



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: Anu Bala Jain

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a hearing panel (the “Hearing Panel”) of the Central Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) in the hearing room located at 121 King Street West, Suite 1000, Toronto, Ontario on February 8, 2012 at 10:00 a.m. (Eastern), or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Anu Bala Jain (the “Respondent”).

DATED this 16th day of December, 2011.

“Jason D. Bennett”

Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-943-7431
Facsimile: 416-361-9781
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NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between September 2007 and February 2008, the Respondent allowed MRM, an unregistered individual, to:

- i) open new accounts at the Member for 18 individuals with whom the Respondent never met;
- ii) recommend and implement leveraging strategies for these clients; and
- iii) recommend and process trades in the accounts of these clients using the Respondent's representative code;

Thereby:

- a) facilitating stealth advising by MRM, contrary to MFDA Rules 1.1.1(c) and 2.1.1;
- b) failing to ensure that she (the Respondent) performed the necessary due diligence to learn the essential facts relative to the clients and failing to ensure that the investments and the leveraging strategies were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- c) failing in her (the Respondent's) capacity as a branch manger to ensure that business conducted at the branch was in compliance with MFDA By-laws, Rules and applicable legislation, contrary to MFDA Rules 2.5.3(b)¹ and 2.1.1.

Allegation #2: Between May 26, 2010 and April 14, 2011, in response to a complaint by client MA, in respect of whom the Respondent was identified as the Approved Person responsible for servicing client MA's accounts, the Respondent made false and misleading statements and omitted to provide other relevant information during the course of investigations by two Members and by MFDA Staff:

- a) in a written statement to MFDA Staff, dated June 3, 2010;
- b) in oral statements to compliance staff at two Members; and

¹On January 21, 2011, amendments to the numbering and wording of certain MFDA Rules came into effect as a consequence of which, former MFDA Rule 2.5.3 is now amended and incorporated into Rule 2.5.5.

- c) by fabricating notes of meetings in which she falsely claimed that she had met with client MA on three occasions in October 2007;

contrary to MFDA Rule 2.1.1 and s. 22.1 of MFDA By-law No. 1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. From March 31, 2004 to January 18, 2010, the Respondent was registered in Ontario as a mutual fund salesperson with Global Maxfin Investments Inc. (“Global Maxfin”). While at Global Maxfin, she was also registered as a branch manager from October 12, 2007 to January 18, 2010.
2. Prior to working at Global Maxfin, the Respondent was registered with PFSL Investments Canada Ltd from May 28, 2003 to July 3, 2003.
3. Since March 15, 2010, the Respondent has been registered in Ontario as a mutual fund salesperson and branch manager with Queen Financial Group Inc. (“Queen Financial”). On May 24, 2011, following discussions with MFDA Staff concerning the events described herein, Queen Financial suspended the Respondent’s responsibilities as a branch manager pending the outcome of this hearing.
4. Global Maxfin is registered as a mutual fund dealer and an exempt market dealer in British Columbia, Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Newfoundland and Labrador. Global Maxfin is also registered as a mutual fund dealer in the Northwest Territories and Nunavut and as a scholarship plan dealer in British Columbia, Alberta, New Brunswick, Nova Scotia and Newfoundland and Labrador. Global Maxfin became a Member of the MFDA on June 7, 2002.

5. Queen Financial is registered as a mutual fund dealer and an exempt market dealer in Ontario and as a mutual fund dealer in British Columbia. Queen Financial became a Member of the MFDA on October 3, 2006.

Allegation #1 – Facilitating Stealth Advising

6. In September 2007, the Respondent worked from a branch office of Global Maxfin in Mississauga, Ontario with three other Approved Persons. The Respondent was the branch manager of the location.

7. During the summer of 2007, the Respondent met an individual named MRM at a Global Maxfin event. In 2007, MRM was licensed to sell insurance products through a managing general agency affiliated with Global Maxfin, but he was not registered to sell securities, including mutual funds.

8. In September 2007, MRM told the Respondent that he had some insurance clients who wanted to purchase mutual funds. MRM asked the Respondent to provide him with the necessary documentation to open accounts for the individuals at Global Maxfin and to process trades in those accounts. MRM also requested that the Respondent facilitate this activity by processing all of the documentation under her Global Maxfin representative code. In exchange for doing so, the Respondent would be entitled to retain 40% of the sales commissions generated from trading activity in the individuals' accounts, and would remit the remaining 60% to MRM. The Respondent agreed to participate in this arrangement (the "Stealth Advising Arrangement").

