



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: Dorothy Siu Wah Chan

Heard: September 10, 2013 in Vancouver, British Columbia
Reasons for Decision: October 29, 2013

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

The Hon. H. Benjamin Casson, Q.C.	Chair
Brian Cheung	Industry Representative
David Webb	Industry Representative

Appearances:

Faye Emmanuel)	For the Mutual Fund Dealers Association of
)	Canada
)	
Dorothy Siu Wah Chan)	Not in attendance personally or by a
)	representative
)	

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A. LIST OF EXHIBITS

EXHIBIT NO.	DESCRIPTION
#1	Notice of Hearing dated April 16, 2013
#2	Affidavit of Service sworn April 26, 2013
#3	Order dated June 4, 2013 (date for First Appearance) confirming hearing date of September 10, 2013
#4	Agreed Statement of Facts dated May 31, 2013
#5	Email from Respondent to Enforcement Counsel dated September 4, 2013 at 9:11 p.m.
#6	Email from Respondent to Enforcement Counsel dated September 4, 2013 at 8:57 p.m.

B. REVIEW OF PROCEEDINGS

1. By Notice of Hearing dated April 16, 2013, the Mutual Fund Dealers Association of Canada (the “MFDA”) commenced a disciplinary proceeding against Dorothy Siu Wah Chan (the “Respondent”) pursuant to ss. 20 and 24 of MFDA By-law No. 1 (Exhibit #1).

2. The Notice of Hearing was served on the Respondent in compliance with Rule 4 of the MFDA’s Rules of Procedure and the Affidavit of Service is marked as Exhibit #2.

3. The Notice of Hearing set out the following allegation:

Allegation #1: Between January 2004 and May 2009, the Respondent misappropriated approximately \$754,340 (CAD) and \$94,200 (USD) from at least 18 individuals, three of whom were clients of the Member, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

4. A First Appearance was held by teleconference on June 4, 2013. Both parties were present, i.e. the MFDA being represented by Faye Emmanuel (“Enforcement Counsel”) and the Respondent appeared on her own behalf.

5. No preliminary issues were raised at the First Appearance and no objections to marking the Notice of Hearing and the Affidavit of Service as Exhibits #1 and #2, respectively, were raised.

6. The parties agreed to hold a disciplinary Hearing on the Merits, in Vancouver, on September 10, 2013.

7. The Disciplinary Hearing commenced as scheduled on September 10, 2013, however, the Respondent did not appear.

C. FAILURE OF THE RESPONDENT TO ATTEND THE HEARING

8. Enforcement Counsel requested that the Panel exercise its discretion, pursuant to section 7.3 of the MFDA Rules of Procedure, and proceed with the Disciplinary Hearing in the absence of the Respondent.

9. That request was based on the following facts:

- The Respondent agreed to the hearing date of September 10, 2013 at the First Appearance on June 4, 2013.
- On May 31, 2013, the Respondent signed an Agreed Statement of Facts in which she

admitted that between January 2004 and May 2009 she misappropriated approximately \$754,340 (CAD) and \$94,200 (USD) from at least 18 individuals, three of whom were clients of the Member, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

- On August 28, 2013, Enforcement Counsel contacted the Respondent by email and requested the Respondent's address in order to send her copies of the materials which were distributed to the Panel Members, i.e. the Agreed Statement of Facts, the Submissions of Staff of the MFDA, and the Book of Authorities.
- On September 4, 2013 at 3:01 p.m., Enforcement Counsel sent the following email to the Respondent:

Hi Dorothy,

I've attached the written submissions and cases I am presenting to the Panel. Although you have signed an Agreed Statement of Facts, the Panel still has the authority to impose any penalty they find appropriate.

At the hearing, I will ask for it to proceed in your absence.

If this is permitted, I will discuss the Agreed Statement of Facts and make submissions about why the penalty in the Agreed Statement of Facts is appropriate given the circumstances of your matter. To do this, I will provide written submissions for the Panel's reference, and I will refer to cases that set out principles that I think the Panel should follow and other cases where the penalties are close to the amounts misappropriated.

