

Re Friesen

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Robert Bernard Friesen

2024 CIRO 13

Heard: November 22, 2023 by electronic hearing in Halifax, Nova Scotia

Decision: November 22, 2023

Reasons for Decision: January 19, 2024

Hearing Panel:

Thomas J. Lockwood, K.C., Chair

Ann Etter, Industry Representative

Jason Downey, Industry Representative

Appearances:

Maria L. Abate, Enforcement Counsel, Canadian Investment Regulatory Organization

Joseph F. Burke, Counsel for the Respondent

Robert Bernard Friesen, Respondent (Present)

REASONS FOR DECISION

I. INTRODUCTION

¶ 1 By Notice of Settlement Hearing, dated September 11, 2023, the Canadian Investment Regulatory Organization (“CIRO”) gave notice that an electronic hearing would be held before a Hearing Panel on November 22, 2023, to consider whether, pursuant to Mutual Fund Dealer Rule 7.4.4, the Hearing Panel should accept a proposed Settlement Agreement to be entered into between Staff of CIRO and Robert Bernard Friesen (“Respondent”).

¶ 2 On January 1, 2023, the Mutual Fund Dealers Association (“MFDA”) and the Investment Industry Regulatory Organization of Canada were consolidated into a single self-regulatory organization, called CIRO. CIRO adopted interim rules that, *inter alia*, incorporate the pre-amalgamation regulatory requirements contained in the by-laws, rules and policies of the MFDA.

¶ 3 At the opening of the Settlement Hearing, on November 22, 2023, the Hearing Panel granted the joint request of the parties to move the proceedings “*in camera*” so that the Settlement Agreement could be considered in the absence of the public. This procedure is consistent with Rule 15.2(2) of the MFDA Rules of Procedure.

¶ 4 The Hearing Panel then considered the provisions of the Settlement Agreement. After hearing submissions, both as to the applicable law and as to why this particular Settlement Agreement met the appropriate criteria, the Hearing Panel retired to consider whether we were in a position to accept the Settlement Agreement on the basis of the material before us.

¶ 5 After carefully considering the Settlement Agreement and the submissions of the parties, the

Hearing Panel unanimously accepted the Settlement Agreement. We made an Order to this effect on November 22, 2023. At that time, we advised that written Reasons would follow. These are those Reasons.

II. SETTLEMENT AGREEMENT

¶ 6 The salient portions of the Settlement Agreement are as follows:

“II CONTRAVENTIONS

4. The Respondent admits to the following violations of the Mutual Fund Dealer Rules:¹

Between January 11, 2017 and February 21, 2021, the Respondent, acting in the capacity as branch manager, reviewed and approved the use of 29 account forms where information had been altered on the account forms without having the client initial the alterations, contrary to Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1).

III. TERMS OF SETTLEMENT

5. Staff and the Respondent agree and consent to the following terms of settlement:

- (a) the Respondent shall pay a fine in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);
- (b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.2;
- (c) the Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Dealer Member for a period of 6 months, commencing on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
- (d) the Respondent shall successfully complete the branch manager’s course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of CIRO, prior to acting as a branch manager or in any supervisory capacity for a Dealer Member, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
- (e) the Respondent shall in the future comply with Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1); and
- (f) the Respondent shall attend by videoconference on the date set for the Settlement Hearing.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in this Settlement Agreement herein and consent to the making of an Order in the form attached as Schedule “A”.

IV. AGREED FACTS

Registration History

7. Since November 1, 2004, the Respondent has been registered in Nova Scotia as a dealing representative with Desjardins Financial Security Investments Inc. (the “Dealer Member”), a Dealer

¹ At the time of the conduct addressed in this proceeding, MFDA Rules 2.5.5(f) and 2.1.1 were in effect and are now incorporated into Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 referred to in this proceeding.

Member of CIRO (formerly a Member of the MFDA).

8. From approximately June 30, 2006 to July 13, 2010, the Dealer Member designated the Respondent as a co-branch manager, and from approximately July 13, 2010 to December 8, 2021, the Dealer Member designated the Respondent as a branch manager.

9. At all material times, the Respondent conducted business in and around the Halifax, Nova Scotia area.

Altered Account Forms

10. At all material times, the Dealer Member's branch manager manual required all branch managers to *"...review the integrity of...important documents, including ensuring all sections are complete, any corrections have been initialed by the client, the form has been signed and dated by the client, and the form has been signed and dated by the advisor."*

11. Between January 11, 2017 and October 21, 2021, SH, an Approved Person who the Respondent had the responsibility to supervise as his branch manager, submitted to the Respondent for approval 29 account forms where information had been altered on the forms without having the client initial the alterations.

