



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: Luke Victor Bedard

Heard: December 14, 2017 in Toronto, Ontario

Decision: December 14, 2017

Reasons for Decision: February 7, 2018

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart

Chair

Rob Christianson

Industry Representative

Robert J. Wright, CM, QC

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers
Association of Canada

Gordon Gauthier

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Counsel for the Respondent

Luke Victor Bedard

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Respondent, by teleconference

I. Background

1. Proceedings were commenced against Luke Victor Bedard (“Respondent”) by Notice of Settlement Hearing, dated July 28, 2017. The settlement hearing was held under Section 24.4 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (“MFDA”) on December 14, 2017 in respect of a settlement agreement, dated July 28, 2017 (“Settlement Agreement”), entered into between Staff of the MFDA (“Staff”) and the Respondent.

2. The Hearing Panel accepted the proposed Settlement Agreement at the conclusion of the hearing. These are our Reasons for Decision.

II. Respondent’s Admission of Violation

3. The Respondent admitted to the following violations of the Rules of the MFDA:

- a) between January 2011 and May 2015, he falsified 65 client initials on account forms, in respect of 17 clients, and used the account forms to process transactions, contrary to MFDA Rule 2.1.1;
- b) between January 2011 and May 2015, he obtained, possessed, and in some instances used to process transactions, 248 pre-signed account forms in respect of 47 clients, contrary to MFDA Rule 2.1.1; and
- c) on September 4, 2015, he misled the MFDA during the course of a branch examination by stating that he did not have clients sign account forms before the forms were fully complete when he knew or ought to have known that this was false, contrary to MFDA Rule 2.1.1.

III. Terms of Settlement

4. Staff and the Respondent agreed to the following terms of settlement:

- a) the Respondent shall pay a fine in the amount of \$7,500 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- b) the Respondent shall be suspended 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 years, pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1; and
- d) the Respondent shall in the future comply with MFDA Rule 2.1.1.

IV. Agreed Facts

Registration History

5. Since 1992, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with Professional Investments (Kingston) Inc. ("PIKI"), a Member of the MFDA.

6. The Respondent is 78 years old.

Falsified Client Initials

7. Between January 2011 and May 2015, the Respondent falsified 65 client initials on Application for Change forms, in respect of 17 clients, and used the account forms to process transactions.

8. The Respondent falsified the initials in order to represent the client's acknowledgment that he or she had been advised of the fees or charges related to the transaction in question.

Pre-Signed Account Forms

9. Between January 2011 and May 2015, the Respondent obtained, possessed, and in some instances used to process transactions, 248 pre-signed Application For Change forms in respect of 47 clients.

Misleading the MFDA

10. On September 4, 2015, MFDA Sales Compliance interviewed the Respondent prior to conducting an examination of his branch (“Branch Review”). During the interview, MFDA Sales Compliance asked the Respondent whether he used pre-signed account forms.

11. In response to MFDA Sales Compliance’s question, the Respondent stated that he did not have clients sign account forms before the forms were fully complete, when he knew or ought to have known that this was false, given that at that time the Respondent had engaged in the conduct set out above at paragraphs 7 to 9.

PIKI’s Investigation

12. On or about September 2015, PIKI’s compliance department became aware that during the course of the Branch Review, MFDA Sales Compliance had identified pre-signed account forms in the client files serviced by the Respondent.

13. As part of its investigation into the findings identified by the Branch Review, PIKI reviewed all client files serviced by the Respondent and identified the remainder of the conduct that is the subject of the Settlement Agreement.

14. PIKI placed the Respondent under close supervision and required that, on an on-going basis, the Respondent send all original documents to PIKI’s head office for review.

V. Considerations

15. In determining whether to accept the Settlement Agreement, the Hearing Panel considered whether it was reasonable and proportionate, having regard to the Respondent's conduct; whether it would serve as a specific and general deterrent; and whether it fell within a reasonable range of appropriateness, having regard to MFDA guidance and other similar cases.

16. Obtaining and using pre-signed account forms and falsifying client initials on account forms are both serious breaches of MFDA Rule 2.1.1 which requires that the Approved Person deal fairly, honestly and in good faith with clients; observe high standards of ethics and conduct in the transaction of business and refrain from any business conduct or practice which is unbecoming or detrimental to the public interest. Misleading the MFDA also constitutes a breach of that Rule.

17. We note that the MFDA had previously warned the industry against the use of pre-signed account forms and signature falsification on account forms, notably by way of MFDA Staff Notice MSN-0066, dated October 31, 2007, and updated on March 4, 2013.

18. In this case we were particularly concerned that the Respondent was an experienced mutual fund salesperson who had engaged in the improper conduct a significant number of times over a period of more than 4 years and further, that he had misled the MFDA during the Branch Review. As a result, we were of the view that a serious penalty was warranted.

19. In deciding to accept the Settlement Agreement, the Panel took into consideration several mitigating factors concerning the Respondent, including that there was no evidence that the Respondent received any financial benefit from engaging in the subject misconduct other than the usual commissions or fees and that he accepted responsibility for his misconduct by entering into the Settlement Agreement. In addition, we took into consideration the fact that the Respondent is 78 years of age.

20. In deciding to accept the Settlement Agreement, we were also mindful that, in respect of a settlement agreement, a Hearing Panel may only accept or reject the agreement and, as stated by the MFDA Hearing Panel in *Sterling Mutuals Inc. (Re)*, 2008 LNCMFDA 16 at para 37, quoting the reasoning in the IDA matter of *Milewski (Re)*, [1999], I.D.A.C.D. No. 17 at page 11, “It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness”.

21. The proposed penalty is consistent with the MFDA’s Penalty Guidelines which recommend several options for a breach of MFDA Rule 2.1.1, including a minimum fine of \$5000 and a suspension. The proposed penalty also fell within a reasonable range of appropriateness, having regard to other MFDA decisions, when considering the number of violations over an extended period of time.

VI. Conclusion

22. We concluded that the agreed penalty was reasonable and proportionate, having regard to the Respondent’s conduct, would serve as a specific and general deterrent and fell within a reasonable range of appropriateness, having regard to MFDA guidance and precedents. Accordingly, we decided it would be in the public interest to accept the Settlement Agreement and we did so.

DATED this 7th day of February, 2018.

“Joan Smart”

Joan Smart
Chair

“Rob Christianson”

Rob Christianson
Industry Representative

“Robert J. Wright”

Robert J. Wright, CM, QC
Industry Representative

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