



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: Jack L. Comeau

Heard: June 20, 2017 in Saskatoon, Saskatchewan

Decision: June 21, 2017

Reasons for Decision: October 31, 2017

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

Sherri Walsh	Chair
Kathleen Jost	Industry Representative
Richard Sydenham	Industry Representative

Appearances:

Maria L. Abate)	Counsel for the Mutual Fund Dealers
)	Association of Canada
)	
Shaunt Parthev)	Counsel for the Respondent
)	
Jack Comeau)	Respondent, In Person
)	

Background

1. This matter was commenced by way of a Notice of Hearing issued by the Mutual Fund Dealers Association (“MFDA”) on October 31, 2016. The first appearance was held by teleconference on December 5, 2016, at which time the matter was set to proceed as a Hearing on the Merits on June 21 and 22, 2017.
2. On June 21, 2017, being the first day of the hearing, Staff of the MFDA (“Staff”) advised the Hearing Panel that on June 19, 2017 it had entered into a settlement agreement with Jack L. Comeau (“Respondent”) pursuant to which the Respondent agreed to be disciplined under sections 20 and 24.1 of MFDA By-law No. 1 (“Settlement Agreement”).
3. The Settlement Agreement is attached to these Reasons as Schedule “1”.

Settlement Agreement

4. In the Settlement Agreement the Respondent admitted that he contravened Allegation No. 1 of the Notice of Hearing, namely, that in February 2010 he delivered a client communication which contained statements or conclusions with respect to the risks, features and rates of return of exempt market products he was recommending to the client that were misleading, unwarranted or exaggerated or that failed to identify the material assumptions made in arriving at those statements or conclusions contrary to MFDA Rules 2.8 and 2.1.1.
5. The penalty set out in the Settlement Agreement provided that: the Respondent shall be permanently prohibited from conducting securities-related business in any capacity over which the MFDA has jurisdiction pursuant to section 24.1.1(e) of MFDA By-law No. 1; there should be no Order for a fine or costs; and the Respondent agreed to attend at the Settlement Hearing in person.

Settlement Hearing

6. Accordingly, on June 21, 2017 the hearing before this Panel proceeded by way of a Settlement Hearing in accordance with section 24.4 of MFDA By-law No. 1.

7. The Respondent attended the Settlement Hearing and was accompanied by his legal counsel.

8. At the outset of the hearing Staff advised the Panel that the MFDA had elected to use its prosecutorial discretion to withdraw allegations numbered 2 and 3 from the Notice of Hearing that was issued on October 31, 2016, leaving only Allegation No. 1.

9. The Panel granted Staff's motion at the commencement of the hearing, to move the proceedings *in camera* while the Panel considered the Settlement Agreement. Settlement Hearings generally proceed *in camera* in order to protect the integrity of the process in the event that the Settlement Agreement is not accepted by the hearing Panel.

10. After hearing submissions by counsel for both parties this Panel accepted the Settlement Agreement and issued an Order to that effect. The written reasons for the Panel's decision are set out below.

Facts

11. Pursuant to Rule 15.3 of the MFDA Rules of Procedure, when deciding whether to accept a settlement agreement, a Panel can only rely on the facts which are set out in the Settlement Agreement itself unless the parties consent to provide additional facts. In this case the Panel did not seek to rely on any additional facts.

12. The facts, therefore, are set out in the Settlement Agreement as follows:

“IV. AGREED FACTS

Registration History

6. From January 1996 until November 7, 2011 when he resigned, the Respondent was registered in Saskatchewan, British Columbia, Manitoba, and Alberta as a mutual fund salesperson (now known as a dealing representative) with Sentinel Financial Management Corp. (“Sentinel”), a Member of the MFDA. At the time of his resignation, the Respondent was under a 90 day suspension by Sentinel starting on August 26, 2011.

7. At all material times, the Respondent conducted business in Saskatoon, Saskatchewan and operated under the approved trade name, of Comeau Financial Inc. (“Comeau Financial”).