12. The Respondent, acting in his capacity as branch manager, reviewed and approved the use of these account forms.

13. The altered account forms the Respondent approved consisted of: 14 Know-Your-Client ("KYC") Update Forms, 7 Letters of Direction, 4 Mutual Fund Trade Tickets, 3 Account Opening Forms, and 1 Internal Transfer Form.

14. The alterations made to the 29 altered account forms approved by the Respondent included alterations to: client KYC information, investment objectives, investment instructions, client contact information, investment amounts and fund codes.

The Member's Investigation

15. In May 2021, the Dealer Member completed a full file review of the client files maintained by SH, and discovered the account forms described above.

16. As part of its investigation into the Respondent's conduct, the Dealer Member sent letters to affected clients identifying the alterations made by SH to information on the account forms described above to ensure that the alterations were accurate and authorized. No clients raised any concerns to the Dealer Member.

Additional Factors

17. There is no evidence that the Respondent received any financial benefit from the conduct set out above beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

18. There is no evidence of client loss or lack of authorization for the underlying transactions, and no clients complained to CIRO or the Dealer Member.

19. The Respondent has not previously been the subject of MFDA or CIRO disciplinary hearings.

20. By entering into this Settlement Agreement, the Respondent has saved CIRO the time, resources, and expenses associated with conducting a contested hearing on the allegations."

III. THE LAW

¶ 7 Mutual Fund Dealer Rule 2.1.1 (formerly MFDA Rule 2.1.1) prescribes the standard of conduct applicable to registrants in the mutual fund industry. The Rule requires, among other things, that:

“Each Member and Approved Person of a Member shall: deal fairly, honestly and in good faith with its clients; observe high standards of ethics and conduct in the transaction of business; not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; and be of such character and business repute and have such experience and training as is consistent with the standards prescribed by the Corporation.”

Mutual Fund Dealer Rule 2.1.1(a) – (d).

¶ 8 Mutual Fund Dealer Rule 2.5.5(f) and (ii) states that:

“The branch manager must: supervise the activities of the Member at a branch or sub-branch that are directed towards ensuring compliance with the By-laws, Rules and Applicable securities legislation by the Member and its Approved Persons; and supervise the opening of new accounts and trading activity at the branch office.”

Mutual Fund Dealer Rule 2.5.5(f).

¶ 9 The Mutual Fund Dealer Division of CIRO prohibits Approved Persons from obtaining pre-signed account forms or altering account forms without obtaining client initials to indicate that the alteration was approved by the client. Approved Persons have been educated and warned against obtaining pre-signed account forms or altered account forms for a number of years.

MFDA Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013 and January 26, 2017).

MFDA Bulletin #6601-E dated October 2, 2015.

¶ 10 As the Hearing Panel explained in *Price (Re)*:

“Pre-signed [and altered] forms present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading. . . . At its worst, pre-signed forms create a mechanism for an Approved Person to engage in acts of fraud, theft or other forms of harmful conduct towards a client. . . . Pre-signed forms also subvert the ability of a Member to properly supervise trading activity. They destroy the audit trail. The presence of the client’s signature on a trade form can no longer be taken as confirmation that the client authorized a particular trade. It also compromises the ability of the Member to subsequently investigate and respond to a client complaint concerning the propriety of trading activity in his or her account.”

Price (Re), [2011] Hearing Panel of the Central Regional Council, MFDA File No. 200814, Panel Decision (Misconduct) dated April 18, 2011 at paras. 122-124.

¶ 11 Hearing Panels have held that the review and approval of pre-signed account forms and altered account forms without obtaining client initials by a branch manager is a violation of MFDA Rules 2.1.1 and 2.5.5(f) (formerly Rule 2.5.5(d)).

Gocool (Re), [2016] Hearing Panel of the Central Regional Council, MFDA File No. 201628, Panel Decision dated August 10, 2016.

Ghose (Re), [2017] Hearing Panel of the Central Regional Council, MFDA File No. 201671, Panel Decision dated January 19, 2017.

Blake (Re), [2018] Hearing Panel of the Central Regional Council, MFDA File No. 201873, Panel Decision dated December 8, 2017.

Arnold (Re), [2021] Hearing Panel of the Central Regional Council, MFDA File No. 202134, Panel Decision dated November 10, 2021.