9. In accordance with Stealth Advising Arrangement, between September 2007 and February 2008, MRM met with the following 18 individuals in the absence of the Respondent to complete the account opening and trade processing documentation: Mr. SA, Ms. ARK, Ms. YB, Ms. RA, Ms. NA, Ms. MN, Ms. FJ, Ms. AMR, Mr. ZA, Mr. SYA, Mr. SA, Mr. MG, Mr. AAK, Ms. TB, Ms. SM, Mr. MA, Mr. FB, Mr. AZ. MRM provided the completed documentation to the Respondent, who signed it and submitted it to the Member for processing using her representative code.

10. In a number of cases, MRM had recommended that clients borrow money to invest in

mutual funds, thereby implementing a leveraging strategy for the clients.

11. By failing to meet with these individuals prior to opening accounts and processing trades for them, the Respondent failed to fulfill her obligation to:

- a) learn the essential facts relative to each client and each order or account accepted;
- b) ensure that the acceptance of each order was within the bounds of good business practice;
- c) ensure that each order accepted or recommendation made for each account was suitable for the client and in keeping with the client's investment objectives;
- d) explain to the individuals the features and risks of using borrowed monies to invest (leveraging);
- e) ensure the leveraging strategy was appropriate for the clients; and
- f) ensure that the additional risk disclosure documentation required by MFDA Rule 2.6 was provided to the clients, explained to them and signed by them.

12. Between September 14, 2007 and March 17, 2008, the Respondent sent 10 cheques to MRM in payment of his share of the sales commissions earned on the trading activity in the individuals' accounts, in accordance with the terms of Stealth Advising Arrangement. The total amount of the cheques was \$21,825, as set out in more detail below:

Date of Cheque	Amount
September 14, 2007	\$1,500
September 27, 2007	\$2,400
October 13, 2007	\$1,800
Date of Cheque	Amount
October 31, 2007	\$6,000
November 19, 2007	\$2,250
December 17, 2007	\$2,400
January 4, 2007	\$ 600

January 31, 2007	\$1,440
February 18, 2008	\$3,360
March 17, 2008	\$ 75
Total	\$21,825

13. Based on the 60%-40% commission split called for under the terms of the Stealth Advising Arrangement, the Respondent retained approximately \$14,550 in sales commissions from the trading activity in the accounts of the 18 clients.

14. MRM was not registered as a mutual fund salesperson and did not possess the necessary proficiencies to advise or trade in securities on behalf of the 18 individuals.

15. There is no evidence that Global Maxfin was aware of the Stealth Advising Arrangement. As a consequence, at all material times, MRM was not subject to the policies and procedures of, or supervision by, Global Maxfin.

16. By participating in the Stealth Advising Arrangement, the Respondent facilitated the processing of securities related business by MRM, an unregistered individual, through the accounts and facilities of Global Maxfin. MRM was not in an employer-employee relationship, a principal-agent relationship or an introducing dealer-carrying dealer relationship with Global Maxfin, as required by MFDA Rule 1.1.1(c).

17. During the period that the Stealth Advising Arrangement was in place, the Respondent was the designated branch manager. In her capacity as the branch manager, the Respondent failed to ensure that business conducted on behalf of the Member was in compliance with applicable securities legislation and the By-laws and Rules of the MFDA, contrary to MFDA Rule 2.5.3.²

18. On February 21, 2008, after completing the proficiency requirements necessary to become a registrant, MRM was registered in Ontario as a mutual fund salesperson with Global Maxfin. As a result, the Stealth Advising Arrangement came to an end.

² Now MFDA Rule 2.5.5.

19. On November 5, 2009, MRM was terminated in good standing by Global Maxfin (which at that time was unaware of the Stealth Advising Arrangement).

