



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: Connor Financial Corporation and Joel Gerrett (Gerry) Connor

Heard: February 25, 2011 in Vancouver, British Columbia
Reasons for Decision: March 29, 2011

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

The Hon. H. Benjamin Casson, Q.C.
Holly Millar
Larry Neilsen, CA

Chair
Industry Representative
Industry Representative

Appearances:

Gordon R. Johnson)	For the Mutual Fund Dealers Association of
)	Canada
John Forstrom)	For the Respondents, Connor Financial
)	Corporation and Gerry Connor
)	

TABLE OF CONTENTS

	<u>Page</u>
A. LIST OF EXHIBITS.....	2
B. REVIEW OF PROCEEDINGS	2
C. AGREED FACTS.....	6
D. AGREED CONTRAVENTIONS	19
E. AGREED TERMS OF SETTLEMENT	20
F. APPROVAL OF SETTLEMENT AGREEMENT	21

A. LIST OF EXHIBITS

Exhibit 1 Settlement Agreement dated February 8, 2010

B. REVIEW OF PROCEEDINGS

1. By Notice of Hearing dated December 23, 2009, the Mutual Fund Dealers Association of Canada (the “MFDA”) commenced a disciplinary proceeding against Connor Financial Corporation (“CFC”) and Joel Gerrett (Gerry) Connor (“Connor”) (collectively, “the Respondents”) pursuant to sections 20 and 24 of MFDA By-law No. 1.

2. The Notice of Hearing set out the following violations of the By-laws, Rules and Policies of the MFDA:

ALLEGATION 1: BREACH OF TERMS AND CONDITIONS

From the time that its membership in the MFDA was approved on June 28, 2007 to the date of issuance of this Notice of Hearing (the “Relevant Period”), CFC has failed to comply with the agreed terms and conditions of its membership (the “Terms & Conditions”) by:

- (a) Failing to transition its operations, books, records and accounts to a Level 2 dealer

- by no later than December 31, 2007, as required by Term & Condition number 2;
- (b) Failing to satisfy all requirements and obligations of a Level 4 dealer until CFC completed its transition to a Level 2 dealer, as required by Term & Condition number 3;
 - (c) Failing to provide written account statements to clients in accordance with MFDA Rule 5.3 by no later than December 31, 2007, as required by Term & Condition number 5;
 - (d) Failing to rectify deficiencies in its policies and procedures manual by no later than December 31, 2007, as required by Term & Condition number 6;
 - (e) Failing to ensure that Mr. Connor provide various certifications on behalf of CFC, in writing, by July 31, 2008, and again by July 31, 2009, as required by Term & Condition number 7;
 - (f) Failing to submit by July 31, 2008 and again by July 31, 2009, a report on the status of compliance at CFC, as required by Term & Condition number 8;
 - (g) Failing to retain an approved independent consultant to provide various services by December 31, 2007, as required by Term & Condition number 9; and
 - (h) Failing to provide a loan status report to clients who had loans with an affiliate and failing to provide, or to provide in a timely way to staff of the MFDA (“Staff”), various loan documents and particulars, as required by subparagraphs (c), (d), (e) and (f), of Term & Condition number 11.

The conduct described in Allegations 1(a) to (h) above constituted a failure by CFC to comply with its agreement with the MFDA to conduct itself in accordance with the Terms and Conditions and was also contrary to the public interest, thereby engaging the jurisdiction of the Hearing Panel to impose penalties upon CFC in accordance with ss. 24.1.2(i) and (k) of MFDA By-law No. 1.

ALLEGATION 2: FAILURE TO COOPERATE

CFC failed to cooperate with requests by Staff for information which Staff was entitled to under Term & Condition number 11 as well as for information Staff was entitled to under sections 22.1 and 22.2 of MFDA By-law No. 1 by:

- (a) Failing to cooperate, or to cooperate in a timely way, with requests by Staff, in furtherance of Term & Condition number 11, for documents and particulars relating to the loan business of CFC and an affiliated lending company; and
- (b) Failing to provide substantive responses to various requests by staff during the course of a compliance examination and, in particular, to requests in various letters, including letters dated January 13, 2009, February 6, 2009, April 22, 2009 and August 20, 2009, which were delivered to CFC by Staff as a part of a compliance examination

ALLEGATION 3: NEW ACCOUNT CLIENT APPLICATION FORMS

CFC failed to comply with MFDA Rules 2.2.2, 2.2.3 and 2.2.4 and MFDA Policy No. 2 regarding the process for approving and updating account opening documentation as follows:

- (a) CFC accepted amendments to KYC forms without signing or dating the amended KYC forms;
- (b) CFC used a NAAF/KYC form which did not include a space to record the date of the client signature or the date of the signature that the designated person at the Member approved the account opening and on which CFC was not otherwise recording the dates of those signatures in all cases;
- (c) CFC used new client application forms which failed to differentiate between the risk tolerances, time horizons and investment objectives for accounts of clients with multiple accounts.

