



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: Lachman Hassaram Balani

Heard: December 8, 2014, in Toronto, Ontario
Reasons for Decision: January 15, 2015

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Frederick W. Chenoweth	Chair
Vasant Pachapurkar	Industry Representative
Casimir S. Litwin	Industry Representative

Appearances:

David Halasz)	Senior Enforcement Counsel, Mutual Fund
)	Dealers Association of Canada
)	
Lachman Hassaram Balani)	Respondent, appeared in person, without counsel
)	
)	

1. By Notice of Settlement Hearing dated September 10, 2014, a Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (“MFDA”) was convened to consider whether pursuant to section 24.4 of By-Law No. 1 of the MFDA, the Panel should accept a Settlement Agreement, dated May 21, 2014, entered into by Staff of the MFDA (“Staff”) and Lachman Hassaram Balani (the “Respondent”).

2. The Respondent, Mr. Balani, appeared with without counsel as he had through the course of the proceedings.

3. At the outset of the proceedings, the Panel considered a motion by Staff to move the proceedings “in camera”. The motion was granted. The Panel then considered the Settlement Agreement, the Submissions of Staff on behalf of the MFDA made both in writing and orally, and a Brief of the applicable cases which were capably detailed by Staff. The above assisted this Panel in determining whether to accept or reject the Settlement Agreement.

THE ALLEGATIONS

4. In the Settlement Agreement, which is marked as Schedule “1” to these Reasons for Decision, the Respondent admits that:

- a) Between March 2010 and February 2013, the Respondent obtained and maintained approximately 80 account and trade forms in 23 client accounts which were signed by clients when the forms were blank or only partially complete, and used the forms to process transactions in client accounts, contrary to MFDA Rule 2.1.1.

5. The Panel heard submissions from Staff and the Respondent concerning the facts of this matter and as to why this particular Settlement Agreement should be accepted by the Panel. After deliberation, the Panel unanimously concluded that it was appropriate to accept the Settlement Agreement and to execute the necessary order with respect to disposition.

THE FACTS

6. The facts with respect to the transgression are adequately set out in paragraphs 6 to 18 of the Settlement Agreement. The Respondent admits to same.

THE SETTLEMENT AGREEMENT

7. As a Panel, we felt that the admitted conduct was serious, however, we believed that the Settlement Agreement fairly addressed the concerns arising from the facts.

8. In determining whether the Settlement Agreement should be accepted, the Panel considered a number of factors. Those factors included:

- a) the public interest and whether the penalty imposed will protect investors;
- b) whether the Settlement Agreement is reasonable and proportionate, having regard to the conduct of the Respondent as set out in the Settlement Agreement;
- c) whether the Settlement Agreement addresses the issues of both specific and general deterrence;
- d) whether the proposed settlement will prevent the type of conduct, which is set out in the Settlement Agreement, from occurring again in the future;
- e) whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets;
- f) whether the Settlement Agreement will foster confidence in the integrity of the MFDA;
- g) whether the Settlement Agreement will foster confidence in the regulatory process itself;
- h) the penalty guidelines of the MFDA.

9. We believe that each and every one of those factors is dealt with in an appropriate fashion by the Settlement Agreement.

SUBMISSION AS TO PENALTY

10. Staff confirmed a number of matters for the Panel: there was no evidence of material harm to any client; no client expressed concerns about the Respondent; there was no benefit to the Respondent; no clients have lost any money and the Respondent, after some initial hesitation, has both acknowledged his responsibility for his conduct and acknowledged the necessity for adherence to the proper conducts and procedures of the MFDA and the firm of Shah Financial Planning Inc. at which he carries on business.

11. In addition, Staff submitted further factors that should be considered as to the acceptance of the Settlement Agreement:

- a) the Respondent has been registered in the securities industry for approximately 10 years;
- b) the Respondent has not previously been the subject of an MFDA disciplinary proceeding;
- c) the Respondent was the subject of a warning letter issued by Staff in June 2000 pertaining to the falsification of signatures of two clients on dealer representative change forms;
- d) there is no evidence the Respondent processed any trades or changes to client information without knowledge or authorization of the clients;
- e) the Respondent has accepted responsibility by admitting to the misconduct and entering into the settlement;
- f) by admitting to the misconduct, the Respondent has reduced the time and expense necessary to conduct a disciplinary hearing.