Allegation #2 – The Complaint of MA

20. On March 15, 2010, the Respondent transferred her registration to Queen Financial.

21. In April 2010, client MA contacted the Ontario Securities Commission (the “OSC”) and the MFDA when he learned that MRM had not been registered as a mutual fund salesperson when he advised client MA and his brother SA to implement a leveraging strategy to purchase mutual funds for their account at Global Maxfin. Client MA noted that the Respondent’s name appeared on his Global Maxfin account statements as the Approved Person responsible for his account but that he had never met her.

The Global Maxfin Investigation

22. In accordance with its complaint handling obligations pursuant to MFDA Rule 2.11 and MFDA Policy No. 3, Global Maxfin commenced an investigation after receiving a copy of client MA’s complaint from the MFDA.

23. At the time client MA’s complaint was received in April 2010, the Respondent was no longer an Approved Person with Global Maxfin (she had transferred to Queen Financial on March 15, 2010). Global Maxfin therefore contacted the Respondent at Queen Financial to inform her of the complaint and scheduled a meeting with her on May 26, 2010 at Global Maxfin’s office.

24. On May 26, 2010, the Respondent attended the meeting at Global Maxfin’s office and denied the allegations in client MA’s complaint. During an hour of questioning by Global Maxfin’s compliance staff, the Respondent insisted that she had met with clients MA and SA at her office on three occasions and she produced copies of handwritten notes from her client file allegedly recording what occurred during the meetings with clients MA and SA on October 3, 16 and 17, 2007 (the “Notes”).

25. On the basis of the information and documentation provided by the Respondent, including the Notes, Global Maxfin sent a letter to client MA dated June 16, 2010 denying the allegations in client MA's complaint.

26. On June 22, 2010, client MA reasserted to Global Maxfin that he and his brother SA had never met the Respondent and had never attended a meeting at her office. He informed Global Maxfin that:

- a) all correspondence about investment decisions was exchanged exclusively with MRM by e-mail;
- b) all meetings occurred with MRM at his home (and the Respondent was not present at any of the meetings); and
- c) blank client account forms had been presented to him by MRM to be signed.

27. Client MA also provided Global Maxfin with copies of several e-mails from MRM that were received by client MA between September 29, 2007 and October 18, 2007 concerning the implementation of the leveraging strategy that MRM had recommended to client MA. The Respondent was not referenced in or copied on any of the correspondence.

28. On the basis of the additional information provided by client MA, Global Maxfin reopened its investigation of client MA's complaint. Global Maxfin contacted additional clients of the Respondent. Three clients informed Global Maxfin that MRM had implemented leveraging strategies for them prior to his registration as an Approved Person and indicated that they had met with MRM and not the Respondent when they set up their leveraged accounts.

29. Most of the clients whose accounts had been the subject of the Stealth Advising Arrangement did not respond to Global Maxfin's inquiries about whether they dealt with the Respondent or MRM when opening accounts and receiving investment advice.

30. By letter dated July 27, 2010, Global Maxfin informed client MA that Global Maxfin had concluded that client MA and his brother, client SA had been provided with investment advice by MRM before he became an Approved Person.

The Queen Financial investigation

31. On May 26, 2010, MFDA Staff informed Queen Financial that the Respondent may have facilitated stealth advising by an unregistered individual.

32. When compliance staff from Queen Financial questioned the Respondent about the MFDA Staff's concerns, she falsely denied that she had participated in a stealth advising arrangement.

The MFDA Investigation

33. On May 26, 2010, MFDA Enforcement Staff sent a request to the Respondent for a response to the allegations in client MA's complaint. At the outset of MFDA Staff's investigation, Global Maxfin provided MFDA Staff with copies of the Notes that the Respondent had provided to Global Maxfin.

34. On June 1, 2010, the Respondent sent a three page response to the MFDA in which she described client MA's allegations as "completely baseless, shocking to me and an attempt to tarnish my image". The Respondent further stated in her letter that she had met with client MA in her office three times to provide him with investment advice and to implement a leveraging strategy in his account. The Respondent also denied that she had ever had a business or commission splitting arrangement with MRM when MRM was not registered. All of the Respondent's assertions were false.

35. During the course of the MFDA's investigation, MFDA Staff learned that in November 2010, the Respondent met with client SA and questioned him as to why client MA was proceeding with his complaint. Client SA informed the Respondent that client MA had no intention of withdrawing his complaint.

