



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: William Alexander Hector Allan

Heard: November 4, 2019 in Vancouver, British Columbia
Decision: November 4, 2019
Reasons for Decision: March 26, 2020

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

Michael Carroll, QC
Michelle Leung
Holly A Millar

Chair
Industry Representative
Industry Representative

Appearances:

Sakeb Nazim)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
William Alexander Hector Allan)	Respondent, in person
)	
)	

Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated September 3, 2019 (“Settlement Agreement”) between the staff of the Mutual Fund Dealers Association of Canada (“MFDA”) and William Alexander Hector Allan (“Respondent”). A copy of the Settlement Agreement is attached as Schedule “1” to these Reasons for Decision. The agreed facts are as set out in Part III of the Settlement Agreement.

Contraventions

2. The Respondent admitted that:

- a) Between January 5, 2015 and March 2, 2018, he altered 12 account forms in respect of nine clients by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1, and
- b) Between January 25, 2011 and May 18, 2018 he obtained, possessed and used to process transactions, 58 pre-signed account forms in relation to 17 clients, contrary to MFDA Rule 2.1.1.

Agreed Penalties

3. The Respondent has agreed to pay a fine of \$13,000 and costs of \$2,500.

Considerations

4. Pursuant to s. 24.4.3 of MFDA By-law No. 1, the Hearing Panel must either accept the Settlement Agreement or reject it.

5. In making a determination whether to accept or reject the Settlement Agreement we must take into account a number of factors including:

- a) Whether the Settlement Agreement would be in the public interest and whether the penalty imposed will protect investors;
- b) Whether it is reasonable and proportionate, having regard to the conduct of the Respondent and is within the acceptable range taking into account similar cases;

- c) Whether it will prevent the type of conduct described in the Settlement Agreement from occurring again, and
- d) Whether it will foster confidence in the integrity of the MFDA and the regulatory process itself.

6. In the present case the nature of the misconduct is serious. Hearing Panels have held that altering or falsifying forms is a contravention of the Standard of Conduct as set out in MFDA Rule 2.1.1.

Byce (Re) MFDA File No. 201311, Hearing Panel of the Central Regional Council dated September 4, 2013.

7. The MFDA has made clear to Approved Persons since October 31, 2007 that possessing and using pre-signed forms is contrary to the obligations set out in Rule 2.1.1. Hearing Panels of the MFDA, IIROC, and provincial securities commissions have also confirmed that the possession and use of pre-signed forms is prohibited.

Price (Re) MFDA File N0. 200814, Hearing Panel of the Central Regional Council dated April 18, 2011 at para 135.

8. The MFDA Hearing panel in *Price* identified the dangers posed by pre-signed account forms which can be summarized as follows:

- a) They present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading;
- b) At worst they create a mechanism for an Approved Person to engage in acts of fraud, theft, or other forms of harmful conduct towards a client, and
- c) They subvert the ability of a Member to properly supervise trading activity.

9. The reasoning in *Price* is also applicable to the use of altered account forms, with the additional concern that there also exists the possibility that the changes are made to the forms with the client's knowledge or consent.

Post Bulletin Misconduct

10. In this case the forms were processed after the MFDA issued Bulletin # 0661-E on October 2, 2015. In the Bulletin staff advised Members and Approved Persons that Staff would be seeking enhanced penalties at disciplinary hearings for conduct that occurred after publication of the Bulletin and subsequently Hearing Panels have considered this to be an aggravating factor

Techer (Re) MFDA File No. 201662 Hearing Panel of the Prairie Regional Council, December 5, 2016 at para 44

Ackerman (Re) MFDA File No. 201734, Hearing Panel of the Prairie Regional Council, September 13, 2017 at para 29

11. In the present case the mitigating factors are:

- a) The Respondent has not been previously disciplined by the MFDA;
- b) There is no evidence of client harm; and
- c) There is no evidence that the Respondent received any financial benefit through his conduct and there were no client complaints.

12. Counsel for the MFDA referred us to other cases similar to this one and the panel finds that the agreed penalties fall within the range imposed in those cases.

Chugh (Re) MFDA File No. 201879 Hearing Panel of the Central Regional Council dated December 7, 2018.

Dick (Re) MFDA File No. 201818 Hearing Panel of the Central Regional Council dated July 20, 2018.

Letourneau (Re) MFDA File No. 201892 Hearing Panel of the Central Regional Council dated December 7, 2018.

13. Based on the forgoing the Panel finds that the Settlement Agreement including the costs award is in the public interest and we accept it.

DATED this 26th day of March, 2020.

