



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

**IN THE MATTER OF A SETTLEMENT HEARING
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Ghassan Alathamna

Heard: January 31, 2019 in Toronto, Ontario

Decision: January 31, 2019

Reasons for Decision: February 28, 2019

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart

Edward V. Jackson

Guenther W. K. Kleberg

Chair

Industry Representative

Industry Representative

Appearances:

Alan Melamud

) Enforcement Counsel for the Mutual Fund

) Dealers Association of Canada

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)

Ghassan Alathamna

) Respondent, by telephone

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I. INTRODUCTION

1. Proceedings were commenced by the Mutual Fund Dealers Association of Canada (the “MFDA”) against Ghassan Alathamna (the “Respondent”) by Notice of Hearing, dated February 16, 2018. The MFDA issued a news release on January 9, 2019, announcing that, as a result of a settlement agreement entered into between MFDA Staff (“Staff”) and the Respondent (the “Settlement Agreement”), a settlement hearing would take place on January 31, 2019.

2. At the settlement hearing on January 31, 2019 the Hearing Panel considered the Settlement Agreement and, at the conclusion of the hearing, decided to accept it. These are our reasons for that decision.

II. CONTRAVENTION ADMITTED

3. The Respondent admitted that on or around October 3, 2016, he cut and pasted a client signature from an account form previously signed by the client onto 2 new account forms, and submitted the account forms for processing, contrary to MFDA Rule 2.1.1.

III. TERMS OF SETTLEMENT

4. Staff and the Respondent agreed to the following:

- a) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 3 months, pursuant to s. 24.1.1(e) of MFDA By-law No.1;
- b) the Respondent shall pay costs in the amount of \$1,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No.1; and
- c) the Respondent shall in the future comply with MFDA Rule 2.1.1.

IV. AGREED FACTS

Registration History

5. Between 2002 and 2017, the Respondent was registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative). Between 2015 and June 2017, he was registered in Ontario with Superstar Investment Corp. (“Superstar”), a Member of the MFDA.

6. On June 30, 2017, the Respondent resigned from Superstar and is no longer registered in the securities industry in any capacity.

Respondent Cut and Pasted Client Signatures

7. At all material times, Superstar’s policies and procedures prohibited its Approved Persons, including the Respondent, from falsifying client signatures on documents.

8. At all material times, client YD was a client of Superstar whose account was serviced by the Respondent.

9. On or about October 3, 2016, the Respondent received instructions from client YD to redeem monies from two mutual funds held in his account. Client YD signed two signed redemption forms in order to complete the transactions (the “Original Redemption Forms”).

10. Prior to submitting the Original Redemption Forms to Superstar for processing, the Respondent became aware that, as a result of the amount of monies that client YD sought to redeem, one of the Original Redemption Forms required a notarized signature.

11. Rather than have client YD complete a new redemption form and obtain a notarized signature, the Respondent selected new mutual funds and redemption amounts that did not require client YD to obtain a notarized signature to complete the transactions.

12. The Respondent stated that he discussed the changes to client YD’s original instructions with client YD.

13. In order to process the transactions, the Respondent prepared two new redemption forms (the “New Forms”) with investment instructions and cut and pasted client YD’s signature from one of the Original Redemption Forms onto the New Forms.

14. The Respondent then submitted to Superstar the New Forms along with one of the Original Redemption forms.

Superstar’s Investigation

15. On or about October 3, 2016, Superstar’s chief compliance officer identified that the client signature on the New Forms and the Original Redemption form were identical and commenced an investigation.

16. After Superstar identified the subject conduct, the Respondent provided client YD with unsigned copies of New Forms, which client YD subsequently signed and returned to Superstar.

17. On October 13, 2016, Superstar sent a reprimand to the Respondent relating to the New Forms.

18. On June 30, 2017, the Respondent resigned from Superstar.

V. CONSIDERATIONS

19. Section 24.4.3 of MFDA By-law No. 1 provides that hearing panels may only accept or reject a settlement and it is generally accepted that hearing panels will not lightly interfere in a negotiated settlement reached between Staff and a respondent. See, for example, *Sterling Mutuals Inc. (Re)*, 2008 LNCMFDA 16 at para. 37.

20. In determining whether to accept the Settlement Agreement, the Hearing Panel considered primarily: whether it was proportionate and fell within a reasonable range of appropriateness, having regard to the Respondent’s conduct, the MFDA Sanction Guidelines and previous cases; and whether it would serve as a general and specific deterrent.

21. We found that cutting and pasting a client signature from an account form previously signed by a client onto two new account forms and submitting them for processing constitutes a

breach of MFDA Rule 2.1.1. That rule requires that Approved Persons: deal fairly, honestly and in good faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from engaging in any business conduct or practice which is unbecoming or detrimental to the public interest.

22. We considered as an aggravating factor that that the MFDA had previously warned the industry against this kind of conduct, most recently in MFDA Bulletin #0661-E, dated October 2, 2015. In that Bulletin the MFDA indicated it would be seeking increased penalties in upcoming cases involving signature falsification.

23. There were several mitigating factors we considered in reaching our decision, including that:

- a) there was no evidence that the Respondent received any benefit from the improper conduct, beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out properly;
- b) there was no evidence of client loss or lack of authorization for the underlying transactions for which the New Forms were used;
- c) this appeared to be an isolated incident;
- d) the Respondent has not previously been the subject of MFDA disciplinary proceedings; and
- e) by entering into the Settlement Agreement, the Respondent saved the MFDA the time, resources, and expenses associated with a full hearing.

24. Under the MFDA Sanction Guidelines, a respondent's inability to pay may be a consideration in determining an appropriate monetary sanction. We were advised that the Respondent had provided Staff with evidence of his inability to pay any further amounts towards a fine or costs and we have taken that factor into account.

25. The proposed penalty was within a reasonable range in relation to previous decisions made by MFDA Hearing Panels in similar circumstances.

VI. CONCLUSION

26. We concluded that the agreed penalty, including costs, was proportionate and fell within a reasonable range of appropriateness, having regard to the Respondent’s misconduct and circumstances, MFDA guidance and precedents, and that it would serve as a specific and general deterrent. We decided that in all the circumstances it was appropriate to accept the Settlement Agreement and we did so.

DATED this 28th day of February, 2019.

“Joan Smart”

Joan Smart
Chair

“Edward V. Jackson”

Edward V. Jackson
Industry Representative

“Guenther W. K. Kleberg”

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Industry Representative

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