8. Since January 16, 2012, the Respondent has been registered in Saskatchewan, Alberta, British Columbia, and Manitoba as a dealing representative with an exempt market dealer.

9. In 1998, client JR became a client of Sentinel. The Respondent was the mutual fund salesperson responsible for servicing his accounts at Sentinel.

10. In about February 2010, the Respondent and client JR discussed investing client JR’s pension monies.

11. On or about February 19, 2010, the Respondent prepared, and delivered to client JR, a memorandum with the subject line, “Information on alternative investments for [JR’s] pension” (the “Memorandum”). The Memo stated, among other, the following:

As discussed last Tuesday, I am enclosing some information on the various alternative investment opportunities that are currently available, and which I think would be appropriate for you to consider for your pension. As mentioned, I am recommending alternative investments to most of my clients for the following reasons:

1. The alternative investments have no or little correlation to the stock market, so they provide optimal diversification to investors who currently hold mutual funds and/or individual stocks. Greater diversification = lower overall level of risk for the portfolio.

2. The alternative investments that I deal with generally have potential for above-average returns. Investors (sic) are eager to invest into investments that generate good – excellent (sic) returns, as their mutual funds have not done (sic) so in the last 10 years.
3. The risk level of the alternative investments is generally low. There is no volatility. The biggest risk is typically illiquidity and time. The risk/reward profile of the alternative investments that I offer my clients is very attractive (low risk...high returns).
4. The alternative investments that I deal with allow investors to participate in business ventures that they normally would not be able to do so on their own (due to lack of funds, lack of time and/or lack of expertise). Ventures such as land development, oil production, and commercial properties are generally very profitable ventures that few investors can partake in.

I have enclosed some information on several land deals (Westbridge – Riverband project in Saskatoon; Walton Verona project in Phoenix (sic), Arizona). With both of these projects they will be converting land which is not very arable into urban land, therefore increasing their values substantially.

In addition, I have enclosed some information on the Standard Capital Resources fund. This is a very exciting investment opportunity investing in oilwells. This investment is projected to pay out a quarterly cashflow of 18 – 25% per year. I am very bullish on the price of crude oil, and therefore believe that this will be a very strong investment opportunity.

Lastly, I am enclosing some information on the Optimus U.S. Real Estate fund. This fund has been purchasing real estate properties in Phoenix (sic) and Las Vegas for crazy bargain-basement prices. The fund plans to pay out a yearly distribution in the 6-8% range, and sell the properties at greatly enhanced prices on the U.S. real estate market has turned around. This is anticipated to take 3-5 years, but the expectations are for very large returns (possibly in the range of doubling or tripling).

So, you can see that these alternative investments are very diversified, and all have great potential. They are a great compliment to mutual funds, and have the benefit of greatly enhancing the risk/reward ratio of your investment portfolio. I am recommending that you consider investing all or a good portion of your pension fund into these ideas. The remainder (if you don't want to put it all into alternative investments could be invested into more mutual funds).

12. The “alternative investments” described in the Memorandum, including the Standard Capital Resources fund (“Standard Resources”) and the Optimus U.S. Real Estate fund (“Optimus”), are exempt market products.

13. The Memorandum constituted a “client communication” within the meaning of MFDA Rule 2.8.1.

14. The Memorandum contained statements or conclusions with respect to the risks and features of the exempt market products that were misleading, unwarranted or exaggerated. Among other things, the Memorandum improperly stated or implied that:

- a) the exempt market products provided “optimal diversification” which would “lower the overall level of risk for the portfolio”;
- b) “the risk level of the alternative investments is generally low”; and
- c) the “risk/rewards profile” of the exempt market products was “low risk...high returns”.

15. In addition, the Memorandum contained statements or conclusions with respect to the anticipated rates of return for the exempt market products which were misleading, unwarranted or exaggerated, and failed identify the material assumptions made in arriving at those statements or conclusions.

16. The Respondent recommended that client JR invest his pension monies in exempt market products, as described in the Memorandum, and client JR was influenced in his decision by the representations in the Memorandum.

