel of the Central Regional Council, Decision and Reasons dated September 4, 2013, at para. 6

¹⁰ *Botha (Re)*, *supra*, at para. 114

all of the pages to the client rather than simply sending them the signature page.

¶ 85 Overall, we find the Respondent's apparent failure to understand the significance of ensuring that a client be provided with a complete opportunity to review all of the information contained in a document before they put their signature to it, is concerning.

¶ 86 Obtaining a client's signature on any form, especially a new account form, is not merely an administrative matter, as the Respondent suggested in his testimony and submissions where he pointed out that the Member never returned to him any of the documents which were the subject of these proceedings as being "not in good order".

¶ 87 Members rely on clients' signatures to confirm their instructions to them. They also rely on Approved Persons' diligence in obtaining those signatures.

¶ 88 In the absence of seeing all the information that precedes their signature, however, a client is not able to provide such confirmation.

¶ 89 The process that the Respondent used to obtain client signatures deprived the clients of the opportunity to know what they were signing and effectively, unbeknownst to the Member, made their signatures meaningless.

¶ 90 The failure to ensure the client is fully aware of and has in front of them all of the pages which comprise the document they are being asked to sign, undermines the very integrity of the relationship between the client, the Member and the Approved Person.

¶ 91 That is why hearing panels consistently find that obtaining, possessing and or using pre-signed forms is conduct that fails to meet the obligation to observe high standards of ethics and conduct in the transaction of business that is required by Mutual Fund Dealer Rule 2.1.1, the significance of which we have discussed earlier in these reasons.

III. CONCLUSION

¶ 92 For all of the above reasons, the Panel finds that the allegations in the Notice of Hearing have been established and the Respondent has contravened Mutual Fund Dealer Rule 2.1.1 (formerly MFDA 1.1.1).

DATED at Saskatoon, Saskatchewan this 28 day of May 2024

“Sherri Walsh” _____

Sherri Walsh, Chair

“Annette Stephens” _____

Annette Stephens, Industry Representative

“James Samanta” _____

James Samanta, Industry Representative

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