You can find most of the cases on the MFDA website. For those that you can't, I've attached them to this email.

Dorothy, do you have a return date to Canada?

- On September 4, 2013, at 8:57 p.m., Enforcement Counsel received the following email (Exhibit #6) from the Respondent:

Hi Faye,

I have reviewed the materials you sent to me and thank you for your work. I also understand that the Hearing panel has final right to accept the ASF.

I will attached the admission note for my mom in a separate email with translation.

Re the date of returning to Vancouver, honestly I don't have any schedule at this moment. The reason is after June's announcement of my case, that created a lot of sound in my circle and it really disturbed me and my family. Will forsee that after the September hearing, the problem will getting bigger.

I hope you can understand it.

Best regards,
Dorothy

Sent from my iPad

ON 2013-09-04, at 3:01 PM, Faye Emmanuel Femmanuel@mfd.ca wrote:....

- On September 4, 2013, at 9:;11 p.m., Enforcement Counsel received the following email (Exhibit #5) from the Respondent:

Hi Faye,

Below please find the admission note re my mom's check up. Since she needs intensive personal care during and after the check up procedure, and I am the only daughter who can take care of her, I am sorry to inform you that I cannot attend the upcoming hearing held on 10 September.

I herewith, agree the Hearing to be proceed with my absence.

Thank you for your assistance.

Dorothy Chan

10. The Panel accepted Enforcement Counsel's submissions and exercised its discretion in allowing the Hearing to proceed in the absence of the Respondent.

D. AGREED STATEMENT OF FACTS

11. An Agreed Statement of Facts, signed on May 31, 2013, by the Respondent and Shaun Devlin, Senior Vice-President, Member Regulation – Enforcement on behalf of Staff of the

MFDA, was marked as Exhibit #4.

12. Exhibit #4 is a lengthy document but the Panel finds it necessary, in the circumstances of this proceeding, to record the complete document in these Reasons for Decision:

I. INTRODUCTION

1. By Notice of Hearing dated April 16, 2013, the Mutual Fund Dealers Association of Canada (the “MFDA”) commenced a disciplinary proceeding against Dorothy Siu Wah Chan (the “Respondent”) pursuant to s.20 and 24 of the MFDA By-law No. 1.

2. The Notice of Hearing sets out the following allegations: Allegation #1: Between January 2004 and May 2009, the Respondent misappropriated approximately \$754,340 (CAD) and \$94,200 (USD) from at least eighteen individuals, three of whom were clients of the Member, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 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

4. This Agreed Statement of Facts addresses the allegations set out by Staff in the Notice of Hearing and provides full and final settlement of those allegations, thereby dispensing with proof thereof.

5. Staff has given the Respondent an opportunity to voluntarily disclose any further instances of misconduct she may have engaged in relating to the facts set out in Part IV herein or otherwise. The Respondent confirms that the facts set out in Part IV herein constitute the entirety of her misconduct and that no other such misconduct exists.

6. If Staff later discovers the Respondent engaged in further or other misconduct not previously disclosed to Staff, or if any of the Respondent’s admissions within this Agreed Statement of Facts are discovered to be untrue, Staff reserves the right to investigate and/or initiate proceedings against the Respondent and seek additional penalties.

7. 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 panelized on the exercise of the discretion of a Hearing Panel pursuant to s. 24.1 of MFDA By-law No. 1.

8. Subject to the determination of the Hearing Panel, Staff submits, and the

Respondent does not oppose, that the appropriate penalty to impose on the Respondent is:

- A fine in the amount of \$650,000 pursuant to s. 24.1.1 of MFDA By-law No. 1; and
- A permanent prohibition from conducting securities related business while in the employ of, or associated with, any MFDA member, pursuant to s. 24.1.1 of MFDA By-law No. 1.

9. Staff also seeks a \$5,000.00 costs award against the Respondent, which the Respondent does not oppose.

10. The Respondent claims to be impecunious and unable to pay any amount towards either a fine or costs. As set out in greater detail below, the Respondent has directly or indirectly repaid approximately \$211,000 of the monies she misappropriated.

