



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: Adrian George Botescu

Heard: April 9, 2020 in Toronto, Ontario

Decision: April 9, 2020

Reasons for Decision: May 11, 2020

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Frederick W Chenoweth
Edward Jackson
Selwyn Kossuth

Chair
Industry Representative
Industry Representative

Appearances:

Sarah Glickman)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Adrian George Botescu)	Respondent, by teleconference
)	
)	

I. INTRODUCTION

1. By Notice of Settlement Hearing, a Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) was convened to consider whether, pursuant to s. 24.4 of By-law No. 1 of the MFDA, the Hearing Panel should accept a settlement agreement dated January 29, 2020, (“Settlement Agreement”) entered into by the Staff of the MFDA (“Staff”) and Adrian George Botescu (the “Respondent”).

2. At the outset of the proceeding, the Hearing Panel considered a joint motion by Staff and the Respondent to move the proceedings “*in camera*”. The Hearing Panel granted the motion. The Hearing Panel then considered the provisions of the Settlement Agreement, aided by submissions as to the applicable law, which should guide the Hearing Panel in determining whether or not to accept or reject the Settlement Agreement. The Hearing Panel unanimously accepted the Settlement Agreement and issued an Order accordingly. These are the Hearing Panel’s reasons for doing so.

II. THE CONTRAVENTIONS

3. In the Settlement Agreement, the Respondent admits that:

- a) On or about May 17, 2018, in response to a supervisory inquiry from the Respondent’s branch manager regarding the suitability of a client’s investment holdings, the Respondent altered a client’s investment objective on a Know-Your-Client account form without having met or discussed the information with the client and also signed the client’s signature and initials on the account form, contrary to MFDA Rules 2.1.1 and 2.2.1;
- b) On or about May 17, 2018, the Respondent created two meeting notes that falsely stated that the Respondent had met with a client to approve changes to the client’s KYC information, when the Respondent had not met with the client, and also signed the client’s initials on the meeting notes, contrary to MFDA Rule 2.1.1; and
- c) On or about May 25, 2018, the Respondent misled the Member during the course of its investigation into his conduct, when the Respondent falsely represented to the Member that he had met with a client to approve changes to the client’s KYC information, contrary to MFDA Rule 2.1.1.

III. THE FACTS

4. In the Settlement Agreement, Staff and the Respondent agreed to the existence of a series of facts, which are set out in Part III of the said Settlement Agreement. The Settlement Agreement is attached as Appendix “A” to these Reasons.

5. As set out in the Settlement Agreement, between November 2010 to May 2018, and from November 26, 2018 to December 31, 2019, the Respondent was registered in Ontario as a dealing representative with WFG Securities Inc. “the Member”, a member of the MFDA. On December 31, 2019, the Member terminated the Respondent’s registration for reasons unrelated to the matters at issue in these Reasons. At all material times, the Respondent had conducted business in the Toronto, Ontario area.

IV. DISCUSSION

6. The Hearing Panel was aware that prior to accepting a Settlement Agreement, a Hearing Panel must be satisfied that:

- a) The facts admitted by the Respondent constitute misconduct in contravention of By-law No. 1 of the MFDA, MFDA Rules or policies, or provincial securities legislation; and
- b) The penalties contemplated in the Settlement Agreement fall within a reasonable range of appropriateness, bearing in mind the nature and extent of the misconduct and all the circumstances.

7. The Hearing accepted that the role of a Hearing Panel at a settlement hearing is fundamentally different than its role at a contested hearing. As stated by the MFDA Hearing Panel in *Sterling Mutuals Inc. (Re)*, citing the I.D.A. Ontario District Council in *Milewski (Re)*:

We also note that while in a contested hearing the Panel attempts to determine the correct penalty, in a settlement hearing the Panel “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.” [Emphasis added].

Sterling Mutual Inc. (Re), MFDA File No. 200820, Hearing Panel of the Central Regional Council, Decision and Reasons dated August 21, 2008 at para. 37.

Milewski (Re), [1999] I.D.A.C.D. No. 17 at p. 12, Ontario District Council Decision dated July 28, 1999.