17. Based upon the Respondent’s recommendations, client JR invested his pension monies as described below.

18. On or about March 1, 2010, client JR transferred approximately \$41,633 from his group Registered Retirement Savings Plan (“RRSP”) with his former employer to his Sentinel RRSP account. On the same day, client JR also signed a subscription form to purchase \$23,000 of Standard Resources in his RRSP account. Client JR signed a Risk Acknowledgment dated March 1, 2010 prior to making the investment.

19. On or about April 7, 2010, client JR signed a New Account Application Form to open a Locked-in Retirement Account (“LIRA”). On the same day, client JR transferred the commuted value of his company pension, which was approximately \$84,181, to the LIRA.

20. On June 28, 2010, shortly after the pension transfer to the LIRA was completed, client JR signed subscription forms to invest \$59,850 in Standard Resources and \$18,900 in Optimus. Client JR signed Risk Acknowledgments dated, June 29, 2010, and June 28, 2010, prior to making these investments.

21. On September 22, 2011, the Alberta Securities Commission issued a cease trade order with respect to Standard Resources.

22. Client JR suffered significant investment losses as a result of the Respondent's investment recommendations described in the Memorandum. Client JR has been compensated for his investment losses.

23. The Respondent is 59 years of age and in poor health, having undergone a heart bypass operation, as well as 5 heart stents procedures, including one in October of 2016. The Respondent states that he has not conducted MFDA regulated business for over 5 years and is not desirous of ever conducting any other MFDA regulated business, and looks to retire from business in the next short while.”

Contravention

13. The Respondent admits that in February 2010, he delivered a client communication which contained statements or conclusions with respect to the risks, features and rates of return of exempt market products he was recommending to the client that were misleading, unwarranted or exaggerated, or that failed to identify the material assumptions made in arriving at those statements or conclusions, contrary to MFDA Rules 2.8 and 2.1.1.

Analysis

Role of the Hearing Panel

14. A Hearing Panel which presides over a Settlement Hearing has only two options – either to accept or reject the Settlement Agreement. The Panel has no authority to add, delete or vary the terms which have been agreed to by the parties.

MFDA By-law No. 1, s. 24.4.3

15. Further, Hearing Panels have consistently identified that a Panel does not perform the same role in a Settlement Hearing that it performs in a Contested Hearing:

“In a contested Hearing, the Hearing Panel attempts to determine the correct penalty. In a Settlement Hearing, the Hearing Panel takes into account the settlement process itself and the fact that the parties have agreed to the penalty set out in the Settlement Agreement. In our view, a Hearing Panel should not interfere lightly in a negotiated settlement as should not reject a Settlement Agreement unless it views the penalty as clearly falling outside a reasonable range of appropriateness...”

Re: Clark (Re), [1999] I.D.A.C.D. No. 40 at page 3 as cited in *Professional Investments (Kingston) Inc. (Re)*, 2009 LNCMFDA 9 at para. 13

16. At the hearing, Staff reminded the Panel of the importance and usefulness of settlements in achieving an outcome which furthers the important goal, in a securities regulatory context, of ensuring protection of the public. Citing authorities, Staff submitted that settlements assist regulators in meeting their objective of protecting the public by proscribing activities that are harmful to the public through the means of a flexible remedy which is tailored to address the interests of both the regulator and the person under investigation. As an added benefit, enforcement is rarely a concern because the settlement is voluntary.

British Columbia (Securities Commission) v. Seifert, [2007] BCCA 484 at para. 31

Factors Concerning Acceptance of a Settlement Agreement

17. Hearing Panels have repeatedly expressed the view that generally, Settlement Agreements should be accepted, bearing in mind the following criteria:

1. It is in the public interest to do so and that the penalties proposed will be sufficient to protect investors;
2. The agreement is reasonable and proportionate, having regard to the conduct of the Respondent;

3. The agreement addresses the issues of both specific and general deterrence;
4. The agreement is likely to prevent the type of conduct set out in the facts;
5. The agreement will foster confidence in the integrity of the Canadian capital markets;
6. The agreement will foster confidence in the integrity of the MFDA; and
7. The agreement will foster confidence in the regulatory process itself.