IV. AGREED FACTS

11. Staff and the Respondent agree that submissions made with respect to the appropriate penalty are based only on the agreed facts in Part IV and no other facts or documents. In the event of the Hearing Panel advises one or both of Staff and the Respondent of any additional facts it considers necessary to determine the issues before it, Staff and the Respondent agree that such additional facts shall be provided to the Hearing Panel only with the consent of both Staff and the Respondent. If the Respondent is not present at the hearing, Staff may disclose additional relevant facts, at the request of the Hearing Panel.

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

Registration History

13. From January 26, 2004 to May 7, 2009, the Respondent was registered in British Columbia as a mutual fund salesperson with Sun Life Financial Investment Services (Canada) Inc. (the “Member”), a Member of the MFDA. The Respondent operated from a branch located in Burnaby, British Columbia.

14. On May 7, 2009, the Member terminated the Respondent as a result of the events described herein.

15. From June 11, 2003 to July 14, 2009, the Respondent was also licensed in British Columbia as a insurance agent with Sun Life Financial Distributors (Canada) Inc. As an insurance agent, the Respondent had the ability to see insurance products and Guaranteed Investment Certificates (“GIC’s”) offered by other Sun Life entities (“Sun Life”).

16. On July 14, 2009, the Respondent ceased to be licensed with the Insurance Council of British Columbia.

17. The Respondent is not currently registered in the securities industry or licensed in the insurance industry in any capacity.

18. The Respondent has not previously been the subject of disciplinary proceedings.

Facts

Allegation #1 – Misappropriation

Background

19. At all times, the Member allowed its Approved Persons, including the Respondent, to sell GIC's outside the accounts and facilities of the Member, as permitted under MFDA Rule 1.1(a)(i).

20. During the course of the investigations conducted by the Member and by Staff of the MFDA ("Staff"), the Respondent admitted that she misappropriated monies from at least eighteen individuals.

21. Three of the eighteen individuals from whom the Respondent misappropriated monies were clients of the Member. The remaining fifteen individuals did not have an account with the Member but were serviced by the Respondent in her capacity as an insurance agent ("insurance-only clients").

RF and JPZF

22. RF and JPZA are husband and wife. RF was an insurance-only client and JPZF was a client of the Member as well as an insurance client.

23. Between September 2007 and March 2009, RF gave the Respondent cheques totaling \$115,000 for the purposes of purchasing mutual funds and GIC's for JPZF.

24. The Respondent did not make the mutual fund or GIC purchases as instructed by RF or JPZF and instead misappropriated the monies. The Respondent used \$15,000 of the monies to purchase a GIC in another client's name which the Respondent subsequently redeemed and directed the proceeds to herself; deposited \$50,000 of the monies into an insurance policy in her husband, CC's, name; and states she is unable to account for the remaining portion of the monies (\$50,000.00).

CCL and VNL

25. CCL and VNL are husband and wife. CCL and VNL were clients of the Member as well as insurance clients.

26. In or about January 2009, CCL gave the Respondent a cheque for the purpose of purchasing a \$20,000 GIC for CCL and VNL. CCL left the payee line on the cheque blank.

27. The Respondent made CCL's cheque payable to herself and deposited it in her personal bank account. The Respondent provided CCL with an altered photocopy of the cheque showing that it had been made payable to "Sun Life Financial Trust".

28. The Respondent did not purchase a GIC for CCL or VNL. Instead, she kept and used the monies for her own benefit, thereby misappropriating the monies.

Insurance-only clients affected by the Respondent's conduct

HYL

29. Between February and March 2009, HYL gave the Respondent \$15,000 (UDS) and \$20,000 (CAD) in cash for the purposes of purchasing GIC's for HYL.

30. The Respondent did not purchase any GIC's for HYL. Instead, the Respondent kept the monies for her own personal use, thereby misappropriating the monies.