8. The Panel also considered the principle that settlements are necessary to assist the MFDA to fulfill its regulatory objective of protecting the public. Settlements advance this regulatory objective by proscribing activities that are harmful to the public, while enabling the parties to reach a flexible remedy tailored to address the interests of both the regulator and a respondent.

British Columbia (Securities Commission) v. Seifert, [2006] B.C.J. No. 225 at paras. 48-49 (S.C.), aff'd, [2007] B.C.J. No. 2186 at para. 31 (C.A) [*“British Columbia (Securities Commission)”*], SBA.

9. MFDA Rule 2.1.1 proscribes the standard of conduct applicable to registrants in the mutual fund industry. The Rule requests that each Member and 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 engaging in any business conduct or practice which is unbecoming or detrimental to the public interest.

Excerpts of the MFDA Rules, Policies and By-law No. 1.

10. In the present case, the Respondent admits that he altered information on a Know-Your-Client account form without having met or discussed the information with the client. He also signed the signature of the client on an account form and signed the client's initials on falsified meeting notes.

11. On numerous occasions, the MFDA has warned Approved Persons against signing a client's signature or initials on account forms.

MFDA Staff Notice #MSN-0035 dated December 10, 2004

MFDA Staff Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013 and January 26, 2017)

MFDA Bulletin #0661-E dated October 2, 2015

12. Hearing Panels have held that when an Approved Person signs a client signature or initials, he or she contravenes the standard of conduct as set out in MFDA Rule 2.1.1.

Markus (Re), [2008] MFDA Hearing Panel, Reasons for Decision dated September 7, 2018, MFDA File No. 201774.

Tacurda (Re), [2019] MFDA Hearing Panel, Reasons for Decision dated December 4, 2019, MFDA File No. 201958.

13. This type of conduct adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on member complaint handling and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation.

Price (Re), [2011] MFDA Hearing Panel, Reasons for Decision dated April 18, 2011, MFDA File No. 200814.

14. In Bulletins and in MFDA Staff Notice No. MSN-0066 updated on January 26, 2017, Staff advised Members and Approved Persons that Staff will seek enhanced penalties at MFDA discipline proceedings for signature falsification that occurred after the publication of the Bulletin on October 2, 2015.

15. Additionally, MFDA Hearing Panels have held that where an Approved Person updates the client's Know-Your-Client information without communicating directly with the client, the Approved Person has violated the Know-Your-Client obligations set out in MFDA Rule 2.2.1 and the standard of conduct set out in MFDA Rule 2.1.1.

Badasha (Re), [2015], MFDA Hearing Panel, Reasons for Decision dated June 9, 2015, MFDA File No. 201424.

Ray (Re), [2017] MFDA Hearing Panel, Reasons for Decision dated June 8, 2017, MFDA File No. 201661.

Del Plavignano (Re), [2019] MFDA Hearing Panel, Reasons for Decision dated February 7, 2019, MFDA File No. 201809.

16. Further, in the present case, the Respondent admits that he created two meeting notes that falsely stated that the Respondent had met with the client to approve changes to the client's Know-Your-Client information. He also admits that he misled the Member during its investigation into his conduct, with respect to those alleged meetings. In this respect, MFDA Hearing Panels have

previously held that when an Approved Person misleads the Member, he contravenes the standard of conduct set out in MFDA Rule 2.1.1.

MacWhirter (Re), [2016] MFDA Hearing Panel, Reasons for Decision dated February 22, 2016, MFDA File No. 201541.

Li (Re), [2015] Hearing Panel of the Central Regional Council, MFDA File No. 201527, Reasons for Decision dated September 11, 2015.

Del Plavignano (Re), [2019], *supra*

17. Hearing Panels have also previously held that when an Approved Person creates false notes, he or she contravenes the standard of conduct set out in MFDA Rule 2.1.1.

MacPherson (Re), [2017] MFDA Hearing Panel, Reasons for Decision dated April 17, 2017, MFDA File No. 201621.

Jain (Re), [2012] MFDA Hearing Panel, Reasons for Decision dated February 27, 2012, MFDA File No. 201130.

18. The MFDA has previously warned Approved Persons against re-using or “cutting and pasting” client’s signatures on account forms.

MFDA Notice #MSN-0035 dated December 10, 2004.