¶ 12 The Dealer Member designated the Respondent as the branch manager responsible for the activities at his branch. In doing so, one of the Respondent’s responsibilities was to review account forms for prohibited conduct.

¶ 13 Branch managers are required to lead by example and should act as standard bearers of conduct for the industry.

Gocool, supra, at para. 10.

¶ 14 The Respondent, acting in his capacity as branch manager, reviewed and approved the use of 29 account forms where information on the form had been altered without having the client initial the alterations. The Respondent knew or ought to have known that the forms were either pre-signed forms or altered account forms.

Settlement Agreement, paras. 8, 10, 11, 12, 13 and 14.

¶ 15 In the present case, and as reflected in paragraph 4 of the Settlement Agreement, the Respondent admits that, while acting in his capacity as branch manager, the Respondent reviewed and approved the use of a total of 29 altered account forms, contrary to Mutual Fund Dealer Rules 2.1.1 and 2.5.5(f).

IV. PRINCIPLES AND FACTORS REGARDING THE ACCEPTANCE OF SETTLEMENT AGREEMENTS

¶ 16 Investor protection is the primary goal of securities regulation. Settlements play an important and necessary role in meeting this objective.

Pezim v. British Columbia (Superintendent of Brokers), [1994] 2 S.C.R. 557 at paras. 59 and 68.

¶ 17 In our view, the role of a Hearing Panel in a Settlement Hearing is not the same as its role in making a penalty determination after a contested Hearing. In a contested Hearing, the Hearing Panel attempts to determine the correct penalty. In a Settlement Hearing, the Hearing Panel takes into account the settlement process itself and the fact that the parties have agreed to the penalties set out in the Settlement Agreement. In our view, a Hearing Panel should not interfere lightly in a negotiated settlement and should not reject a Settlement Agreement unless it views the penalty as clearly falling outside a reasonable range of appropriateness.

¶ 18 Previous MFDA Hearing Panels have determined the factors which should be considered in determining whether a Settlement Agreement should be accepted. These include the following:

- (i) Whether acceptance of the Settlement Agreement would be in the public interest and whether the penalty imposed will protect investors;
- (ii) Whether the Settlement Agreement is reasonable and proportionate, having regard to the conduct of the Respondent as set out in the Settlement Agreement;
- (iii) Whether the Settlement Agreement addresses the issues of both specific and general deterrence;
- (iv) Whether the proposed settlement will prevent the type of conduct described in the Settlement Agreement from occurring again in the future;
- (v) Whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets;
- (vi) Whether the Settlement Agreement will foster confidence in the integrity of the MFDA;
- (vii) Whether the Settlement Agreement will foster confidence in the regulatory process itself.

Jacobson (Re), [2007], Hearing Panel of the Prairie Regional Council, MFDA File No. 200712, Reasons for Decision, dated July 13, 2007, at para. 68.

¶ 19 Previous Hearing Panels have also identified a number of additional factors which should be considered when determining whether the penalty sought to be imposed is appropriate. These

include:

- (a) The seriousness of the allegations proved against the Respondent;
- (b) The Respondent's past conduct, including prior sanctions;
- (c) The Respondent's experience in the capital markets;
- (d) The level of the Respondent's activity in the capital markets;
- (e) Whether the Respondent recognizes the seriousness of the improper activity;
- (f) The harm suffered by investors as a result of the Respondent's activities;
- (g) The benefits received by the Respondent as a result of the improper activity;
- (h) The risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
- (i) The damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- (j) 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;
- (k) The need to alert others to the consequences of inappropriate activities to those who are permitted to participate in capital markets; and
- (l) Previous decisions made in similar circumstances.

Headley [Re], 2006, Hearing Panel of the Central Regional Council, MFDA File No. 200509, Reasons for Decision dated February 21, 2006 at para. 85.

¶ 20 When determining whether a penalty agreed upon by the parties is appropriate, the Hearing Panel may also consider the MFDA's Sanction Guidelines ("Guidelines") which came in to effect on November 15, 2018. The Guidelines are not mandatory or binding on the Hearing Panel, but provide a summary of the key factors upon which discretion can be exercised consistently and fairly. Many of the same factors that are listed above, which have been considered in previous decisions of MFDA Hearing Panels, are also reflected and described in the Guidelines.