LUT

31. Between March 2009 and May 2009, LUT gave the Respondent a combination of cash and cheques totaling \$39,200 (UDS) and \$44,808 (CAD), for the purposes of purchasing GIC's and to deposit in Tax Free Savings Accounts ("TSFA's") for LUT and her relatives.

32. In or about March 2009, the Respondent gave LUT \$1,320 (CAD) in cash stating it was the interest earned on a GIC.

33. In fact, the Respondent did not purchase any GIC's or make any deposits in TFSA's as directed by LUT, and as such there was no interest earned on a GIC in LUT's or her relatives' names.

34. Instead, the Respondent used some of the monies to purchase a GIC in her own name, deposited some of the monies in her personal bank account and states she is unable to account for the remaining monies, all of which she misappropriated.

LXH

35. Between November 2008 and January 2009, LXH gave the Respondent a total of approximately \$26,422 in cash for the purpose of purchasing a GIC for LXH.

36. The Respondent did not purchase a GIC for LXH. Instead, the Respondent kept the monies for her own personal use, thereby misappropriating the monies.

37. In or about April or May 2009, the Respondent persuaded LXH to allow the Respondent to purchase a separate \$50,000 GIC in LXH's name for a period of one month, using monies obtained from another individual. LXH did not understand the transaction but agreed to it.

38. The Respondent led LXH to believe that the Respondent was carrying out the transaction to assist a friend of the Respondent who was facing bankruptcy. In fact, the monies used by the Respondent to purchase the \$50,000 GIC came from SSLY, another of the Respondent's insurance-only clients from whom the Respondent misappropriated monies.

39. The Respondent intended to redeem the GIC and collect the \$50,000 herself, however, the Respondent's employment was terminated before she could do so.

YLL

40. YLL is the mother of LXH, described above.

41. In or about September 2008, YLL gave the Respondent bank drafts totaling \$11,000 for the purpose of purchasing a GIC for YLL.

42. After approximately six months, the Respondent gave YLL \$300 in cash, leading YLL to believe that it was interest earned on the GIC. In fact, the Respondent had not purchased a GIC for YLL in September 2008 or thereafter and, as such, no interest had been earned on a GIC in YLL's name.

43. Believe that the Respondent had purchased a GIC for YLL, YLL instructed the Respondent to keep her \$11,000 invested in the GIC when it matured.

44. Instead, the Respondent opened a GIC account for another insurance-only client, LT, with whom the Respondent had a good relationship and believed she could easily manipulate, and deposited the bank drafts she received from YLL into this account with LT's consent.

45. The Respondent led LT to believe that the monies belonged to the Respondent and that she wanted to conceal the monies from her husband, CC. Shortly after depositing the monies into LT's account, the Respondent redeemed the GIC and arranged for redemption proceeds cheques to be sent to LT. The Respondent collected the cheques from LT, deposited them in a joint bank account she held with LT, withdrew the monies and used them for her own benefit, thereby misappropriating the monies.

SLY

46. Between March and May 2009, SLY gave the Respondent a combination of bank drafts and cheques totaling \$255,000 for the purpose of purchasing GIC's for SLY and her two sons.

47. The Respondent did not purchase the GIC's that SLY had directed. Instead, the Respondent purchased GIC's in her own name and in LT's name, which the Respondent subsequently redeemed. The Respondent then collected and cashed the redemption proceed cheques issued to LT, and used the monies for her own benefit, including purchasing a \$50,000 GIC in LXH's name, thereby misappropriating the

monies.

HT

48. IN or about March 2009, HT gave the Respondent a \$56,000 cheque for the purpose of purchasing a GIC for HT.

49. The Respondent did not purchase a GIC for HT. Instead, the Respondent purchased a GIC in the name of LT, which the Respondent later redeemed. The Respondent collected and cashed the redemption proceeds cheques issued to LT and used the monies for her own benefit, thereby misappropriating the monies.

NL and SWL

50. NL and SWL are husband and wife. Between March 2007 and February 2009, NL gave the Respondent cheques totaling \$28,265 for the purpose of purchasing GIC's for NL and SWL.