“Michael Carroll”

Michael Carroll, QC
Chair

“Michelle Leung”

Michelle Leung
Industry Representative

“Holly A Millar”

Holly A Millar
Industry Representative



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Re: William Alexander Hector Allan

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, William Alexander Hector Allan (the "Respondent"), consent and agree to settlement of this matter by way of this agreement (the "Settlement Agreement").
2. Staff conducted an investigation of the Respondent's activities which disclosed activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No. 1.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.
4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the Mutual Fund Dealers Association of Canada ("MFDA"):

- a) Between January 5, 2015 and March 1, 2018, the Respondent altered 12 account forms in respect of 9 clients by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and
 - b) Between January 25, 2011 and May 18, 2018, the Respondent obtained, possessed and used to process transactions, 58 pre-signed account forms in relation to 17 clients, contrary MFDA Rule 2.1.1.
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 \$13,000 in certified funds pursuant to section 24.1.1(b) of By-law No. 1 upon acceptance of this Settlement Agreement;
 - b) the Respondent shall pay costs in the amount of \$2,500 in certified pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;
 - c) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
 - d) the Respondent will attend in person at the Settlement Hearing.
6. Staff and the Respondent agree to the settlement on the basis of the facts set out in Part III herein and consent to the making of an Order in the form attached as Schedule “A”.

III. AGREED FACTS

Registration History

7. Since June 20, 2006, the Respondent has been registered in British Columbia as a dealing representative with Global Maxfin Investments Inc.¹ (the “Member”), a Member of the MFDA.
8. At all material times, the Respondent carried on business in the Nanaimo, British Columbia area.

¹ Between June 20, 2006 and September 1, 2011, the Respondent was registered in British Columbia with Professional Investment Services (Canada) Inc. (“PIS”). On September 1, 2011, PIS amalgamated with the Member.

Altered Forms

9. Between January 5, 2015 and March 1, 2018, the Respondent altered 12 account forms in respect of 9 clients by altering information on the account forms without having the clients initial the alterations.
10. The Respondent used liquid correction fluid to alter the account forms without the client initialing the documents to show the alteration was approved.
11. The altered account forms included Order Entry Forms and KYC Forms.
12. The alterations the Respondent made to the account forms included alterations to spousal/beneficiary information, fund codes, fund names and amounts.

Pre-Signed Forms

13. At all material times, the Member's policies and procedures prohibited its Approved Persons from using pre-signed account forms.
14. Between January 25, 2011 and May 18, 2018, the Respondent obtained, possessed and used to process transactions, 58 pre-signed account forms in relation to 17 clients.
15. The pre-signed account forms included, Know-Your-Client ("KYC") Forms, Order Entry Forms, Transfer DSC Free or Mature Units to Front End Forms.

Member's Response

16. On May 23, 2018, the Member detected the pre-signed forms that are the subject of this Settlement Agreement during a compliance review of all of the Respondent's files.
17. On June 11, 2018, the Member placed the Respondent on strict supervision for a period of 6 months, issued a warning letter, and imposed a fine of \$2,500 on the Respondent.
18. On September 13, 2018, the Member sent letters to all of the clients serviced by the Respondent, asking whether the Respondent had asked them to sign incomplete or blank account forms to conduct business. The Member received no responses to its letters.

Additional Factors

19. The Respondent has not been the subject of previous MFDA disciplinary proceedings.
20. There is no evidence of client loss in this matter or that the Respondent received any financial benefit from engaging in the misconduct beyond the commissions or fees to which he would have been ordinarily entitled had the transactions in the clients' accounts been carried out in the proper manner.
21. There have been no client complaints in relation to the conduct described in this Settlement Agreement, and no evidence of unauthorized trading undertaken by the Respondent.
22. The Respondent has cooperated fully with Staff during the course of the investigation, and by agreeing to this settlement, has avoided the necessity of a full hearing on the merits.

IV. ADDITIONAL TERMS OF SETTLEMENT

23. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the *MFDA Rules of Procedure*.
24. The Settlement Agreement is subject to acceptance by the Hearing Panel which shall be sought at a hearing (the "Settlement Hearing"). At, or following the conclusion of, the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA 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.
25. 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 stated, 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.

26. 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 respecting the Respondent in this matter;
- b) the Respondent waives any rights to a full hearing, a review hearing before the Board of Directors of the MFDA 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) Staff will not initiate any proceeding under the By-laws of the MFDA 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. 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 s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1; 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.

27. 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 sections 20 and 24 of By-law No. 1, unaffected by the Settlement Agreement or the settlement negotiations.

28. Staff and the Respondent agree that the terms of the Settlement Agreement, including the attached Schedule “A”, will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

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

DATED this 3rd day of September, 2019.

“William Alexander Hector Allan”

William Alexander Hector Allan

“VD”

Witness – Signature

VD

Witness – Print Name

“Shaun Devlin”

Shaun Devlin

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President,

Member Regulation – Enforcement

Schedule "A"

Order

File No. 201957



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Re: William Alexander Hector Allan

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of William Alexander Hector Allan (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that,

- a) Between January 5, 2015 and March 1, 2018, the Respondent altered 12 account forms in respect of 9 clients by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and
- b) Between January 25, 2011 and May 18, 2018, the Respondent obtained, possessed and used to process transactions, 58 pre-signed account forms in relation to 17 clients, contrary to MFDA Rule 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 \$13,000 in certified funds pursuant to section 24.1.1(b) of By-law No. 1 upon acceptance of this Settlement Agreement;
2. The Respondent shall pay costs in the amount of \$2,500 in certified funds pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;
3. The Respondent shall in the future comply with MFDA Rule 2.1.1; and
4. If at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the MFDA Privacy Policy, then the MFDA Corporate Secretary 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 MFDA Rules of Procedure.

DATED this [day] day of [month], 20[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]

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