36. In response to follow-up inquiries by Global Maxfin, the original three clients who had earlier acknowledged that they had dealt with MRM recanted their statements and denied that they had ever met with an advisor other than the Respondent.

37. On April 14, 2011, at the request of MFDA Staff, the Respondent attended an interview to provide information relevant to the investigation. In response to questioning by MFDA Staff, the Respondent admitted, among other things, that:

- a) she had entered into the Stealth Advising Arrangement;
- b) she has never met client MA;
- c) she had never met client MA or SA at the time she allowed account opening documents and trading in their accounts to be processed under her representative code in October 2007;
- d) she provided false information to the compliance staff at Global Maxfin and Queen Financial in response to their questions about her conduct; and
- e) she fabricated the notes that she had produced to Global Maxfin describing three purported meetings between her and clients MA and SA in October 2007.

38. Following the interview with MFDA Staff, in response to an undertaking requested by MFDA Staff during the interview, the Respondent provided Staff with a list of clients for whom she had allowed accounts to be opened and trades to be processed under her representative code under the terms of the Stealth Advising Arrangement. The Respondent also provided copies of cheques that she had sent to MRM in accordance with the Stealth Advising Arrangement

39. By providing false and misleading information, and omitting to provide other relevant information, to MFDA Staff and to compliance staff at Global Maxfin and Queen Financial, and by fabricating notes of three meetings with clients MA and SA that never occurred and providing those notes to Global Maxfin, the Respondent attempted to frustrate the MFDA's investigation and to interfere with the Members' handling of client MA's complaint, contrary to MFDA Rule 2.1.1 and s. 22. 1 of MFDA By-law No. 1.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be represented by counsel or agent at the hearing and to make submissions, present evidence and call, examine and cross-examine witnesses.

NOTICE is further given that MFDA By-laws provide that if, in the opinion of the Hearing Panel, the Respondent:

- (a) has failed to carry out any agreement with the MFDA;
- (b) has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto;
- (c) has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- (d) has engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- (e) is otherwise not qualified whether by integrity, solvency, training or experience,

the Hearing Panel has the power to impose any one or more of the following penalties:

- a) a reprimand;
- b) a fine not exceeding the greater of:
 - i. \$5,000,000.00 per offence; and
 - ii. an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation.
- c) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;
- d) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;
- e) revocation of the authority of such person to conduct securities related business;
- f) prohibition of the authority of the person to conduct securities related business in any capacity for any period of time;
- g) such conditions of authority to conduct securities related business as may be considered appropriate by the Hearing Panel.

NOTICE is further given that the Hearing Panel may, in its discretion, require that the Respondent pay the whole or any portion of the costs of the proceedings before the Hearing Panel and any investigation relating thereto.

NOTICE is further given that the Respondent must **serve a Reply** on Enforcement Counsel and **file a Reply** with the Corporate Secretary within twenty (20) days from the date of service of this

Notice of Hearing.

A **Reply** shall be **served** upon Enforcement Counsel at:

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Attention: Shelly Feld, Senior Enforcement Counsel
Facsimile: 416-361-9073
Email: sfeld@mfd.ca

A **Reply** shall be **filed** by:

- a) providing 4 copies of the **Reply** to the Corporate Secretary by personal delivery, mail or courier to:

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Attention: Office of the Corporate Secretary; or

- b) transmitting 1 copy of the **Reply** to the Corporate Secretary by fax to fax number 416-361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Corporate Secretary permits otherwise; or
- c) transmitting 1 electronic copy of the **Reply** to the Corporate Secretary by e-mail at CorporateSecretary@mfd.ca.

A **Reply** may either:

- i.) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on the alleged facts) any or all of the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing; or
- ii.) admit the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that the Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the MFDA in the Notice of Hearing that are not specifically denied in the **Reply**.

NOTICE is further given that if the Respondent fails:

- a) to **serve** and **file** a **Reply**; or
- b) attend at the hearing specified in the Notice of Hearing, notwithstanding that a **Reply** may have been served,

the Hearing Panel may proceed with the hearing of the matter on the date and the time and place set out in the Notice of Hearing (or on any subsequent date, at any time and place), without any further notice to and in the absence of the Respondent, and the Hearing Panel may accept the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing as having been proven and may impose any of the penalties described in the By-Laws.

End.

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