51. The Respondent did not purchase any GIC's for NL or SWL. Instead, the Respondent used some of the monies to purchase a GIC in her own or LT's name, which she then redeemed and used the proceeds for her own benefit, and states she is unable to account for the remaining monies, all of which she misappropriated.

HZC

52. In or about November 2007, HZC gave the Respondent a \$40,000 (UDS) bank draft for the purposes of purchasing mutual funds for HZC.

53. The Respondent did not open an account with the Member and purchase mutual funds for HZC. Instead, the Respondent used the bank draft to purchase mutual funds for her own account, which the Respondent later redeemed and then used the proceeds for her own benefit, thereby misappropriating monies.

HTC and CSYC

54. HTC and CSYC are husband and wife.

55. The Respondent forged HTC's signature on an Assignment of Policy form dated August 6, 2004, and forged CSYC's signature on an Assignment of Policy form dated July 19, 2004.

56. In both instances, the Respondent listed herself as HTC's and CSYC's daughter on the forms to enable the insurance policies they owned to be transferred to the Respondent. Although HTC and SCYC share the same last name with the Respondent, they are not related to the Respondent.

57. As a result of submitting the Assignment of Policy forms, the two insurance policies were transferred to the Respondent as the beneficial owner of the policies.

Both policies were permanent insurance policies which had accumulated reserves against which the beneficial owner was entitled to borrow or which would be paid to the owner upon the owner surrendering the policy. After the Respondent had arranged to be made the beneficial owner of each policy, the Respondent cancelled the policies and obtained the cash current value of the policies in the total amount of approximately \$25,000. The Respondent used the proceeds for her own benefit, thereby misappropriating the monies.

CMYL

58. The Respondent forged CMYL's signature on Policy Loan Request Forms dated September 15, 2005 and June 2, 2006 and withdrew a total of \$19,800 from CMYL's insurance policy.

59. The Respondent arranged for the monies to be deposited in the insurance policy of WMWC, another of the Respondent's insurance-only clients, and subsequently misappropriated the monies.

WMWC and YLC

60. YLC and WMWC were husband and wife. Between September 2004 and May 2009:

(a) The Respondent forged YLC's and WMWC's signatures on Assignment of Policy forms to arrange the transfer of their insurance policies to CC. The Respondent listed CC as the brother-in-law of YLC and the brother of WMWC on these forms. However, despite sharing the same last name, CC is not related to YLC or WMWC.

Once the policies were transferred to CC's name, the Respondent made policy loans against these policies in the approximate sum of \$15,745. The Respondent kept these monies for her own personal use. The Respondent later forged CC's signature to have some of the policies transferred back to YLC and WMWC.

(b) The Respondent arranged for \$19,800 received from CMYL to be deposited in one of WMWC's life insurance policies. The Respondent later arranged for \$19,800 to be withdrawn from WMWC's policy and sent by cheque to WMWC. The Respondent then contacted WMWC and told her that an error had been made and instructed WMWC to issue a cheque for \$19,800 to the Respondent personally for the purposes of returning the funds to Sun Life. The Respondent kept these monies and used them for her own benefit.

(c) The Respondent misappropriated \$97,500 given to her by WMWC. To conceal this misappropriation, at a later date the Respondent arranged for \$97,500 to be issued to WMWC, some or all of which were misappropriated from JPZF. The Respondent states that she cannot recall the full particulars of the monies she misappropriated from WMWC.

61. In total, the Respondent misappropriated approximately \$133,045 from YLC and WMWC.

Misleading clients, the Member and Sun Life

62. In order to facilitate the misappropriation of the clients' monies, the Respondent induced several of the eighteen clients to entrust their monies with the Respondent by:

(a) Recommending to at least seven of the clients that they invest in short-term, high interest GIC investment opportunities that Sun Life was offering, and in some instances leading the clients to believe that the purported investments were only available for a limited time;

(b) Discouraging at least three of the clients for purchasing other investment products by leading the clients to believe they were risky or unnecessary and recommending a short-term, high interest GIC investment opportunity instead;

(c) Guaranteeing the principle of an investment for at least one client who was reluctant to provide the Respondent with monies for investment; and

(d) Explaining to at least two clients who were reluctant to provide the Respondent with monies for investment that Sun Life was insured, had a good reputation and would pay back the principle and interest of the investment if a problem arose.