ALLEGATION 4: TRADE BLOTTERS

CFC failed to maintain or produce for inspection required trade blotters in that the records maintained by CFC did not contain an itemized daily record of all purchases and sales of securities, including the name of the security and the unit and aggregate purchase or sale price of the security as required by MFDA Rule 5.1(a).

ALLEGATION 5: PRE-SIGNED FORMS & IMPROPER TRADE AUTHORIZATIONS

- (a) CFC failed to comply with MFDA Rules 2.3.1(a) and 2.1.1 by obtaining and maintaining pre-signed client forms in nine client files.
- (b) CFC failed to comply with MFDA Rules 2.3.2 and 2.1.1 by accepting trading authorization forms from clients for a purpose other than only facilitating trade execution and in a form which was not prescribed by the MFDA.

ALLEGATION 6: OUT OF PROVINCE ACCOUNTS

CFC operated accounts for clients in jurisdictions outside of British Columbia in which CFC was not registered, contrary to MFDA Rules 1.1.4 and 1.1.5.

ALLEGATION 7: MR. CONNOR

At all times since CFC became a Member on June 28, 2007, Mr. Connor, as the director, president, compliance officer and controlling mind of CFC engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that CFC maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, and more specifically, caused CFC to breach MFDA By-laws, Rules and Policies as set out in Allegations 1 to 7 inclusive, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy No. 2.

3. A First Appearance was held, by teleconference, on February 16, 2010. Both Parties were present with their Counsel. The Panel heard and granted a joint application to adjourn the proceedings to October 18, 2010, to enable Counsel to discuss the merits of the MFDA's allegations.

4. An appearance was held before the Panel, by teleconference, on October 18, 2010. Both Parties were present with their Counsel. Once again, the Panel heard and granted a joint application to adjourn the proceedings to enable Counsel further time to discuss the merits of the MFDA's allegations. January 24, 2011 was set for a hearing on the merits.

5. Another appearance took place on January 24, 2011. Both Parties were present with their

Counsel. The Panel heard and granted a joint application for an adjournment to allow for further discussion of the merits of the MFDA's allegations. The Panel stipulated, without objection, that the hearing on the merits would proceed, in person, at a time and place to be arranged by the Hearings Coordinator for the MFDA. A hearing on the merits was scheduled for February 25, 2011 in Vancouver, British Columbia.

6. On February 24, 2011 (the day prior to the hearing date) the Panel was informed that the Parties had executed a Settlement Agreement in this matter which would be presented to the Panel for its consideration on February 25, 2011.

7. Prior to the commencement of the hearing on February 25, 2011, Gordon Johnson, Enforcement Counsel for the MFDA ("Enforcement Counsel"), presented to the Panel, with consent, a written Submission in support of the Settlement Agreement.

8. At the commencement of the Settlement Hearing on February 25, 2011, the Panel heard and granted a joint application to proceed with the hearing "in camera".

C. AGREED FACTS

9. The Panel finds it necessary, in this particular Decision, to record from the Settlement Agreement the Agreed Facts in order to show the extent of Connor's pattern of non-compliance (paragraph numbers remain the same). The Agreed Facts are:

Registration History

4. CFC is registered in British Columbia as a mutual fund dealer and is also subject to the same conditions as are imposed on dealers in British Columbia that sell securities pursuant to exemptions in local securities legislation. As set out in greater detail below, CFC became a Member of the MFDA June 28, 2007. CFC maintains its principal office at 1405 Fernwood Road, Victoria, B.C.

5. From January 1984 to June 28, 2007, the CFC was registered in British Columbia as a mutual fund dealer and was supervised by the British Columbia Securities

Commission (the “BCSC”).