MFDA Staff Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013 and January 26, 2017).

MFDA Bulletin #0661-E dated October 2, 2015.

19. In this respect, previous Hearing Panels have held that re-using or “cutting and pasting” a client’s signature contravenes the standard of conduct under MFDA Rule 2.1.1.

20. Given the admissions made by the Respondent in the Settlement Agreement, particularly in respect of the contraventions and given the above considerations, the Hearing Panel was satisfied that the allegations against the Respondent had been proven and constituted misconduct in contravention of the By-laws, MFDA Rules or policies, or provincial securities legislation. The Hearing Panel then proceeded to consider the appropriateness of the proposed penalty.

21. The Hearing Panel was mindful that the primary goal of securities regulation is the protection of the investor. The Hearing Panel was further mindful that in addition to protection of the public, the goals of securities regulation also include fostering public confidence in the capital markets and the securities industry.

Pezim v. British Columbia (Superintendent of Brokers), [1994] 2 S.C.R. 557.

Breckenridge (Re), MFDA File No. 200718, Hearing Panel of the Central Regional Council, Decision and Reasons dated November 14, 2007 at para. 71.

22. The Hearing Panel accepted the submissions of Staff that the following factors are frequently considered by Hearing Panels when determining whether a penalty is appropriate:

- a) The seriousness of the allegations proved against the Respondent;
- b) The Respondent's past conduct, including prior sanctions;
- c) The Respondent's experience and level of activity in the capital markets;
- d) Whether the Respondent recognizes the seriousness of the improper activity;
- e) The harm suffered by investors as a result of the Respondent's activity;
- f) The benefits received by the Respondent as a result of the improper activity;
- g) The risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction.
- h) The damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- i) The need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
- j) The need to alert others to the consequences of inappropriate activity in the capital markets; and
- k) Previous decisions made in similar circumstances.

Breckenridge, supra.

23. With respect to this matter, the Hearing Panel was mindful that:

- a) The allegations against the Respondent were serious breaches of MFDA Rules 2.1.1 and 2.2.1;
- b) There is no evidence of financial loss suffered by the clients or evidence of client complaints;
- c) There is no evidence that the Respondent received any financial benefit from engaging in the misconduct at issue in this proceeding;
- d) Between 2010 and 2019, the Respondent was registered in the mutual fund industry. He ought to have known and respected the compliance requirements of the Member and the MFDA;
- e) The proposed penalty is significant and helps the MFDA send a message to the Respondent and others in the capital markets about the seriousness of the misconduct at issue. In addition to the proposed penalty, the Member suspended the Respondent for a six month period on May 25, 2018. Were it not for the Member's administrative suspension of the Respondent, the Hearing Panel was satisfied that an appropriate sentence would otherwise have included a period of prohibition;
- f) The Respondent had previously not been subject to MFDA disciplinary proceedings;
- g) The Hearing Panel was satisfied that the penalties imposed satisfied the principles of both general and specific deterrents which would reinforce the message that pre-signed, altered or cut and pasted forms will not be tolerated. Additionally, the penalty will also specifically deter the Respondent from engaging in similar activity by imposing a meaningful sanction; and
- h) By entering into this Settlement Agreement, the Respondent had accepted responsibility for his misconduct and avoided the necessity of the MFDA incurring the time and expense of conducting full disciplinary hearings.

24. Staff proposed that costs in an amount of \$2,500.00 be imposed against the Respondent. As a result of Staff's submissions, the Hearing Panel was satisfied that the imposition of the suggested cost award was appropriate, to in some way reimburse the MFDA with respect to the investigation and other expenses related to this Hearing. Additionally, the Respondent, in the Settlement Agreement, acquiesced to same.

V. RESULT

25. For all the above reasons, the Hearing Panel concluded that the Settlement Agreement was reasonable and proportionate. Accordingly, the following penalties were imposed upon the Respondent:

- a) The Respondent shall pay a fine in the amount of \$12,000 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;
- c) The Respondent shall in the future comply with MFDA Rule 2.1.1 and 2.2.1; and
- d) 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 11th day of May, 2020.