Sterling Mutuals Inc. (Re), MFDA File No. 200820, Hearing Panel of the Central Regional Council, Decision and Reasons dated September 3, 2008, at para. 36

18. In determining whether to accept a Settlement Agreement a Hearing Panel should not reject a settlement unless it views "... the penalty as clearly falling outside a reasonable range of appropriateness".

Sterling Mutuals Inc. (Re), supra, at para. 37

Appropriateness of the Proposed Penalty

19. The primary goal of all securities regulation, whether such regulation arises through legislation or is imposed by a self-regulating organization such as the MFDA, is –protection of the investing public. This longstanding principle emerges from the Supreme Court of Canada’s decision in: *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557.

20. In determining the appropriateness of a proposed penalty Hearing Panels frequently cite the Panel’s decision in *Breckenridge (Re)*, MFDA File No. 200718, Hearing Panel of the Central Regional Council, Decision and Reasons dated November 14, 2007, where the Panel stated that sanctions "... should be preventative, protective and prospective in nature ..." and should take into account the following considerations:

- a) protection of the investing public;
- b) the integrity of the securities markets;

- c) specific and general deterrence;
- d) protection of the MFDA's membership; and
- e) protection of the integrity of the MFDA's enforcement processes.

Breckenridge (Re), supra, at paras. 76 & 77

21. In addition to these general considerations the Panel in *Breckenridge* set out the following factors which a Panel should consider, having regard to the specific circumstances of the case:

- a) The seriousness of the allegations proved against the respondent;
- b) The respondent's experience in the capital markets;
- c) The level of the respondent's activity in the capital markets;
- d) The harm suffered by investors as a result of the respondent's activities;
- e) The benefits received by the respondent as a result of the improper activity;
- f) The risk to investors and the capital markets in the jurisdiction, were the respondent to continue to operate in capital markets in the jurisdiction;
- g) The damage caused to the integrity of the capital markets in the jurisdiction by the respondent's improper activities;
- h) 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;
- i) The need to alert others to the consequences of inappropriate activities to those who are permitted to participate in capital markets; and
- j) Previous decisions made in similar circumstances.

Breckenridge (Re), supra, at para. 78

Application of the above Factors in the Present Case

22. In its submissions as to the appropriateness of the proposed penalty, Staff focused first on the nature of the misconduct at issue, namely: delivering misleading client communications, in

violation of MFDA Rules 2.8 and 2.1.1. The details of that conduct are set out in paragraph 11 of the Settlement Agreement and in the facts as reproduced above.

23. Staff pointed out that the client in this case suffered significant investment losses as the result of the Respondent's contravention of the Rules.

24. The Settlement Agreement identifies that the client has since been compensated for those losses.

25. In determining the appropriateness of the penalty Staff also considered the Respondent's past conduct and level of activity in the Markets. In this regard, Staff highlighted for the Panel the facts set out at paragraph 6 of the Settlement Agreement which identify that the Respondent was registered from January 1996 to November 2011 as a mutual fund sales person with Sentinel and that in November 2011 when the Respondent resigned from Sentinel he was under a 90 day suspension which had been imposed by the Member.

26. Since January 16, 2012 the Respondent has been registered in Saskatchewan, Alberta, British Columbia and Manitoba as a dealing representative with an exempt market dealer.

27. Staff also drew to the Panel's attention the decision of a Hearing Panel of the Prairie Regional Council which was made on July 30, 2013 where the Panel found that the Respondent had breached:

- a) MFDA Rule 1.1.1(a) by engaging in securities related business that was not carried on for the account and through the facilities of the Member;
- b) MFDA Rule 1.1.2 by engaging in off-book transactions, thereby interfering with the Member's ability to supervise him;
- c) MFDA Rule 2.1.1(c) in that he engaged in conduct unbecoming of an Approved Person by selling off-book products; and

- d) MFDA Rule 2.1.1 in that he interfered with a reasonable supervisory investigation and made misleading and inaccurate statements, thereby failing to observe high standards of ethics and conduct in the transaction of business.