6. Mr. Connor is registered in British Columbia as the President, a director, the compliance officer and a mutual fund salesperson of CFC. Mr. Connor is the founder, sole shareholder and sole director of CFC. Mr. Connor has been the sole registered employee of CFC since approximately 1990 and the sole Approved Person of CFC since it became a Member of the MFDA.

Membership History

7. In 2001, the BCSC enacted rules requiring registered mutual fund dealers to become Members of the MFDA. CFC applied for membership in the MFDA in 2001. However, the processing of the application was suspended for an extended period pending resolution of certain outstanding issues between CFC and the BCSC, and materials required to accompany the application were not finalized by CFC for several years. Eventually, the membership of CFC in the MFDA was approved, subject to the Terms & Conditions, by a decision by the Executive Committee of the board of Directors of the MFDA dated June 28, 2007.

8. The Terms & Conditions applicable to CFC’s membership are quoted below, using the same numbering as used by the Executive Committee in its decision:

- (1) CFC shall be granted membership in the MFDA as a Level 2 dealer.
- (2) CFC shall complete the transition of its operations, books, records and accounts to a Level 2 dealer by no later than December 31, 2007.
- (3) Until such time as CFC completes its transition to a Level 2 dealer, CFC shall satisfy all requirements and obligations of Level 4 dealer, including the requisite FIB, minimum capital requirements and monthly reconciliation of client positions.
- (4) CFC will ensure that it is in compliance with the MFDA’s required financial reports requirements and has sufficient risk adjusted capital by no later than August 31, 2007, being the date by which it is required to file its July 2007 FQR.

- (5) CFC will comply with its obligation to provide account statements to clients in accordance with MFDA Rule 5.3 by no later than December 31, 2007.
- (6) CFC will rectify any identified deficiencies in its Policies and Procedures Manual (“PPM”) by no later than December 31, 2007.
- (7) Joel Gerrett Connor shall, on behalf of CFC, certify in writing to MFDA Staff on an annual basis, by no later than 30 days following CFC’s fiscal year end, that he has reviewed the operations and the books and records of CFC and is satisfied that CFC and its Approved Persons, including Connor, are in compliance with all orders, decisions or terms and conditions and registration, and shall identify and explain any instances of non-compliance.
- (8) CFC shall submit to Staff on an annual basis, by no later than 30 days following CFC’s fiscal year end, a copy of the report on the status of compliance of CFC that the Compliance Officer is required to submit to the board of directors of CFC in accordance with MFDA Rule 2.5.2(b).
- (9) CFC shall, at its own expense, retain Consultant A as an independent consultant to conduct a review of CFC’s operations and books and records for compliance with all MFDA and any other applicable regulatory requirements including any orders, decisions or terms and conditions of registration; and to assist CFC in implementing changes to address identified deficiencies; and to test the implementation and report to Staff by no later than December 31, 2007 thereon. Without limiting the generality of the foregoing, Consultant A shall be granted access to all of CFC’s books, records and accounts and Consultant A’s review shall include on-site visits as required to perform his review and shall include the subject matter addressed by the items in this Order.
- (10) CFC is prohibited from holding or handling client funds through a trust account or otherwise and without limiting the generality of the foregoing, CFC is prohibited from:
 - a. Holding funds on behalf of clients;
 - b. Receiving funds from clients for payment or settlement of trades in securities on behalf of the client;
 - c. Receiving from clients cheques made out to CFC for payment of or settlement of trades in securities on behalf of the client;

- d. Receiving from other persons funds payable to the client on account of the sale of or settlement of trades in securities on behalf of the client; and
- e. Receiving from other persons cheques made out to CFC on account of the sale of or settlement of trades in securities on behalf of the client.

(11) In connection with CFCS/CFSI loan business:

