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# **MFDA Bulletin**

## **Enforcement**

### **For Distribution to Approved Persons within your Firm**

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#### **Signature Falsification**

MFDA Staff continue to encounter situations where Approved Persons (“AP’s”) have created, possessed or used documents such as Know-Your-Client forms, trade forms and cheques which have been pre-signed or on which client signatures have been falsified through other means.

This Bulletin is a reminder that Hearing Panels of the MFDA Regional Councils have consistently ruled that falsification of client signatures is not permissible under MFDA Rules.

Members and AP’s may only use forms that are properly executed by the client after information on the form has been properly completed. Examples of signature falsification include, but are not limited to:

- having a client sign a form which is blank or only partially completed (“pre-signed form”);
- signing a client’s name to a document;
- cutting and pasting, photocopying or using correction fluid on a document to “re-use” a previous signature;
- altering any information on a signed document, without the client initialling the document to show the change was approved.

Further examples are set out at the end of this Bulletin.

Any falsification is unacceptable whether or not:

- it is done for the purposes of client convenience;
- the client instructs or otherwise consents to the AP falsifying the document;

- the client complains or there is financial harm to the client;
- it was the AP's intention to deceive a client or other person;
- the document is used to commit a further breach of the rules.

### **Issues Created by Improper use of Forms**

The improper use of forms can:

- adversely affect the integrity and reliability of documents;
- destroy the audit trail;
- impact the ability of AP's to produce valid documentation to support transactions that come into question;
- prejudice a client by making it appear that they have executed a particular document when they have not;
- mislead Member supervisory personnel;
- negatively affect the credibility of the AP;
- negatively affect Member complaint handling;
- be used to facilitate other misconduct such as unauthorized trading, fraud and misappropriation of funds.

### **Falsification by Other Persons**

AP's also must not instruct nor permit others to create, use or possess falsified documents. AP's must ensure that in their supervision of support persons they pro-actively address the issue of signature falsification.

### **Enforcement Action for Contraventions**

The MFDA receives information regarding instances of signature falsification from many sources. These situations are often detected by Members and reported to MFDA Staff by Members through their reports to the MFDA. The Enforcement Department often receives reports of signature falsification from MFDA Compliance staff. MFDA Enforcement staff also identifies cases involving falsified signatures when assessing client complaints.

MFDA Staff commences formal disciplinary proceedings or takes informal disciplinary action in such cases. Where a form containing a falsified signature has been used to commit another violation, disciplinary action is also taken in regard to that other violation.

In the period 2012-2014 the MFDA commenced 41 proceedings in which there were allegations involving pre-signed forms and/or other types of signature falsification.

### **Penalties**

AP's have faced significant penalties, including suspensions, fines, and requirements to take educational courses. Where signature falsification has been used to commit further violations,

this has led to additional sanctions including permanent prohibitions. Examples of recent penalties include:

- [Singh \(Re\)](#) [2014], where the Respondent was suspended for two years, fined \$5,000 and ordered to pay costs of \$5,000 in addition to non-monetary sanctions;
- [Barnai \(Re\)](#) [2015], where the Respondent was suspended for nine months and ordered to pay costs of \$1,500;
- [Ewart \(Re\)](#) [2015], where the Respondent was fined \$15,000 and ordered to pay costs of \$2,500.

**The MFDA has recently been and will continue seeking increased penalties in upcoming cases involving signature falsification.**

### **Other Regulatory Action**

In addition to sanctions by the MFDA, signature falsification may result in action from provincial securities regulators, through either enforcement or registration activity. For recent examples see the decision of the Ontario Securities Commission in [Reaney \(Re\)](#), and the decision of the Alberta Securities Commission in [Lamontagne \(Re\)](#).

### **Compliance with Member Policies**

Members are required to maintain policies and procedures designed to detect and prevent signature falsification, which may include the use of AP questionnaires. Where AP's fail to follow these procedures, including failing to respond truthfully to questionnaires, AP's are subject to internal disciplinary sanctions established by Members in accordance with [MFDA Policy No. 3 \(Complaint Handling, Supervisory Investigations and Internal Discipline\)](#).

Members are asked to distribute a copy of this Bulletin to all Member AP's and to maintain a record of the distribution.

Member-specific guidance on signature falsification will be provided in the future.

### **Examples**

For reference, the following is a non-exhaustive list of examples of signature falsification which have been identified in disciplinary cases:

- having a client sign a form which is blank or partially complete;
- signing a client's name to a document;
- cutting and pasting a signature from one form to another;
- altering any information on a signed document without the client initialling the document to show the change was approved;
- reproducing client initials beside changes made to a document where the client forgot to initial;
- having a client sign multiple forms for use in future trading;

- using liquid paper 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;
- photocopying a previously-submitted account form and altering the trade details in order to process a new trade.

### **Additional MFDA Disciplinary Cases**

References to previous cases can be found in the [2014](#), [2013](#) and [2012](#) MFDA Enforcement Department Annual Reports.

Examples of cases which involved pre-signed forms include [Pizzimenti \(Re\)](#) [2013], [Durotoye \(Re\)](#) [2014] and [Bowness \(Re\)](#) [2013].

Examples of cases which involved other forms of client signature falsification include [Khodorkovski \(Re\)](#) [2012], [Welsh \(Re\)](#) [2015] and [Kelly \(Re\)](#) [2013].

Examples of cases which involved the falsification of signatures to commit other violations of MFDA Rules include [Man \(Re\)](#) [2014] and [Fried \(Re\)](#) [2014].

### **Helpful Tips**

- Where permitted by the Member, the proper use of a Limited Trading Authorization form (an “LTA”) eliminates the “convenience to the client” rationale many AP’s use to justify their inappropriate use of trading forms.
- When using an LTA, it is not appropriate to sign a client’s signature on a trading form.
- For more information, see MFDA Staff Notices [MSN-0066 Pre-Signed Forms](#), [MSN-0038 Revised Limited Trading Authorization Form and Guidelines for Individual and Joint Accounts](#), [MSN-0042 Limited Trading Authorizations and Intermediary Accounts](#) and [MSN-0035 Recording and Maintaining Evidence of Client Trade Instructions](#).

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