Re: Jack Louis Comeau, [2013] Hearing Panel of the Prairie Regional Council, File No. 201217, Hearing Panel Decision dated July 30, 2013

28. After that misconduct hearing was held, a further hearing was held to determine penalty on the same matter and the Hearing Panel imposed the following penalty on the Respondent:

- (1) The Respondent was prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 18 months.
- (2) A fine in the amount of \$100,000.
- (3) Costs in the amount of \$5,000.
- (4) The completion of the Conduct and Practices Handbook Course before reinstatement as an Approved Person.

Re: Jack Louis Comeau, [2013] Hearing Panel of the Prairie Regional Council, File No. 201217, Hearing Panel Decision dated December 11, 2013

29. While these two decisions relating to the Respondent's previous conduct were not cited in the Settlement Agreement, as Staff pointed out, they are a matter of public record.

30. Staff advised the Panel, therefore, that in negotiating and reaching the Settlement Agreement it considered the Respondent's past conduct and level of activity in the Capital Markets as described above.

31. These are factors which may be described when determining an appropriate penalty, as "aggravating factors".

32. Staff went on to point out that in reaching the Settlement Agreement it also considered the fact that by reaching this Agreement the Respondent has shown that he recognizes the seriousness of his misconduct and that he has worked diligently to avoid another costly and difficult contested hearing with Staff.

33. The Panel considers the Respondent's conduct in admitting the contravention and saving the time and expense of conducting a full hearing on the merits to be a "mitigating factor", when determining the appropriateness of the proposed penalty.

34. The Panel acknowledges that the proposed penalty to which the Respondent has agreed, being a permanent prohibition from ever becoming an MFDA approved person and dealing representative is, as Staff pointed out, the most serious penalty to which an Approved Person can agree. To quote Staff, it is the "strongest tool in the MFDA's penalty tool box".

35. Further, Staff pointed out that although the issue of client compensation is not within the authority of the MFDA or its Hearing Panels, the fact that in this case the client was compensated was a key factor in the parties arriving at what Staff feel is a reasonable and appropriate settlement.

36. Staff advised that the Respondent did not receive any financial benefit other than the normal commission and trader fees associated with the products which he had recommended for the client and that the products were approved for sale by the Respondent's Member.

37. Staff submitted that the effect of the negotiated penalty, being the permanent removal of the Respondent from ever being able to seek registration as an Approved Person or Dealing Representative, by eliminating any future possibility of misconduct by the Respondent, supports the primary principle of securities regulation, being protection of risk to members of the public.

38. Staff also submitted that acceptance of the proposed Settlement will assist the MFDA's mandate to deliver responsible and effective regulation and promote confidence in the market

place by supporting its authority to remove from the market place those whose behaviour does not abide by the rules.

39. With respect to cases dealing with similar decisions, Staff was only able to find two MFDA cases that dealt with the issue of client communications. Both cases involved acceptance of the Settlement Agreements reached between the parties. Each of those decisions, however, was specific to the facts of the case and was not of particular assistance in this matter.

40. As for the factors of specific and general deterrence – Staff submitted that with respect to specific deterrence, the Respondent will be forever prohibited from working as a mutual fund sales person. With respect to general deterrence, Staff submitted that by accepting the Settlement Agreement a statement will be made to both the public and the mutual fund industry that serious consequences will befall those who engage in activities that are contrary to the MFDA Rules.

41. Further, as Staff submitted, the Settlement Agreement, once accepted, will serve to educate and inform other Approved Persons and their compliance departments about appropriate client and sales communications. In that way, acceptance of the Settlement Agreement will serve as a good educational tool, furthering the goal of general deterrence.

Acceptance of the Settlement Agreement

42. The Panel acknowledges that the Settlement Agreement was reached by the parties after significant discussion and negotiation.

43. Having reviewed the written submission of Staff, and having heard oral submissions from Staff, counsel for the Respondent and from the Respondent himself, the Panel is satisfied, based on the totality of the evidence, that the penalty which has been agreed upon and set out in the Settlement Agreement, falls within the reasonable range of appropriateness.