- a. CFC is prohibited from making any new loans to existing clients directly or indirectly, including loans made to CFSI or any other person or entity affiliated with or related to CFC;
- b. CFC is prohibited from accepting new clients any persons or entities which have borrowed money from CFC, CFSI or any other person or entity affiliated with or related to CFC;
- c. CFC shall report to each client with any outstanding loan obligations to CFSI at least annually on the status of any loans to that client, including outstanding balance, repayments and interest;
- d. CFC shall provide Staff with the loan documentation and particulars of all loans by CFSI to CFC clients existing as of the date of CFC's membership sufficient to enable Staff to identify:
 - i. CFSI's security for each loan, if any; and
 - ii. The implications of the loans on transfer or liquidation of client accounts.
- e. Where loan documentation in item (d) above does not exist or cannot be produced, CFC shall promptly obtain such loan documentation from the clients concerned by no later than December 31, 2007;
- f. Upon request by the MFDA, CFC shall promptly provide the MFDA with the names of all non-clients of CFC to whom CFSI has loaned money and the particulars of said loans;
- g. Upon request by the MFDA, CFC shall, for as long as CFSI has loans outstanding to CFC clients and others, provide the MFDA with copies of its annual financial statements and reasonable access to the books, records and accounts of CFSI for the purpose of assessing the financial condition of CFSI, the status of any loans to CFC clients and others and the potential impact of those loans on the capital position of CFC.

9. In addition to imposing the Terms & Conditions referenced above, the Executive Committee included various comments in its decision regarding what was expected of CFC. Those expectations are listed in full in the decision.

10. The terms & Conditions were agreed to by CFC prior to being made terms and conditions of CFC's membership by the Executive Committee and therefore constituted an agreement between CFC and the MFDA for the purposes of s.24.1.2(i) of MFDA By-law No. 1.

11. As set out in greater detail below, after being granted membership in the MFDA, CFC failed to comply with eight of the eleven Terms & Conditions in whole or in part. Specifically, as described below, CFC failed to comply or to fully comply with the Terms & Conditions numbered 2, 3, 5, 6, 7, 8, 9 and 11.

Compliance Examination of CFC

12. In or about September 2008, Staff commenced a compliance examination of CFC for the period June 28, 2007 to June 30, 2008 (the "2008 Examination") for the purpose of assessing CFC's compliance with the By-laws, Rules and Policies of the MFDA. The results of the 2008 Examination were summarized in a report, dated January 13, 2009, provided to CFC (the "2008 Compliance Report"). As set out in greater detail below, the 2008 Compliance Report identified deficiencies in CFC's operations which form the subject matter of certain of the allegations in this Notice of Hearing.

CFC's Resignation

13. After receiving the Notice of Hearing in this proceeding CFC gave notice by letter dated February 8, 2010 to the MFDA of its intention to resign as a member of the MFDA.

14. If CFC had not submitted its resignation voluntarily, the relief sought by the MFDA in this proceeding would have been significantly different.

Allegation #1(A) – Transition to Level 2 dealer

15. CFC failed to fully comply with Term & Condition number 2.

16. At the time CFC became a Member of the MFDA, CFC operated in the same manner as Level 4 dealer in that it held client securities in nominee name. Specifically, the holdings of CFC clients in various mutual fund investments were registered with those mutual fund companies in the name of CFC on behalf of the clients.

17. Term & Condition number 2 required CFC to complete the transition of its operations, books, records and accounts to a Level 2 dealer by no later than December 31, 2007. A Level 2 dealer is not permitted to hold client cash, securities or other property in nominee name. In order to meet Term & Condition number 2, CFC was therefore required to, among other things, convert all of its nominee name accounts into accounts held in the names of its individual clients (or “client name” accounts).

18. CFC did not take steps to implement the conversion of accounts into client names until December of 2007. Late that month CFC instructed the relevant mutual fund companies to convert accounts into client names. Most accounts were converted to client names by December 31, 2007 but some were not. In some cases the relevant mutual fund companies did not complete the conversion until January of 2008. In some other cases the relevant mutual fund companies either did not receive or did not immediately act upon instructions to convert accounts to client names.

19. Furthermore, CFC admits that it continues to maintain one account as a nominee for one client. Through dealings before CFC became an MFDA member, a company affiliated with CFC (“CFSI”) lent money to this client, and CFC asserts the client agreed that CFSI would maintain a security interest in the account assets. The client now disputes the obligation to repay the loan. The fund company declined to amend the account designation except by joint direction of the client and CFC. CFC did not convert the account into the client’s name until February of 2011.

Allegation #1(B) – Maintenance of Level 4 dealer requirements

20. CFC failed to fully comply with Term & Condition number 3.

21. Term & Condition number 3 required CFC to satisfy all requirements and obligations of a Level 4 dealer until CFC completed its transition to a Level 2 dealer. This required CFC to maintain FIB (financial institution bond) coverage at a single loss limit of liability of \$500,000 in accordance with MFDA Rule 4.4.1(a). Despite repeated warnings by Staff that CFC was not a Level 2 dealer and would not become a Level 2 dealer until CFC transferred all of its nominee name accounts into client names, CFC reduced its single loss limit of liability to \$200,000, the amount required of a Level 2 dealer pursuant to MFDA Rule 4.4.1(a).