12. For all these reasons, the Panel has concluded that the Settlement Agreement is reasonable. In our considerations, the Panel has been mindful of the decision *Re Milewski* [1999] I.D.A.C.D. No. 17 decided on July 28, 1999. That particular Panel made the following comments on page 9:

Although a settlement agreement must be accepted by a District Council before it can become effective, the standards for acceptance are not identical to those applied by a District Council when making a penalty determination after a contested hearing. In a contested hearing, the District Council attempts to determine the correct penalty. A District Council considering a settlement agreement will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness. Put another way, the District Council will reflect the public interest benefits of the settlement process in its consideration of specific settlements.

13. Accordingly, the following penalties and other terms of settlement are imposed upon the Respondent:

- a) the Respondent shall pay a fine of \$10,000, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$2,500, pursuant to s. 24.2 of MFDA By-law No. 1;
- c) The payment by the Respondent of the fine and costs in (a) and (b) above shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (costs) upon entering into the Settlement Agreement;
 - ii. \$2,000 (fine) on or before September 24, 2014;
 - iii. \$2,000 (fine) on or before October 24, 2014;
 - iv. \$2,000 (fine) on or before November 24, 2014;
 - v. \$2,000 (fine) on or before December 24, 2014;
 - vi. \$2,000 (fine) on or before January 23, 2015;
- d) if the Respondent fails to make any of the payments described in paragraph (c) above, then:
 - i. any outstanding balance of fine and costs owed by the Respondent shall immediately become due and payable to the MFDA; and
 - ii. the Respondent shall immediately be suspended from conducting securities related business while in the employ of, or associated with, a Member of the MFDA, pursuant to section 24.3.13(c) until such time as the total amount of

the outstanding fine and costs owed by the Respondent to the MFDA is paid to the MFDA: and

- e) the Respondent shall in future comply with MFDA Rules, By-law and Policies, including MFDA Rule 2.1.1;
- f) if at any time a non-party to this proceeding requests production of, or access to, any material filed, or the record of, this proceeding, including all exhibits and transcript, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information pursuant to Rules 1.8(2) and (5) of the *MFDA Rules of Procedure*.

DATED this 15th day of January, 2015.

“Frederick W. Chenoweth”

Frederick W. Chenoweth
Chair

“Vasant Pachapurkar”

Vasant Pachapurkar
Industry Representative

“Casimir S. Litwin”

Casimir S. Litwin
Industry Representative

Schedule “1”

Settlement Agreement

File No. 201402



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: Lachman Hassaram Balani

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the “MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central Regional Council (the “Hearing Panel”) of the MFDA should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Lachman Hassaram Balani (the “Respondent”).

I. JOINT SETTLEMENT RECOMMENDATION

2. Staff conducted an investigation of the Respondent’s activities. The investigation disclosed that the Respondent had engaged in 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.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondent agree that the terms of this 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.

II. ACKNOWLEDGEMENT

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

III. AGREED FACTS

Registration History

6. The Respondent has been registered in the securities industry since October 2004.

7. Since April 8, 2010, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a “dealing representative”) with Shah Financial Planning Inc. (“Shah”), a Member of the MFDA.

8. At all material times, the Respondent conducted business in the Brampton, Ontario area.

Pre-signed account and trade forms

9. In March and April 2013, MFDA Staff (“Staff”) conducted a compliance review of the Respondent’s sub-branch location, at which time the Respondent advised Staff that he did not maintain or use blank signed forms.

10. Staff then examined the files of clients whose accounts were serviced by the Respondent, and identified a total of 89 account and trade forms (the “Forms”) in 23 client files that had been signed by the clients when the Forms were blank or only partially complete.

11. In all cases, the Respondent completed trade instructions and added other information to the Forms after the clients had signed the Forms. The Respondent also dated the Forms or altered a pre-existing date on the Forms in order to execute the transactions.

12. The Forms were dated between March 11, 2010 and February 19, 2013, and consisted of:

- (a) 59 investment loan redemption/repurchase forms; and
- (b) 15 investment loan/self-directed account switch forms;
- (c) 12 trade order forms;
- (d) two non-financial account change forms; and
- (e) one client information change form.

13. The Respondent then submitted each of the Forms to Shah in order to process trades and conduct business on its behalf.

The Member’s response

14. In or about August 2013, Shah sent letters to all of the clients whose accounts were serviced by the Respondent, asking the clients to review their account histories and identify any

unauthorized trading activity. No clients communicated any concerns to Shah in response to its letters.

15. Shah conducted a review of the Respondent's sub-branch and did not identify any further pre-signed or partially completed forms.

16. There is no evidence that:

(a) 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;

(b) the Respondent processed any trades or changes to client information without the knowledge or authorization of his clients;

(c) clients suffered any financial harm as a result of the maintenance or use of blank pre-signed forms by the Respondent; and

(d) any clients have complained about the Respondent's conduct.