V. CONSIDERATIONS IN THE PRESENT CASE

¶ 21 Staff made very detailed written and oral submissions as to how these principles and factors applied to the case before us. These included the following:

(a) Nature of the Misconduct

¶ 22 We agree with the submission of Staff that the contraventions in this matter are serious.

¶ 23 The review and approval of pre-signed account forms and altered account forms without client initials are serious breaches of Mutual Fund Dealer Rules 2.1.1 and 2.5.5(f) (formerly MFDA Rule 2.5.5(f)).

(b) The Respondent's Past Conduct Including Prior Sanctions

¶ 24 The Respondent has not previously been the subject of CIRO or MFDA disciplinary proceedings. Settlement Agreement, para. 19.

(c) The Respondent's Recognition of the Seriousness of the Misconduct

¶ 25 The Respondent has acknowledged that the misconduct constitutes a serious contravention of the Mutual Dealer Rules. By entering into the Settlement Agreement, the Respondent has accepted responsibility for the misconduct, and has saved CIRO the time, resources and expenses associated with a contested disciplinary proceeding.

Settlement Agreement, para. 20.

(d) Harm Suffered by Investors

¶ 26 There is no evidence of any lack of authorization or client loss resulting from the Respondent's conduct as described within the Settlement Agreement.

Settlement Agreement, para. 18.

(e) Benefits Received by the Misconduct

¶ 27 There is no evidence that the Respondent received any financial benefit from the misconduct.

Settlement Agreement, para. 17.

(f) Deterrence

¶ 28 Deterrence is intended to capture both specific deterrence of the wrongdoer, as well as general deterrence of other participants in the capital markets, in order to protect investors.

¶ 29 In our view, the proposed penalty will deter the Respondent from engaging in similar misconduct by imposing a meaningful sanction upon him, while simultaneously prohibiting him from acting in a supervisory capacity for 6 months.

¶ 30 The proposed penalty will also ensure general deterrence by reinforcing the message that branch managers who do not meet their oversight obligations for Approved Persons under their supervision will receive meaningful sanctions in respect of their misconduct.

(g) Previous Decisions Made in Similar Circumstances

¶ 31 Staff provided the Hearing Panel with a detailed chart seeking to show that the proposed resolution is within the reasonable range of appropriateness with regard to other decisions made by Hearing Panels in similar circumstances.

¶ 32 The following cases were discussed:

- (a) *Dhur (Re)*, [2015] Hearing Panel of the Central Regional Council, MFDA File No. 201439, Reasons for Decision dated September 10, 2015.
- (b) *Hogan (Re)*, [2016] Hearing Panel of the Central Regional Council, MFDA File No. 201567, Reasons for Decision dated July 28, 2016.
- (c) *Ghose (Re)*, *supra*.
- (d) *Blake*, *supra*.
- (e) *Arnold*, *supra*.

VI. DECISION

¶ 33 After a thorough review of the factors by which we should be guided, and the facts of this case, as reflected in the Settlement Agreement, we were, unanimously, of the view that this Settlement Agreement was reasonable and in the public interest and should be accepted by the Hearing Panel. We so informed the parties at the conclusion of the Settlement Hearing.

VII. ORDER

- ¶ 34 After accepting the Settlement Agreement, we made the following Order:
- (a) The Respondent shall pay a fine in the amount of \$5,000 in certified funds payable on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);
 - (b) The Respondent shall pay costs in the amount of \$2,500 in certified funds payable on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.2;
 - (c) The Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Dealer Member for a period of 6 months, commencing on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
 - (d) The Respondent shall successfully complete the branch manager’s course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of CIRO prior to acting as a branch manager or in any supervisory capacity for a Dealer Member, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
 - (e) The Respondent shall in the future comply with Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1); and
 - (f) If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3, requests production of or access to exhibits in this proceeding that contain personal information as defined by CIRO’s Privacy Policy, then the Corporate Secretary’s Office, Mutual Fund Dealer Division of CIRO shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

Dated at Halifax, Nova Scotia, this 19 day of January 2024

“Thomas J. Lockwood” _____

Thomas J. Lockwood, K.C., Chair

“Ann Etter” _____

Ann Etter, Industry Representative

“Jason Downey” _____

Jason Downey, Industry Representative

Settlement Agreement

File No. 202323

IN THE MATTER OF:

The Mutual Fund Dealer Rules¹

and

Robert Bernard Friesen

SETTLEMENT AGREEMENT

I. INTRODUCTION

¶ 1 The Canadian Investment Regulatory Organization, a consolidation of IROC and the MFDA (“CIRO”) will announce that it proposes to hold a hearing (the “Settlement Hearing”) to consider whether, pursuant to Mutual Fund Dealer Rule 7.4.4.3, a hearing panel of the Nova Scotia District Committee (the “Hearing Panel”) of CIRO should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of CIRO (“Staff”) and Robert B. Friesen (the “Respondent”).