22. The client holding the remaining nominee account as described in paragraph 19 above, has a current value of approximately \$7400. Since January, 2008, CFC has set aside additional capital (above minimum free capital requirement) equivalent to the value of the disputed account, to protect against any contingent liability in relation to the account.

Allegation #1(C) – Account Statements

23. CFC failed to fully comply with Term & Condition number 5.

24. Term and Condition number 5 required CFC to provide written account statements to clients in accordance with the requirements of MFDA Rule 5.3 by no later than December 31, 2007. CFC failed to send out client statements by December 31, 2007. The statements which were sent by CFC in July of 2008 did not comply with the requirements of MFDA Rule 5.3 in that the statements did not include sufficient transactional information, the date the statement was issued, the period covered by the statement or the legal address and telephone number of CFC.

25. CFC delivered written account statements to clients in July of 2009. CFC admits that it did not take adequate steps to ensure that compliant client account statements were delivered within the time required by Term and Condition number 5, but some of the

delay was caused by technical difficulties and by misunderstandings between CFC and its software consultant. Had CFC began work earlier to develop the capabilities to generate the statements and had CFC given the project more priority, any delays would have been avoided.

Allegation #1(D) – Policies and procedures manual

26. CFC failed to fully comply with Term & Condition number 6.

27. Term and Condition number 6 required CFC to rectify any identified deficiencies in its policies and procedures manual by no later than December 31, 2007. Despite having been informed of deficiencies from and before May 2007, CFC failed to correct any deficiencies by December 31, 2007. The revised policies and procedures manual prepared by CFC after that date still failed to resolve all deficiencies which had been identified by staff. Despite extensive follow-up communications from the MFDA about this issue, CFC admits that it did not take adequate steps to ensure that the deficiencies in its policies and procedures manual were remedied as required by Term and Condition number 6.

Allegation #1(E) – Certification by Mr. Connor

28. CFC failed to comply with Term & Condition number 7.

29. Term and Condition number 7 required Mr. Connor to certify various things on behalf of CFC, in writing, by July 31, 2008 and again by July 31, 2009, including that Mr. Connor had reviewed the operations and books and records of CFC and was satisfied as to certain things, including compliance with regulatory requirements. CFC did not comply with that Term & Condition prior to the deadline. An inadequate, partial response was delivered several weeks late.

Allegation #1(F) – Annual compliance report

30. CFC breached Term & Condition number 8.

31. Term and Condition number 8 required CFC to submit by July 31, 2008 and again by July 31, 2009, a report on the status of compliance at CFC that a compliance officer would be required to submit in accordance with MFDA Rule 2.5.2(b). CFC did not comply with that Term & Condition prior to the deadline. An inadequate, partial response was provided several weeks late.

Allegation #1(G) – Independent consultant

32. CFC failed to comply with Term & Condition number 9.

33. Term and Condition number 9 required CFC to retain Consultant A as an independent consultant to conduct a review of CFC's operations and to provide various other services, all to be completed by December 31, 2007. CFC made initial contact with Consultant A and had preliminary discussions with him. However, CFC did not retain Consultant A at that time. Both Consultant A and Staff warned CFC that the relevant processes would take a considerable amount of time. Staff warned CFC that compliance with the Term & Condition was mandatory. Despite this, CFC waited until November of 2007 to ask Consultant A to commence work. At that point Consultant A was no longer willing to accept the engagement. At that time CFC searched for an alternative consultant. CFC later engaged Consultant B to be its independent consultant and this was initially approved by the Staff. Extensive correspondence followed between the Respondents and Staff, but despite those discussions Consultant B was unable to develop a plan to complete Term and Condition number 9 to the satisfaction of the MFDA. Consultant B never developed a plan to fully address the deficiencies which had been identified and Consultant B never completed the processes which Consultant A was originally to complete.