44. The Panel acknowledges that the penalty satisfies the primary goal of securities regulation namely the protection of the investor and clearly demonstrates that the Respondent's misconduct, in all of the circumstances, was serious and has significant consequences.

45. Acceptance of the Settlement Agreement will foster public confidence in the integrity of the Canadian Markets, of the MFDA and the regulatory process itself.

46. Accordingly, the Panel accepts the Settlement Agreement.

DATED this 31st day of October, 2017.

“Sherri Walsh”

Sherri Walsh
Chair

“Kathleen Jost”

Kathleen Jost
Industry Representative

“Richard Sydenham”

Richard Sydenham
Industry Representative

Schedule “1”

Settlement Agreement

File No. 201609



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: Jack L. Comeau

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (“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 Prairie Regional Council (“Hearing Panel”) of the MFDA should accept the settlement agreement (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Jack L. Comeau.

II. 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.

III. 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 with a view of compromise, and further agree that this agreement of facts, admissions made herein, consent to contraventions and penalty, or otherwise, is made without prejudice to the Respondent or Staff, and may not be utilized in any way in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA 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.

IV. AGREED FACTS

Registration History

6. From January 1996 until November 7, 2011 when he resigned, the Respondent was registered in Saskatchewan, British Columbia, Manitoba, and Alberta as a mutual fund salesperson (now known as a dealing representative) with Sentinel Financial Management Corp. (“Sentinel”), a Member of the MFDA. At the time of his resignation, the Respondent was under a 90 day suspension by Sentinel starting on August 26, 2011.

7. At all material times, the Respondent conducted business in Saskatoon, Saskatchewan and operated under the approved trade name, of Comeau Financial Inc. (“Comeau Financial”).
8. Since January 16, 2012, the Respondent has been registered in Saskatchewan, Alberta, British Columbia, and Manitoba as a dealing representative with an exempt market dealer.
9. In 1998, client JR became a client of Sentinel. The Respondent was the mutual fund salesperson responsible for servicing his accounts at Sentinel.
10. In about February 2010, the Respondent and client JR discussed investing client JR’s pension monies.
11. On or about February 19, 2010, the Respondent prepared, and delivered to client JR, a memorandum with the subject line, “Information on alternative investments for [JR’s] pension” (the “Memorandum”). The Memo stated, among others, the following:

As discussed last Tuesday, I am enclosing some information on the various alternative investment opportunities that are currently available, and which I think would be appropriate for you to consider for your pension. As mentioned, I am recommending alternative investments to most of my clients for the following reasons:

1. The alternative investments have no or little correlation to the stock market, so they provide optimal diversification to investors who currently hold mutual funds and/or individual stocks. Greater diversification = lower overall level of risk for the portfolio.
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3. The risk level of the alternative investments is generally low. There is no volatility. The biggest risk is typically illiquidity and time. The risk/reward profile of the alternative investments that I offer my clients is very attractive (low risk...high returns).
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land development, oil production, and commercial properties are generally very profitable ventures that few investors can partake in.

I have enclosed some information on several land deals (Westbridge – Riverband project in Saskatoon; Walton Verona project in Pheonix (sic), Arizona). With both of these projects they will be converting land which is not very arable into urban land, therefore increasing their values substantially.

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So, you can see that these alternative investments are very diversified, and all have great potential. They are a great compliment to mutual funds, and have the benefit of greatly enhancing the risk/reward ratio of your investment portfolio. I am recommending that you consider investing all or a good portion of your pension fund into these ideas. The remainder (if you don't want to put it all into alternative investments could be invested into more mutual funds).

12. The “alternative investments” described in the Memorandum, including the Standard Capital Resources fund (“Standard Resources”) and the Optimus U.S. Real Estate fund (“Optimus”), are exempt market products.