“Frederick W Chenoweth”
Frederick W Chenoweth
Chair

“Edward Jackson”
Edward Jackson
Industry Representative

“Selwyn Kossuth”
Selwyn Kossuth
Industry Representative

Appendix “A”

Settlement Agreement

File No. 202008



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: Adrian George Botescu

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Adrian George Botescu (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) on or about May 17, 2018, in response to a supervisory inquiry from the Respondent's branch manager regarding the suitability of a client's investment holdings, the Respondent altered a client's investment objective on a Know-Your-Client account form without having met or discussed the information with the client, and also signed the client's signature and initials on the account form, contrary to MFDA Rules 2.2.1 and 2.1.1;
- b) on or about May 17, 2018, the Respondent created two meeting notes that falsely stated that the Respondent had met with a client to approve changes to the client's KYC information, when the Respondent had not met with the client, and also signed the client's initials on the meeting notes, contrary to MFDA Rule 2.1.1; and
- c) on or about May 25, 2018, the Respondent misled the Member during the course of its investigation into his conduct, when the Respondent falsely represented to the Member that he had met with a client to approve changes to the client's KYC information, contrary to 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 \$12,000 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;
- c) the Respondent shall in the future comply with MFDA Rules 2.1.1 and 2.2.1; and
- d) the Respondent will attend in person on the date set for 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. Between November 2010 to May 2018 and from November 26, 2018 to December 31, 2019, the Respondent was registered in Ontario as a dealing representative (formerly known as a mutual fund salesperson) with WFG Securities Inc. (the “Member”), a Member of the MFDA.

8. On December 31, 2019, the Member terminated the Respondent’s registration and he is not currently registered in the securities industry in any capacity.

9. At all material times, the Respondent conducted business in the Toronto, Ontario area.

The Respondent Signed a Client’s Signature and Initials on a KYC Update Form

10. At all material times, the Member had policies and procedures that:

- a) prohibited its Approved Persons from signing a client’s signature;
- b) required its Approved Persons to have clients initial all changes made to client Know Your Client (“KYC”) documentation; and
- c) required its Approved Persons to take notes of meetings with clients regarding amendments to client KYC information that stated in writing the reason why the KYC was being amended, and required the client to sign and date the Approved Person’s meeting notes indicating that the clients agree with the changes.

11. At all material times, client AS was a client of the Member whose accounts were serviced by the Respondent.

12. On May 17, 2018, the Respondent’s branch manager advised the Respondent that a recent MFDA audit had identified an inconsistency between client AS’s recorded investment objective on a KYC Update account form, and the composition of the current investment holdings in client AS’s Registered Retirement Savings Plan (“RRSP”) account. The branch manager directed the Respondent to conduct a review with client AS of the investment objective and investment holdings in client AS’s RRSP account.

13. On or about May 17, 2018, the Respondent altered client AS's investment objective on a KYC Update form to match client AS's investment holdings in client AS's RRSP account without having met or discussed the information with client AS. The Respondent also signed client AS's initials beside the alterations on the KYC Update account form and signed client AS's signature on the KYC Update account form. The Respondent then submitted the KYC Update account form to the Member for processing.

The Respondent Created False Client Meeting Notes

14. On or about May 17, 2018, the Respondent prepared and submitted to the Member two client meeting notes that stated that the Respondent met with client AS on May 17, 2018 to discuss client AS's KYC information and RRSP account holdings, as described above in paragraph 13. Prior to submitting the client meeting notes to the Member, the Respondent signed client AS's initials on the client meeting notes to represent that client AS acknowledged the contents of the client meeting notes. The client meeting notes were false because the Respondent never met with client AS to review changes to his KYC information.

Misleading the Member

15. On or about May 18, 2018, the Member's compliance staff identified inconsistencies between client AS's signature on the KYC Update account form submitted by the Respondent, described above in paragraph 13, and client AS's signature on other client documents contained in client AS's client file. The Member commenced an investigation into the Respondent's conduct.

16. On or about May 18, 2018, client AS advised the Member that he had not met with the Respondent or completed or signed any documents on May 17, 2018.

17. On or about May 23, 2018, the Member placed the Respondent on an administrative suspension in response to client AS's statement to the Member.