¶ 2 Staff and the Respondent, consent and agree to the terms of this Settlement Agreement.

¶ 3 Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

II. CONTRAVENTIONS

¶ 4 The Respondent admits to the following violations of the Mutual Fund Dealer Rules:²

Between January 11, 2017 and February 21, 2021, the Respondent, acting in the capacity as branch manager, reviewed and approved the use of 29 account forms where information had been altered on the account forms without having the client initial the alterations, contrary to Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1).

III. TERMS OF SETTLEMENT

¶ 5 Staff and the Respondent agree and consent to the following terms of settlement:

- (a) the Respondent shall pay a fine in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);
- (b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.2;
- (c) the Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Dealer Member for a period of 6 months, commencing on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
- (d) the Respondent shall successfully complete the branch manager’s course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of CIRO, prior to acting as a branch manager or in any supervisory capacity for a Dealer Member, pursuant

² At the time of the conduct addressed in this proceeding, MFDA Rules 2.5.5(f) and 2.1.1 were in effect and are now incorporated into Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 referred to in this proceeding.

to Mutual Fund Dealer Rule 7.4.1.1(f);

- (e) the Respondent shall in the future comply with Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1); and
- (f) the Respondent shall attend by videoconference on the date set for the Settlement Hearing.

¶ 6 Staff and the Respondent agree to the settlement on the basis of the facts set out in this Settlement Agreement herein and consent to the making of an Order in the form attached as Schedule “A”.

IV. AGREED FACTS

Registration History

¶ 7 Since November 1, 2004, the Respondent has been registered in Nova Scotia as a dealing representative with Desjardins Financial Security Investments Inc. (the “Dealer Member”), a Dealer Member of CIRO (formerly a Member of the MFDA).

¶ 8 From approximately June 30, 2006 to July 13, 2010, the Dealer Member designated the Respondent as a co-branch manager, and from approximately July 13, 2010 to December 8, 2021, the Dealer Member designated the Respondent as a branch manager.

¶ 9 At all material times, the Respondent conducted business in and around the Halifax, Nova Scotia area.

Altered Account Forms

¶ 10 At all material times, the Dealer Member’s branch manager manual required all branch managers to “...review the integrity of...important documents, including ensuring all sections are complete, any corrections have been initialed by the client, the form has been signed and dated by the client, and the form has been signed and dated by the advisor.”

¶ 11 Between January 11, 2017 and October 21, 2021, SH, an Approved Person who the Respondent had the responsibility to supervise as his branch manager, submitted to the Respondent for approval 29 account forms where information had been altered on the forms without having the client initial the alterations.

¶ 12 The Respondent, acting in his capacity as branch manager, reviewed and approved the use of these account forms.

¶ 13 The altered account forms the Respondent approved consisted of: 14 Know-Your-Client (“KYC”) Update Forms, 7 Letters of Direction, 4 Mutual Fund Trade Tickets, 3 Account Opening Forms, and 1 Internal Transfer Form.

¶ 14 The alterations made to the 29 altered account forms approved by the Respondent included alterations to: client KYC information, investment objectives, investment instructions, client contact information, investment amounts and fund codes.

The Member’s Investigation

¶ 15 In May 2021, the Dealer Member completed a full file review of the client files maintained by SH, and discovered the account forms described above.

¶ 16 As part of its investigation into the Respondent’s conduct, the Dealer Member sent letters to affected clients identifying the alterations made by SH to information on the account forms described above to ensure that the alterations were accurate and authorized. No clients raised any concerns to the Dealer Member.

Additional Factors

¶ 17 There is no evidence that the Respondent received any financial benefit from the conduct set out above beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

¶ 18 There is no evidence of client loss or lack of authorization for the underlying transactions, and no clients complained to CIRO or the Dealer Member.

¶ 19 The Respondent has not previously been the subject of MFDA or CIRO disciplinary hearings.

¶ 20 By entering into this Settlement Agreement, the Respondent has saved CIRO the time, resources, and expenses associated with conducting a contested hearing on the allegations.

