



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: Anthony Ladislao Ayala

AGREED STATEMENT OF FACTS

I. INTRODUCTION

1. By Notice of Hearing dated January 7, 2017, the Mutual Fund Dealers Association of Canada (“MFDA”) commenced a disciplinary proceeding against Anthony Ladislao Ayala (“Respondent”) pursuant to ss. 20 and 24 of MFDA By-law No. 1.

2. The Notice of Hearing set out the following allegations:

Allegation #1: In about December 2014, the Respondent misappropriated approximately \$13,395 from clients PF and JZ, thereby failing to deal fairly, honestly and in good faith with clients PF and JZ, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1.

Allegation #2: In about December 2014, the Respondent falsified client signatures on account forms in order to process a series of unauthorized transactions in respect of clients PF and JZ, thereby failing to deal fairly, honestly and in good faith with clients PF

and JZ, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 2.3.1 and 2.1.1.

II. IN PUBLIC / IN CAMERA

3. The Respondent and Staff of the MFDA (“Staff”) agree that this matter should be heard in public pursuant to Rule 1.8 of the MFDA Rules of Procedure.

III. ADMISSIONS AND ISSUES TO BE DETERMINED

4. The Respondent has reviewed this Agreed Statement of Facts and admits the facts set out in Part IV herein. The Respondent admits that the facts in Part IV constitute misconduct for which the Respondent may be penalized on the exercise of the discretion of a Hearing Panel pursuant to s. 24.1 of MFDA By-law No. 1.

5. Staff and the Respondent jointly request that the Hearing Panel determine, on the basis of this Agreed Statement of Facts, the appropriate penalty to impose on the Respondent.

IV. AGREED FACTS

6. Nothing in this Part IV is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against him.

Registration History

7. From May 8, 2014 to March 12, 2015, the Respondent was registered in Ontario as a Dealing Representative (formerly known as a mutual fund salesperson) with TD Investment Services Inc. (“TDIS”), a Member of the MFDA.

8. TD terminated the Respondent on March 12, 2015, as a result of the events described below. The Respondent has not been registered in the securities industry in any capacity since he was terminated by TD.

9. At all material times, the Respondent conducted business at a TD branch located in London, Ontario (the “Branch”). The Branch also operated as a bank branch for TD Canada Trust (“TD Bank”).

Overview

10. The Respondent misappropriated approximately \$25,000 monies from dormant or inactive accounts of TDIS clients and TD Bank clients, including \$13,395 from TDIS client PF and client JZ as described in greater detail below.

Client PF and JZ

11. Client PF and client JZ are not related to each other.

12. On September 2, 2002, client PF opened a Registered Retirement Savings Plan account (“RRSP Account”) with TDIS and invested monies in mutual funds. From September 2, 2002 to December 2014, client PF’s RRSP Account was inactive with the exception of the re-investment of the distributions generated by the mutual funds held in the account. As of December 5, 2014, client PF’s RRSP Account had a balance of approximately \$4,515.

13. From August 2001 to December 2014, client JZ held an RRSP Account with TDIS which was inactive with the exception of the re-investment of the distributions generated by the mutual funds held in the account. As of December 5, 2014, client JZ’s RRSP Account had a balance of approximately \$8,886.

14. On or about December 5, 2014, the Respondent falsified the signatures of clients PF and JZ to open TD Bank accounts in the names of the clients, which the Respondent controlled. Clients PF and JZ were not aware that the Respondent had opened TD Bank accounts in their names. TDIS and TD Bank were not aware that the TD Bank account for clients PF and JZ were

under the control of the Respondent and were opened without the knowledge or authorization of clients PF and JZ.

15. On or about December 5, 2014, the Respondent processed a change in the client addresses associated with the TDIS RRSP Accounts held by clients PF and JZ. The change of address prevented clients PF and JZ from receiving account statements or other notifications of the unauthorized transactions processed by the Respondent.

16. From December 5 to 10, 2014, the Respondent falsified the client signatures of clients PF and JZ on Transaction and Account Maintenance Forms, which updated their investor profiles and changed their Know Your Client (“KYC”) information for their RRSP Accounts. Clients PF and JZ were not aware of that the Respondent engaged in this activity.

17. On or about December 10, 2014, the Respondent falsified client PF’s signature on Transaction and Account Maintenance Form and processed a redemption of \$4,000 from client PF’s RRSP Account. The redemption generated net proceeds of \$3,600 (after the deduction of the withholding tax) which were deposited into client PF’s TD Bank account that was under the Respondent’s control.

18. On or about December 10, 2014, the Respondent falsified client JZ’s signature on Transaction and Account Maintenance Form and processed a redemption of \$8,882.51 from client JZ’s RRSP account. The redemption generated net proceeds of \$7,108.38 (after the deduction of the withholding tax) which were deposited into client JZ’s TD Bank account that was under the Respondent’s control.

19. On or about December 15, 2014, the Respondent withdrew \$1,400 in cash from client JZ’s TD Bank account and deposited \$1,000 in cash into his personal TD Bank account.

20. On or about December 15, 2014, the Respondent withdrew \$1,400 in cash from client PF’s TD Bank account and deposited \$1,000 in cash into his personal TD Bank account.

21. On or about December 17, 2014, the Respondent withdrew \$1,400 in cash from client JZ's TD Bank account and deposited of \$1,000 into his personal TD Bank account.

22. On or about December 18, 2014, the Respondent withdrew \$900 in cash from client JZ's TD Bank account. Immediately thereafter, the Respondent withdrew \$1,400 in cash from client PF's TD Bank account. On December 19, 2014, the Respondent deposited \$2,600 in cash into personal TD Bank account.

23. On December 22, 2014, the Respondent withdrew \$1,000 in cash from client JZ's TD Bank account. Immediately thereafter, the Respondent withdrew \$800 in cash from client PF's TD Bank account. That day, the Respondent deposited \$368 in cash into his personal TD Bank account and \$732 into his TD credit card account.

24. On or about December 23, 2014, the Respondent withdrew \$1,000 from client JZ's TD Bank account.

25. On or about December 29, 2014, the Respondent falsified client PF's signature on Transaction and Account Maintenance Form and processed a redemption of \$512.65 from client PF's RRSP account. The redemption generated net proceeds of \$461.38 (after the deduction of the withholding tax) which were deposited into client PF's TD Bank account that was under the Respondent's control. No further activity occurred in this account.

26. In about February 2015, TDIS became aware of the Respondent's conduct and commenced an investigation. TDIS terminated the Respondent on March 12, 2015 and reimbursed clients PF and JZ for the monies misappropriated by the Respondent (including \$9,300 which the Respondent deposited into his personal TD Bank account and TD credit card account).

Misconduct Admitted

27. By engaging in the conduct described above, the Respondent admits that:

- (a) In about December 2014, the Respondent misappropriated approximately \$13,395 from clients PF and JZ, thereby failing to deal fairly, honestly and in good faith with clients PF and JZ, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1.
- (b) In about December 2014, the Respondent falsified client signatures on account forms in order to process a series of unauthorized transactions in respect of clients PF and JZ, thereby failing to deal fairly, honestly and in good faith with clients PF and JZ, and observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rules 2.3.1 and 2.1.1.

Execution of Agreed Statement of Facts

28. This Agreed Statement of Facts may be signed in one or more counterparts which together shall constitute a binding agreement.

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

DATED this 16th day of August, 2017.

“Anthony Ladislao Ayala”

Anthony Ladislao Ayala

“Shaun Devlin”

Shaun Devlin

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President,

Member Regulation – Enforcement