64. The Respondent also forged client signatures and her husband's (CC's) signature on documents concerning five clients, to enable the misappropriation of monies and to conceal the misappropriations from the clients, CC, the Member and Sun Life.

65. The Respondent manipulated certain clients and LT by taking advantage of their trust in the Respondent and exploiting their lack of sophistication and knowledge with respect to investments and insurance.

66. The Respondent relied upon the fact that HTC, CSYC, YLC and WMWC shared a common last name with the Respondent and CC to avoid or reduce the scrutiny of transactions in their accounts or affecting their insurance policies.

Client losses

67. The Respondent misappropriated the approximate sum of \$754,340 (CAD) and \$94,200 (USD) from at least eighteen clients, as described above.

68. Of the eighteen clients, at least six were senior citizens and therefore were

vulnerable individuals. For at least two of the senior citizens, the source of their monies was their old age pension and/or widow's allowance.

69. Sun Life Assurance Company of Canada fully compensated all of the clients, with interest.

70. Sun life withheld approximately \$97,759 of commissions payable to the Respondent for the purpose of reimbursing the clients.

71. The Respondent has partially repaid Sun Life for the monies she misappropriated. On May 7, 2009, the Respondent gave Sun Life \$16,511 , and in or about September 2009 the Respondent provided \$95,000 to Sun Life. Other than this and the small sums of cash the Respondent paid to YLL and LUT as "interest", the Respondent has not repaid the clients, the Member or Sun Life.

72. The Respondent states that she is unable to account for most of the misappropriated monies aside from those monies used for general spending, bill payments and rent.

Misconduct Admitted

73. By engaging in the conduct described above, the Respondent admits that between January 2004 and May 2009, she misappropriated approximately \$754,340 (CAD) and \$94,200 (UDS) from at least eighteen individuals, three of whom were clients of the Member, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Personal, contrary to MFDA Rule 2.1.1.

V. EXECUTION OF AGREED STATEMENT OF FACTS

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

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

DATED THIS 31st day of May, 2013.

Dorothy Siu Wah Chan

Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President, Member Regulation – Enforcement

Please note: footnotes not included in this quote

E. AGREED CONTRAVENTION OF MFDA RULE 2.1.1

13. Paragraph 73 of the Agreed Statement of Facts is as follows:

By engaging in the conduct described above, the Respondent admits that between January 2004 and May 2009, she misappropriated approximately \$754,340 (CAD) and \$94,200 (USD) from at least eighteen individuals, three of whom were clients of the Member, thereby failing to deal fairly, honestly and in good faith with the clients and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

F. PENALTY

14. On September 10, 2013, the Panel found that the facts, as agreed to by the Respondent, support the alleged contravention of MFDA Rule 2.1.1.

15. Also, on September 10, 2013, the Panel approved the following penalty against the Respondent:

(1) A permanent prohibition from conducting securities – related business while in the employ of, or associated with, any MFDA Member, pursuant to Section 24.1.1(e) of MFDA By-law No. 1:

(2) A fine in the amount of \$650,000.00 pursuant to Section 24.1.1(b) of MFDA By-law No. 1.

16. In approving the proposed penalty, the Panel recognized that the primary purpose of the MFDA is to enhance investor protection and strengthen public confidence in the Canadian Mutual Fund Industry by ensuring high standards of conduct by Members and Approved Persons.