18. On May 25, 2018, the Member interviewed the Respondent, during which the Respondent falsely stated that he met with client AS in client AS's home on May 17, 2018 to complete the KYC Update account form described above at paragraph 13.

19. The Member advised the Respondent during the interview that it had obtained a statement from client AS who denied meeting with the Respondent or signing or initialing the KYC Update account form, as the Respondent stated had occurred. The Respondent then admitted to the Member that the Respondent did not meet with client AS, and that he had signed client AS's initials and signature on the KYC Update account form described above at paragraph 13. The Respondent also admitted that he created the two false client meeting notes described above at paragraph 14, and that he signed client AS's initials on the client meeting notes.

The Member's Response

20. On May 25, 2018, the Member suspended the Respondent from conducting securities related business for 6 months as a result of the misconduct that is the subject of this Settlement Agreement.

21. As part of its investigation, the Member conducted a full transaction history review of client AS's accounts. The Member did not identify any additional evidence of misconduct.

22. The Member also reviewed purchases and redemptions in all of the client files serviced by the Respondent for inconsistencies with client signatures and initials. The Member did not identify any additional evidence of misconduct.

23. On or about June 8, 2018, the Member sent a letter with an account history to all clients serviced by the Respondent. The Member requested that the clients review their account history to ensure that all transactions had been processed as requested, and report any questions to the Member. No clients responded to the Member with any concerns.

24. The Member required the Respondent to complete an internal compliance course, which the Respondent has completed.

25. On or about September 21, 2018, the Member sent a letter with current KYC information to all clients serviced by with Respondent. The Member requested that the clients review their KYC information to ensure that the information was accurate, that all transactions had been processed as requested, and to report any questions to the Member. No clients responded to the Member with any concerns.

26. On November 26, 2018, the Member reinstated the Respondent's registration and placed the Respondent on increased supervision until the conclusion of the current MFDA proceeding. The Member also required the Respondent to meet with each of the clients that the Respondent serviced within 90 days to update their KYC information.

27. On December 20, 2018, the Respondent completed further internal training provided by the Member on proper KYC collection procedures.

28. On or about March 8, 2019, the Respondent met with client AS to update client AS's KYC information, and submitted a completed KYC Update account form for client AS to the Member for processing.

29. On March 29, 2019, the Respondent signed an Acknowledgment from the Member confirming that the Respondent understood the Member's policies and procedures with respect to proper completion of account forms and proper KYC collection procedures, and that the Respondent would abide by the Member's policies and procedures.

30. On April 3, 2019, the Respondent also signed an Acknowledgement from the Member agreeing that the Respondent would adhere to the Member's policies and procedures specific to proper collection of KYC information, and confirmed that the Respondent would not match client KYC information to current investment holdings for clients.

Additional Factors

31. There is 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.

32. There is no evidence of client complaints or client loss.

33. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

34. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing on the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

35. 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.

36. 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.

37. 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.

38. 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 contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any 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.

39. 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.

40. 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.

41. 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 29th day of January, 2020.

“Adrian George Botescu”

Adrian George Botescu

“BA”

Witness – Signature

BA

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President,

Member Regulation - Enforcement

Schedule “A”

Order

File No. 202008



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: Adrian George Botescu

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 Adrian George Botescu (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) on or about May 17, 2018, in response to a supervisory inquiry from the Respondent’s branch manager regarding the suitability of a client’s investment holdings, the Respondent altered a client’s investment objective on a Know-Your-Client account form without having met or discussed the information with the

client, and also signed the client's signature and initials on the account form, contrary to MFDA Rules 2.2.1 and 2.1.1;

- b) on or about May 17, 2018, the Respondent created two meeting notes that falsely stated that the Respondent had met with a client to approve changes to the client's KYC information, when the Respondent had not met with the client, and also signed the client's initials on the meeting notes, contrary to MFDA Rule 2.1.1.; and
- c) on or about May 25, 2018, the Respondent misled the Member during the course of its investigation into his conduct, when the Respondent falsely represented to the Member that he had met with a client to approve changes to the client's KYC information, 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 \$12,000 in certified funds upon acceptance of the Settlement Agreement, 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 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;
3. The Respondent shall in the future comply with MFDA Rules 2.1.1 and 2.2.1; 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]

DM 739348