Allegation #1(H) – Loan documentation

34. CFC breached Term & Condition number 11.

35. Prior to becoming a Member, CFC had offered lending services to clients. That practice had ended and the loan accounts transferred from CFC to an affiliate of CFC

before CFC became a member. Term and Condition number 11 related to the loan business of CFC and its affiliated lending company (the “Affiliate”). Among other things, Term & Condition number 11 obligated CFC to:

- (a) report at least annually to each client with any outstanding loan obligations on the status of any loans to that client, including any outstanding balance, payments and interest (subparagraph (c));
- (b) provide Staff with various loan documentation and particulars, if necessary by collecting them from CFC’s affiliate (subparagraph (d) and (e));
- (c) collect certain documentation and particulars from clients by December 31, 2001 (subparagraph (e));
- (d) upon the request of the MFDA, to promptly provide the names of all non-clients of CFC to whom money had been loaned and the particulars of such loans (subparagraph (f));

36. CFC has failed to comply with those portions of Term & Condition number 11, which are identified above. Specifically:

- (a) the required status reports were not sent to clients annually, as required;
- (b) Staff asked for the relevant loan documentation and particulars. CFC permitted Staff to look at the documents while on site at the office of CFC, but due to what the Respondents now accept was an ill-considered concern about client confidentiality CFC refused to provide copies in a timely way, preventing staff from completing their review in a timely manner;
- (c) despite requests from Staff, CFC did not collect missing loan documentation and particulars from a client (Mr. Connor’s niece) in a timely way;
- (d) despite requests from Staff, CFC initially refused to provide the names of non-clients of CFC to whom funds had been loaned from the Affiliate due to what the Respondents now accept was an ill-considered concern about client confidentiality. Over a year later, after taking legal advice CFC provided the information.

37. By engaging in the conduct described in Allegations 1(A) to (H) above, CFC failed to comply with its agreement with the MFDA to conduct itself in accordance with

the Terms and Conditions and engaged in conduct that was contrary to the public interest. CFC's conduct therefore engages the jurisdiction of the Hearing Panel to impose penalties on CFC in accordance with ss. 24.1.2(i) and (k) of MFDA By-law No. 1. In addition, as identified below, some of the conduct of CFC and Mr. Connor also constituted independent violations of the By-laws, Rules and Policies of the MFDA.

Allegation #2 – Insufficient Cooperation in Compliance Examination

38. CFC failed to respond fully within a reasonable time to requests from Staff to provide information in relation to the 2008 Examination.

39. Section 22 of MFDA Rule 1 authorizes MFDA staff to conduct a compliance examination of a member. Sections 22.1 and 22.2 of MFDA By-law No. 1 obligate a Member to cooperate with such examinations so as to permit Staff to, among other things, determine if the Member accepts or rejects Staff's findings with respect to deficiencies in the Member's operations, to identify which deficiencies have been remedied by the Member and, for deficiencies which have not been remedied, to assess the adequacy of Member's proposal for resolving the outstanding deficiencies.

40. In the course of conducting the 2008 Examination, including the process of Staff attempting to deal with CFC to resolve the deficiencies identified in CFC's operations following the delivery of 2008 Compliance Report, Staff requested that CFC provide responses to inquiries and issues set out in letters dated January 13, 2009, February 6, 2009, April 22, 2009 and August 20, 2009 (as well as in related reminder letters). With minor exceptions, CFC failed to provide any substantive responses.

41. As a consequence of CFC's failure to provide requested information to Staff during the course of the 2008 Examination, Staff was unable to access CFC's compliance with MFDA requirements in all cases.

Allegation #3 – Trade Blotters

42. MFDA Rule 5.1(a) requires each Member to maintain a trade blotter which

contains an itemized daily record of all purchases and sales of securities, including the name of security and the unit and aggregate purchase or sale of the security.

43. The 2008 Examination identified that CFC failed to maintain required trade blotters. CFC did not develop the software needed to produce trade blotters until the summer of 2009.

Allegation #5(A) – Pre-signed forms

44. The 2008 Examination identified that CFC, and Connor as its sole Approved Person, improperly obtained and maintained blank client instruction forms signed by clients (“pre-signed forms”) in nine client files. CFC states that it obtained these forms from multiple clients to facilitate the execution of client instructions. CFC states that before becoming a member of the MFDA it ended that practice. CFC states that it no longer relied on pre-signed forms, and it removed most forms from client files. CFC missed some pre-signed forms.

45. CFC admits that maintaining the pre-signed forms is conduct unbecoming a Member and an Approved Person and contrary to MFDA Rule 2.1.1.