Prior MFDA administrative discipline

17. In June 2010, MFDA Staff issued a warning letter to the Respondent for falsifying the signatures of two clients on dealer representative change forms.

18. All but one of the 89 Forms were dated and submitted by the Respondent to the Member for processing after he had received the June 2010 warning letter.

IV. CONTRAVENTION

19. The Respondent admits that, between March 2010 and February 2013, he obtained and maintained approximately 89 account and trade forms in 23 client accounts which were signed by clients when the forms were blank or only partially complete, and used the forms to process transactions in client accounts, contrary to MFDA Rule 2.1.1.

V. TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement:

- (a) the Respondent shall pay a fine of \$10,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- (b) the Respondent shall pay costs of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
- (c) the payment by the Respondent of the fine and costs in subparagraphs (a) and (b) above shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (costs) upon entering into the settlement agreement;
 - ii. \$2,000 (fine) on or before September 24, 2014;
 - iii. \$2,000 (fine) on or before October 24, 2014;
 - iv. \$2,000 (fine) on or before November 24, 2014;
 - v. \$2,000 (fine) on or before December 23, 2014;
 - vi. \$2,000 (fine) on or before January 23, 2015;
- (d) if the Respondent fails to make any of the payments described in subparagraph (c) above, then:
 - i. any outstanding balance of fine and costs owed by the Respondent shall immediately become due and payable to the MFDA; and
 - ii. the Respondent shall immediately be suspended from conducting securities related business while in the employ of, or associated with, a Member of the MFDA, pursuant to section 24.3.13(c) until such time as the total amount of the outstanding fine and costs owed by the Respondent to the MFDA is paid to the MFDA; and
- (e) the Respondent shall in the future comply with MFDA Rules, By-law and Policy, including MFDA Rule 2.1.1.

VI. STAFF COMMITMENT

21. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts set out in Part IV and the contravention described in Part V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and the contravention that are not set out in Parts IV and V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and the contravention set out in Parts IV and V, 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.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

22. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

23. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent also agree that if this Settlement Agreement is accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive his 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.

24. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then 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.

25. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, 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 it him.

VIII. FAILURE TO HONOUR SETTLEMENT AGREEMENT

26. 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 section 24.3 of the By-laws of the MFDA against the Respondent based on, but not limited to, the facts set out in Part IV of the 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.

IX. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

27. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule “A” is not made 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 this Settlement Agreement or the settlement negotiations.

28. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

X. DISCLOSURE OF AGREEMENT

29. 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.

30. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

XI. EXECUTION OF SETTLEMENT AGREEMENT

31. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

32. A facsimile copy of any signature shall be effective as an original signature.

DATED this 8th day of September, 2014.

“Lachman Hassaram Balani”

Lachman Hassaram Balani

“Nita L. Balani”

Witness - Signature

“Nita L. Balani”

Witness - Print name

“Shaun Devlin”

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President, Member Regulation - Enforcement



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Re: Lachman Hassaram Balani

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 Lachman Hassaram Balani (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 between March 2010 and February 2013, the Respondent obtained and maintained approximately 89 trade and account forms in 23 client accounts which were signed by clients when the forms were blank or only partially complete, and used the forms to process transactions in client accounts, 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 \$10,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$2,500, pursuant to s. 24.2 of MFDA By-law No. 1;
3. The payment by the Respondent of the fine and costs in paragraphs 1. and 2. above shall be made to and received by MFDA Staff in certified funds as follows:
 - a. \$2,500 (costs) upon entering into the settlement agreement;
 - b. \$2,000 (fine) on or before September 24, 2014;
 - c. \$2,000 (fine) on or before October 24, 2014;
 - d. \$2,000 (fine) on or before November 24, 2014;
 - e. \$2,000 (fine) on or before December 23, 2014;
 - f. \$2,000 (fine) on or before January 23, 2015;
4. If the Respondent fails to make any of the payments described in paragraph 3. above, then:
 - a. any outstanding balance of fine and costs owed by the Respondent shall immediately become due and payable to the MFDA; and
 - b. the Respondent shall immediately be suspended from conducting securities related business while in the employ of, or associated with, a Member of the MFDA, pursuant to section 24.3.13(c) until such time as the total amount of the outstanding fine and costs owed by the Respondent to the MFDA is paid to the MFDA; and
5. The Respondent shall in the future comply with MFDA Rules, By-law and Policies, including MFDA Rule 2.1.1; and
6. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to

the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

DATED this [day] day of [month], 2014.

Name,
Chair

Name,
Industry Representative

Name,
Industry Representative

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