



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: Samuel Francis Bilton

Heard: February 27, 2020 in Toronto, Ontario
Decision: February 27, 2020
Reasons for Decision: April 14, 2020

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart
Linda J. Anderson
Jeff Page

Chair
Industry Representative
Industry Representative

Appearances:

Jacklyn Neborak)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Samuel Bilton)	Respondent, in person
)	
)	

I. INTRODUCTION

1. Proceedings were commenced by the Mutual Fund Dealers Association of Canada (the “MFDA”) against Samuel Francis Bilton (the “Respondent”) by Notice of Settlement Hearing, dated January 13, 2020, indicating that a Settlement Hearing would be held on February 27, 2020 in relation to a settlement agreement, dated January 10, 2020, (the “Settlement Agreement”) entered into between staff of the MFDA (“Staff”) and the Respondent.

2. At the Settlement Hearing on February 27, 2020, the Hearing Panel considered the Settlement Agreement and decided to accept it. These are our reasons for that decision.

II. THE RESPONDENT’S ADMISSION OF CONTRAVENTIONS

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

- a) in March 2018, the Respondent cut and pasted client signatures from copies of account forms previously signed by two clients onto two new account forms, and submitted the account forms for processing, contrary to MFDA Rule 2.1.1; and
- b) on October 29, 2018, the Respondent misled the Member during an investigation into his conduct when he falsely represented to the Member that two clients had signed account forms, when the Respondent had cut and pasted the clients’ signatures onto the account forms, contrary to MFDA Rule 2.1.1.

III. PROPOSED SETTLEMENT

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

- a) the Respondent shall pay a fine in the amount of \$13,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$2,500 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. From February 2018 to November 2018, the Respondent was registered in Ontario as a dealing representative (formerly known as a mutual fund salesperson) with TD Investment Services Inc. (the “Member”), a Member of the MFDA.

6. On November 14, 2018, the Member terminated the Respondent’s registration and he is no longer registered in the securities industry in any capacity.

Cut and Pasted Client Signatures

7. At all material times, the Member had policies and procedures that prohibited its Approved Persons from falsifying account documents.

8. At all material times, clients ET and RB were clients of the Member whose accounts were serviced by the Respondent.

9. In or about March 2018, the Respondent cut and pasted the signatures of clients ET and RB from copies of account forms that had previously been signed by the clients onto two new account forms, and submitted the new account forms to the Member for processing. The new account forms consisted of Transaction and Account Maintenance (“TAM”) forms.

Misleading the Member

10. In August 2018, the Member’s compliance staff conducted a branch audit and identified the two cut and pasted client signatures. As a result, the Member commenced an investigation into the Respondent’s conduct.

11. On October 29, 2018, the Member conducted an interview of the Respondent, in which the Member asked the Respondent to explain why client ET’s signature on the TAM form referenced above was photocopied, and why the signature on the form was identical to the client’s signature on a previously submitted Tax-Free Savings Account Application form. In response, the Respondent falsely stated to the Member that on March 29, 2018, client ET signed the TAM form.

The Respondent's statement was false because it was the Respondent who had cut and pasted the client's signature.

12. The Member also asked the Respondent to explain why client RB's signature on the TAM form referenced above was photocopied, and why the client's signature appeared to be irregular on the TAM form. In response, the Respondent falsely stated to the Member that on or about March 27, 2018, client RB signed the TAM form. The Respondent's statement was false because it was the Respondent who had cut and pasted the client's signature.

The Member's Response

13. As part of its investigation, the Member reviewed the Respondent's trading activities between March 2018 and July 2018. The Member reviewed 11 of 33 client accounts where the Respondent had processed transactions. The Member did not identify any additional evidence of misconduct.

14. On November 14, 2018, the Member terminated the Respondent's registration.

V. CONSIDERATIONS

15. According to section 24.4.3 of MFDA By-law No. 1, a hearing panel may only accept or reject a settlement agreement.

16. It is generally accepted that hearing panels will not lightly interfere in a settlement agreement reached between Staff and a respondent. See, for example, *Sterling Mutuals Inc. (Re.)* LNCMFDA 16 at para 37.

17. 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 and previous MFDA cases; whether it would serve as a specific and general deterrent; and whether it would facilitate the MFDA in meeting its objective of protecting the investing public.

18. MFDA Rule 2.1.1 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.

19. We found that cutting and pasting two client signatures from copies of account forms previously signed by two clients onto two new account forms, and submitting them for processing, constituted a breach of MFDA Rule 2.1.1, as admitted by the Respondent.

20. Cutting and pasting client signatures on account forms can, among other things, affect the integrity of the account documents, impede a Member's ability to supervise accounts and address client complaints and has the potential to mask a variety of regulatory issues such as unauthorized trading and misappropriation.

21. We also noted that the Respondent's conduct was contrary to the Member's policies that prohibited its Approved Persons from falsifying account documents.

22. We considered as an aggravating factor that the misconduct occurred after the MFDA had previously warned the industry against this kind of conduct, including in MFDA Bulletin #0661-E, dated October 2, 2015. In that Bulletin, the MFDA warned that it would be seeking increased penalties in upcoming cases involving "Signature Falsification".

23. We have also found that, as admitted by the Respondent, he breached MFDA Rule 2.1.1 when he misled the Member during the investigation into his conduct.

24. It is critical that Approved Persons respond to Member's inquiries accurately so that the Member can properly supervise its Approved Persons, maintain high standards in the conduct of its business and protect the interests of its clients.

25. We considered the following as mitigating factors in this case:

- a) there was no evidence that the Respondent received any 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;
- b) there was no evidence of client complaints, client loss or lack of client authorization for the underlying transactions;

- c) the Respondent had not previously been the subject of MFDA disciplinary proceedings, although we noted that he was only registered for a short period of time; and
- d) by entering into this Settlement Agreement, the Respondent accepted responsibility for his actions and saved the MFDA the time, resources, and expenses associated with conducting a full hearing on the merits.

26. In reaching our decision, we also considered the fact that the Member terminated the registration of the Respondent and he is no longer employed in the securities business.

27. The proposed fine and costs were within an appropriate range of appropriateness, having regard to other decisions presented to us by Staff and made by MFDA Hearing Panels in similar circumstances.

Pattison (Re), 2017 LNCMFDA 77

He (Re), 2018 LNCMFDA 162

Truong (Re), 2019 LNCMFDA 112

Djekic (Re), 2017 LNCMFDA 112

VI. CONCLUSION

28. We concluded that the agreed sanction was proportionate and fell within a reasonable range of appropriateness, having regard to the Respondent's misconduct and MFDA precedents. It should serve to deter the Respondent from repeating the misconduct if he re-enters the industry and deter others from engaging in similar activity. Further, we were of the view that it was consistent with the MFDA's mandate to protect investors and strengthen public confidence in the mutual fund industry. Accordingly, we decided it was appropriate to accept the Settlement Agreement.

DATED this 14th day of April, 2020.

“Joan Smart”

Joan Smart
Chair

“Linda J. Anderson”

Linda J. Anderson
Industry Representative

“Jeff Page”

Jeff Page
Industry Representative

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