Allegation #5(B) – Improper trading authorizations

46. The 2008 Examination identified that CFC obtained and utilized improper trading authorization forms from clients.

47. MFDA Rule 2.3.2 allows a Member or an Approved Person to accept a limited trading authorization (“LTA”) form from a client for the express purpose of facilitating trade execution only. The LTA form must be in the form prescribed by the MFDA. CFC had clients sign two limited trading authorization forms, one in the form prescribed by the MFDA and another in a manner which grants powers beyond that authorized by the MFDA. The unauthorized form grants Mr. Connor discretionary trading authority, including the authority to redeem mutual funds in a client’s account in order to satisfy fees owing by the client to CFC, and purports to grant authority which continues even if

Mr. Connor ceases to be an Approved Person, contrary to MFDA Rules 2.3.2 and 2.1.1.

48. CFC states that it never relied on the authority of the authorization forms in question. When this issue was identified in the 2008 Examination, CFC agreed not to use the forms and it removed them from client files. Nevertheless, CFC admits that obtaining the unauthorized forms was conduct unbecoming of a Member and contrary to MFDA Rule 2.1.1.

Allegation #6 – Out of province clients

49. CFC and Mr. Connor are registered to conduct securities related business only in British Columbia.

50. MFDA Rules 1.1.4 and 1.1.5 require a Member and its Approved Persons to be registered or licensed in the manner necessary under the applicable legislation in any province or territory where they propose to act.

51. The 2008 Examination identified that CFC had 27 clients resident in jurisdictions other than British Columbia and that CFC had permitted trading activity in certain of those accounts, including six accounts where CFC had processed purchases and switches of mutual fund holdings for the clients.

52. CFC has not been responsive to compliance examination requests on this subject.

Allegation #7 – Mr. Connor

53. The board of directors of a Member and its senior officers are responsible for ensuring that the Member maintains a compliance program that identifies and addresses material risks of noncompliance.

54. At all times since becoming a Member on June 28, 2007, Mr. Connor, as the sole director, President and compliance officer of CFC, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that

CFC maintained a compliance program that identified and addressed material risks of non-compliance. These failures resulted in or contributed to the breaches of CFC which are admitted in this Settlement Agreement.

D. AGREED CONTRAVENTIONS

10. The Respondents admit to the following:
- (a) CFC failed to convert some client accounts into client names by December 31, 2007 and the conversion of one client account into client name did not occur until early February, 2011. CFC thereby breached Term and Condition number 2;
 - (b) The failure to convert the final remaining account in CFC's name into the client's name prevented CFC's transition into a Level 2 dealer. CFC thereby breached Term and Condition number 3;
 - (c) CFC's failure to send out written client statements until July of 2009 was a breach of Term and Condition number 5;
 - (d) CFC's failure to correct any deficiencies in its Policies and Procedures Manual by December 31, 2007 and its continued delays in correcting certain deficiencies in that Practices and Procedures Manual was a breach of Term and Condition number 6;
 - (e) CFC's failure to provide various certifications in writing by July 31, 2008 and again by July 31, 2009 was a breach by CFC of Term and Condition number 7;
 - (f) CFC's failure to submit a compliance status report by July 31, 2008 and again by July 31, 2009 was a breach by CFC of Term and Condition number 8;
 - (g) CFC's failure to retain an independent consultant to complete various reviews by December 31, 2007 was a breach of Term and Condition number 9;
 - (h) CFC's failure to provide required status reports to clients regarding loans and the delays by CFC in providing certain information to Staff regarding loans was a breach by CFC of Term and Condition number 11;
 - (i) CFC's failure to respond fully within a reasonable time to requests from Staff to provide information in relation to the 2008 Examination was a breach by CFC of Sections 21.1 and 22.2 of MFDA By-law No. 1;
 - (j) CFC's failure to obtain or develop the software required to maintain itemized daily records of all purchases and sales of securities was a breach of MFDA Rule 5.1(a);

- (k) By maintaining pre-signed forms in nine client files CFC, and Connor as its sole Approved Person, conducted themselves in a manner unbecoming of a Member and Approved Person contrary to MFDA Rule 2.1.1;
- (l) CFC's collection of limited trading authorizations containing powers beyond that authorized by the MFDA was conduct unbecoming of a Member and contrary to MFDA Rule 2.1.1;
- (m) CFC and Connor's acceptance of 27 clients resident outside of British Columbia, and their acceptance of trades in at least six of those accounts constituted a breach by CFC and by Connor as Approved Person of MFDA Rules 1.1.4 and 1.1.5; and
- (n) While the sole director, officer and Approved Person of CFC Connor maintained a compliance program which failed to identify and address material risks of non-compliance. Mr. Connor thereby engaged in business conduct or practices that were unbecoming or detrimental to the public interest in breach of MFDA Rule 2.1.1.

