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# MFDA Bulletin

## Enforcement

### For Distribution to Relevant Parties Within your Firm

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#### **MFDA imposes lifetime ban and \$25,000 fine on Jawad Rathore**

**Nature of Proceeding** A Hearing Panel of the Mutual Fund Dealers Association (“MFDA”) Ontario Regional Council has imposed disciplinary penalties on Jawad Rathore (“Rathore”), a former Approved Person of the MFDA.

**By-Laws, Rules, Policies Violated** Following a hearing on May 16, 2005, the Hearing Panel found that Rathore:

1. Engaged in gainful occupation outside the business of the Member without so advising the Member and obtaining the approval of the Member, contrary to MFDA Rule 1.2.1.(d)(iii).
2. Failed to produce for inspection and provide copies of documents requested by the MFDA in the course of an investigation, contrary to s. 22.1 of MFDA By-Law No. 1.

MFDA Rule 1.2.1(d) states:

An Approved Person may have, and continue in, another gainful occupation, provided that:

(iii) *Member approval*. The Member for which the Approved Person carries on business either as an employee or agent is aware and approves of the Approved Person engaging in such other gainful occupation;

Sections 22.1(b) of MFDA By-Law No. 1 states:

For the purpose of any examination or investigation pursuant to this By-law, a Member, Approved Person of a Member or other person under the jurisdiction of the Corporation pursuant to the By-laws or the Rules may be required by the Corporation:

(b) to produce for inspection and provide copies of the books, records and accounts of such person relevant to the matters being investigated;

**Penalty**

The Hearing Panel imposed the following penalties on Rathore:

1. Permanent prohibition of the authority of Rathore to conduct securities related business while in the employ of, or associated with, any MFDA Member;
2. A fine of \$10,000 for failing to disclose his other gainful occupation;
3. A fine of \$15,000 for failing to produce for inspection and provide copies of documents requested by the MFDA; and
4. Costs in the amount of \$7,500.00.

**Summary of Facts**

From 1999 to November 2002, Rathore was registered as a Mutual Fund Salesperson with the Ontario Securities Commission. In August 2002, Independent Planning Group Inc. (“IPG”) became the sponsoring dealer for Rathore. Rathore carried on business as a mutual fund salesperson under the business name Rathore & Associates Asset Management Ltd. in Richmond Hill, Ontario.

In July 2002, one month prior to joining IPG, Rathore incorporated Phoenix Pension Services Inc. (“Phoenix”). Rathore is the sole director of Phoenix. One of the services offered by Phoenix to its clients is assisting them to process financial hardship applications to access funds from a Locked in Retirement Account (“LIRA”). Rathore did not disclose his involvement in Phoenix (or in any other activity) to IPG.

In October 2002, IPG received a complaint from a mutual fund client who was also a client of Phoenix. The complaint alleged that Rathore and/or Phoenix had overcharged him with regards to two financial hardship applications processed on his behalf. IPG commenced an investigation, following which Rathore was terminated for cause.

From February 14, 2003 until disciplinary proceedings were commenced by the MFDA in February 2005, MFDA investigators made repeated requests to

Rathore for copies of bank statements for any account in which Rathore held a direct or indirect interest or over which he had signing authority during the period February 1, 2002 to November 30, 2002. Rathore did not produce the requested bank statements.

The Hearing Panel noted that Rathore's failure to disclose his outside business activity is a serious offence. Without disclosure of the dual occupation, the MFDA and the Member cannot ensure that securities legislation and internal procedures are being complied with, that the MFDA and its Members or the mutual fund industry are not being brought into disrepute, that clients are aware that the outside activity is not the business or responsibility of the Member and that any actual or potential conflicts of interest are dealt with appropriately.

The Hearing Panel also noted that a failure to cooperate with an MFDA investigation is serious misconduct. The Hearing Panel stated that the obligation to comply with a request for information pursuant to an MFDA investigation continues notwithstanding that the Approved Person has ceased to be an Approved Person.

For greater detail, see the Decision and Reasons posted on the MFDA website.