17. The panel considered the following factors (as set out in the MFDA’s Penalty Guidelines) in approving the appropriateness of the proposed penalty:

- The seriousness of the allegations proved against the Respondent;
- The Respondent’s past conduct, including prior sanctions;
- The Respondent’s experience and level of activity in the capital markets;

- Whether the Respondent recognizes the seriousness of the improper activity;
- The harm suffered by investors as a result of the Respondent's activities;
- The Risk to investors and the capital markets in the jurisdiction, were the respondent continue to operate in capital markets in the jurisdiction;
- The damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- The need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
- The need to alert others to the consequences of inappropriate activities to those who are permitted to participate in the capital markets; and
- Previous decisions made in similar circumstances.

18. With reference to the above guidelines, the Panel makes the following observations:

(a) As to the seriousness of the allegation, the Panel agrees with the submission of Enforcement Counsel at p. 25, ll. 24 and 25 and p. 26, ll. 1 – 13 where she states:

“I submit that the admissions in this proceeding constitute a serious regulatory violation. The respondent used her status as an approved person and also as an insurance agent to abuse the trust of her clients continuously over a five-year period and misappropriate a significant amount of client funds from them. She first induced clients to entrust their monies with her. She then misappropriated their funds. Then she engaged in a number of tactics to conceal that she's misappropriated funds and to sustain the misappropriation of funds. I submit that her actions were planned and deliberate, and I'll leave it at that, that her actions were planned and deliberate.”

(b) The Respondent has no history of past violations of the MFDA regulatory system.

(c) Although all eighteen victims of the Respondent's activities were compensated for their losses, with interest, it is submitted that for approximately one year they would have endured the uncertainties of recovering their losses while Sun Life Financial Investment Services (Canada) Inc., (“Sun Life”) investigated their Agent's activities.

(d) The Panel was satisfied that the penalty will meet the requirement for deterrence to those in the investment industry who may have a propensity to violate MFDA Rule 2.1.1.

19. Also, in approving the penalty, the following factors are of particular significance to the Panel:

- The Respondent's admissions of the allegations and the facts which supported the allegation
- The Respondent's co-operation with the MFDA Staff in conducting their investigation;
- By admitting the allegation, costs necessarily involved in a full hearing on the merits were avoided;
- The \$754,340 (CAD) and \$94,200 (USD), which the Respondent admittedly misappropriated from eighteen clients of the Member, Sun Life, the Respondent has paid to Sun Life \$211,000.00 leaving a balance owing to Sun Life of \$593,000 (CAD) and \$94,2000 (USD);
- Of the monies which the Respondent misappropriated, the Respondent has accounted for \$185,000.00 which she used for a variety of reasons, i.e. to pay her mother (\$20,000.00); to pay her high school alumni association (\$20,000.00); to pay her husband's credit card balances (\$30,000.00); to pay her own credit card balances (\$20,000.00); to pay a loan of (\$10,000.00) from a friend; and to pay for a family trip to Hong Kong (\$5,000.00).

20. It is, however, very clear to the Panel that the Respondent used her position with Sun Life to gain the trust of clients, exploit their lack of sophistication and knowledge of investments and insurance, obtain information as to their finances and then devise a variety of schemes to misappropriate their monies for her own benefit.

21. As paragraph 68 of the Agreement Statement of Facts states:

Of the eighteen clients, at least six were senior citizens and therefore were vulnerable individuals. For at least two of the senior citizens, the source of their monies was their old age pension and/or widow's allowance.

G. COSTS

22. On September 10, 2013, the Panel approved costs in the amount of \$5,000.00. In doing so, the Panel heard from Enforcement Counsel that the investigation involved a two-day interview of the Respondent; considerable time spent reviewing 18 client's accounts in order to trace missing funds; and considerable time spent in preparing a Notice of Hearing, an Agreed Statement of Facts, and materials for the Panel.

23. The Panel was satisfied that the penalty was reasonable and appropriate having regard to the Respondent's conduct and the circumstances of the case and signed the necessary Order on September 10, 2013.

DATED this 29th day of October, 2013.

"H. Benjamin Casson"

The Hon. H. Benjamin Casson, Q.C.,
Chair

"Brian Cheung"

Brian Cheung,
Industry Representative

"David Webb"

David Webb,
Industry Representative

DM 356838 v2