E. AGREED TERMS OF SETTLEMENT

11. The Respondents agree to the following terms of settlement:

- (a) Effective at 11:59 p.m. on March 1, 2011 CFC's membership in the MFDA shall be subject to the term and condition that CFC is prohibited from accepting any new clients or opening any new accounts for existing clients;
- (b) Effective at 11:59 p.m. on March 11, 2011, CFC's membership in the MFDA is suspended and shall remain suspended until such time as CFC's resignation is approved by the MFDA or its rights and privileges of membership are otherwise terminated by the MFDA or a Hearing Panel pursuant to Section 24.1.2(c) of MFDA By-law No. 1;
- (c) The MFDA may proceed to implement the previously tendered resignation of CFC and both Connor and CFC agree to provide their full cooperation in the orderly resignation of CFC as a Member;
- (d) Connor shall pay a fine in the amount of \$50,000.00 pursuant to Section 24.1.1(b) of MFDA By-law No. 1;
- (e) Connor is permanently prohibited from acting in the capacity of a branch manager, compliance officer or UDP;

- (f) In the event that Connor seeks to become registered as a partner, director or officer of a Member of the MFDA, Connor shall successfully complete the Partners, Directors and Senior Officers course (or other course acceptable to the MFDA) prior to becoming so registered; and
- (g) The Respondents shall together pay costs in the amount of \$25,000.00, attributable to conducting the investigation and settlement of this matter pursuant to Section 24.2 of MFDA By-law No. 1.

F. APPROVAL OF SETTLEMENT AGREEMENT

12. The Panel agrees with the position taken by the Parties that this Settlement Hearing falls within the exception provided in Rule 15.2(1) of the MFDA's Rules of Procedure and, therefore, the 10 days' notice requirement does not apply.

13. The Panel also agrees with the position that a Settlement Hearing panel should not interfere lightly with a settlement which, as in this case, has been negotiated by experienced Counsel over a considerable period of time.

14. The central issue to be determined by the Panel is whether the agreed-upon terms of settlement are reasonable and proportionate having regard to the following factors:

- The seriousness of the allegations proved against the Respondent;
- The Respondent's past conduct, including prior sanctions;
- The Respondent's experience and level of activity in the capital markets;
- Whether the Respondent recognizes the seriousness of the improper activity;
- The harm suffered by investors as a result of the Respondent's activities;
- The benefits received by the Respondent as a result of the improper activity;
- The risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
- The damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- 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;

15. In approving the Settlement Agreement, the following factors were of particular significance to the Panel:

- (a) Connor's conduct, as sole shareholder, President, Director, Mutual Fund Salesperson, Compliance Officer and controlling mind of CFC, revealed a contemptuous disregard for the regulatory system under which the MFDA operates. The pattern of non-compliance was prolonged and persistent.
- (b) Connor's conduct, however, did not, nor was it intended to, enrich him at the expense of clients.
- (c) The Respondents do not have a history of violations of the MFDA regulatory system.
- (d) Connor has paid the penalty and costs as provided in the Terms of Settlement.
- (e) Of considerable significance to the Panel is the fact that Connor has agreed to settle, to the satisfaction of the MFDA Enforcement Staff, all issues raised as a consequence of the violations of the Rules, By-laws and Policies of the MFDA, thus avoiding a costly hearing on the merits.

16. The Panel is satisfied that the terms under which the Respondents have agreed to settle their violations of the MFDA's Rules, By-laws and Policies are reasonable, proportionate and appropriate having regard to the conduct of the Respondents and the circumstances of the case and has signed the necessary Order dated February 25, 2011, confirming this settlement.

DATED this 29th day of March, 2011.

"Benjamin Casson"

The Hon. H. Benjamin Casson, Q.C.
Chair

"Holly Millar"

Holly Millar,
Industry Representative

"Larry Neilsen"

Larry Neilsen, CA,
Industry Representative