13. The Memorandum constituted a “client communication” within the meaning of MFDA Rule 2.8.1.

14. The Memorandum contained statements or conclusions with respect to the risks and features of the exempt market products that were misleading, unwarranted or exaggerated. Among other things, the Memorandum improperly stated or implied that:

- a) the exempt market products provided “optimal diversification” which would “lower the overall level of risk for the portfolio”;
- b) “the risk level of the alternative investments is generally low”; and
- c) the “risk/reward profile” of the exempt market products was “low risk...high returns”.

15. In addition, the Memorandum contained statements or conclusions with respect to the anticipated rates of return for the exempt market products which were misleading, unwarranted or exaggerated, and failed identify the material assumptions made in arriving at those statements or conclusions.

16. The Respondent recommended that client JR invest his pension monies in exempt market products, as described in the Memorandum, and client JR was influenced in his decision by the representations in the Memorandum.

17. Based upon the Respondent’s recommendations, client JR invested his pension monies as described below.

18. On or about March 1, 2010, client JR transferred approximately \$41,633 from his group Registered Retirement Savings Plan (“RRSP”) with his former employer to his Sentinel RRSP account. On the same day, client JR also signed a subscription form to purchase \$23,000 of Standard Resources in his RRSP account. Client JR signed a Risk Acknowledgment dated March 1, 2010 prior to making the investment.

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20. On June 28, 2010, shortly after the pension transfer to the LIRA was completed, client JR signed subscription forms to invest \$59,850 in Standard Resources and \$18,900 in Optimus.

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21. On September 22, 2011, the Alberta Securities Commission issued a cease trade order with respect to Standard Resources.

22. Client JR suffered significant investment losses as a result of the Respondent's investment recommendations described in the Memorandum. Client JR has been compensated for his investment losses.

23. The Respondent is 59 years of age and in poor health, having undergone a heart bypass operation, as well as 5 heart stents procedures, including one in October of 2016. The Respondent states that he has not conducted MFDA regulated business for over 5 years and is not desirous of ever conducting any other MFDA regulated business, and looks to retire from business in the next short while.

V. CONTRAVENTIONS

24. The Respondent admits that, in February 2010, he delivered a client communication which contained statements or conclusions with respect to the risks, features and rates of return of exempt market products he was recommending to the client that were misleading, unwarranted or exaggerated, or that failed to identify the material assumptions made in arriving at those statements or conclusions, contrary to MFDA Rules 2.8 and 2.1.1.

VI. TERMS OF SETTLEMENT

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

- a) the Respondent shall be permanently prohibited from conducting securities related business in any capacity over which the MFDA has jurisdiction, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

- b) there shall be no order as to a fine or costs; and
- c) the Respondent will attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

26. 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 contraventions described in Part V of this Settlement Agreement, subject to the provisions of Part IX below. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

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

28. 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.

29. 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. 24.1.1 and/or 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.

30. 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 him.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

31. 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

32. 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. Furthermore, the Respondent having engaged in such negotiations shall not be deemed as having attorned to the jurisdiction of the MFDA and Staff, and the Respondent maintains his right to assert that the MFDA lacks jurisdiction over him pursuant to section 24.1.4(b) of By-law No. 1 in the event that this Settlement Agreement is not accepted by the Hearing Panel.

33. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that 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.

XI. DISCLOSURE OF AGREEMENT

34. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 19th day of June, 2017.

“Jack L. Comeau”

Jack L. Comeau

“DG”

Witness – Signature

DG

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. 201609



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: Jack L. Comeau

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (“MFDA”) issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Jack L. Comeau (“Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (“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, in February 2010, the Respondent delivered a client communication to client JR which contained statements or conclusions with respect to the risks, features and rates of return of exempt market products he was recommending to the client that were misleading, unwarranted or exaggerated, or that failed to identify the material assumptions made in arriving at those statements or conclusions, contrary to MFDA Rules 2.8 and 2.1.1;

AND WHEREAS client JR has been compensated for investment losses;

AND WHEREAS the Respondent is 59 years of age and in poor health, and is not desirous of ever conducting any business over which the MFDA has jurisdiction;

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall be permanently prohibited from conducting securities related business in any capacity over which the MFDA has jurisdiction, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
2. No fine or costs shall be paid by the Respondent; and
3. 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]