V. ADDITIONAL TERMS OF SETTLEMENT

¶ 21 This settlement is agreed upon in accordance with Mutual Fund Dealer Rule 7.4.4 and Rules 14 and 15 of the Mutual Fund Dealer Rules of Procedure.

¶ 22 The Settlement Agreement is subject to acceptance by the Hearing Panel. At or following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. Settlement Hearings are typically held in the absence of the public pursuant to Mutual Fund Dealer Rule 7.3.5 and Rule 15.2(2) of the Mutual Fund Dealer Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

¶ 23 The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise agreed, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

¶ 24 Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- (a) the Settlement Agreement will constitute the entirety of the evidence to be submitted at the settlement hearing, subject to Rule 15.3 of the Mutual Fund Dealer Rules of Procedure;
- (b) the Respondent agrees to waive any rights to a full hearing, a review hearing or appeal, including before the Board of Directors of CIRO or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction;
- (c) except for any proceedings commenced to address an alleged failure to comply with this Settlement Agreement, Staff will not initiate any proceeding under the Mutual Fund Dealer Rules against the Respondent in respect of the facts and contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in this Settlement Agreement, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;
- (d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to Mutual Fund Dealer Rule 7.4.1.1 for the purpose of giving notice to the public thereof in accordance with Mutual Fund Dealer Rule 7.4.5; and
- (e) neither Staff nor the Respondent will make any public statement inconsistent with

this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against the Respondent.

¶ 25 If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under Mutual Fund Dealer Rule 7.4.3 against the Respondent based on, but not limited to, the facts set out in this Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the Hearing Panel that accepted the Settlement Agreement, if available.

¶ 26 If, for any reason, this Settlement Agreement is not accepted by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to Mutual Fund Dealer Rules 7.3 and 7.4, unaffected by the Settlement Agreement or the settlement negotiations.

¶ 27 The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law. The terms of the Settlement Agreement, including the attached Schedule "A", will be released to the public if and when the Settlement Agreement is accepted by the Hearing Panel.

¶ 28 The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile or electronic copy of any signature shall be as effective as an original signature.

DATED this 9th day of November, 2023.

"Robert B. Friesen"

Robert B. Friesen

"GG"

Witness – Signature

GG

Witness – Print name

"Charles Toth"

Staff of CIRO

Per: Charles Toth

Canadian Investment Regulatory Organization,
Vice-President, Enforcement (Mutual Fund Dealers)

Order

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Robert Bernard Friesen

ORDER

WHEREAS on [date], the Canadian Investment Regulatory Organization (“CIRO”) issued a Notice of Settlement Hearing pursuant to Mutual Fund Dealer Rule 7.4.4 in respect of a disciplinary proceeding against Robert B. Friesen (the “Respondent”);

AND WHEREAS based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that:

Between January 11, 2017 and February 21, 2021, the Respondent, acting in the capacity as branch manager, reviewed and approved the use of 29 account forms where information had been altered on the account forms without having the client initial the alterations, contrary to Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1).

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

¶ 1 The Respondent shall pay a fine in the amount of \$5,000 in certified funds payable on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);

¶ 2 The Respondent shall pay costs in the amount of \$2,500 in certified funds payable on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.2;

¶ 3 The Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Dealer Member for a period of 6 months, commencing on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);

¶ 4 The Respondent shall successfully complete the branch manager’s course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of CIRO prior to acting as a branch manager or in any supervisory capacity for a Dealer Member, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);

¶ 5 The Respondent shall in the future comply with Mutual Fund Dealer Rules 2.5.5(f) and 2.1.1 (formerly MFDA Rules 2.5.5(f) and 2.1.1); and

¶ 6 If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3, requests production of or access to exhibits in this proceeding that contain personal information as defined by CIRO’s Privacy Policy, then the Corporate Secretary’s Office, Mutual Fund Dealer Division of CIRO shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

DATED this [day] day of [month], 2023.

Name,

Chair

Name,

Industry Representative

Name,
Industry Representative

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ⁱ On January 1, 2023, the Investment Industry Regulatory Organization of Canada (“IIROC”) and the Mutual Fund Dealers Association of Canada (the “MFDA”) were consolidated into a single self-regulatory organization that is called the Canadian Investment Regulatory Organization (referred to herein as “CIRO”) and is recognized under applicable securities legislation. CIRO adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Pursuant to Mutual Fund Dealer Rule 1A and s. 14.6 of By-law No. 1 of CIRO, contraventions of former MFDA regulatory requirements may be enforced by CIRO.