



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: Ryan Russell Gerard Corcoran

Heard: January 15, 2019 in Toronto, Ontario

Decision: January 15, 2019

Reasons for Decision: May 9, 2019

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC
Melody Potter
Gregory Stoeckl

Chair
Industry Representative
Industry Representative

Appearances:

Francis Roy)	Counsel for the Mutual Fund Dealers
)	Association of Canada
)	
)	
Erica Shadeed)	Counsel for the Respondent
)	
)	
Ryan Russell Gerard Corcoran)	Respondent, by teleconference
)	
)	

Background

1. The Hearing Panel accepted the settlement agreement dated December 10, 2018 (“Settlement Agreement”) between the staff of the MFDA and Ryan Russell Gerard Corcoran (“Respondent”). A copy of the Settlement Agreement is attached to these reasons as Schedule “1”.
2. Although the Settlement Agreement provides that the Respondent will appear at the hearing in person, he and his counsel attended by teleconference.

Facts

3. The agreed facts are set out in full in Part IV of the Settlement Agreement.
4. In summary, the Respondent disregarded client DA’s instructions and invested in a deferred sales charge fund rather than in a money market fund selected by the client. The Respondent advised the client of what he had done and the client took immediate action to have the Respondent’s Member reverse the transactions. The member reimbursed the client for the loss of \$106.84 the client had suffered as a result of the Respondent’s actions.

Contraventions

5. The Respondent admitted that on or about November 4, 2015, he processed trades in client DA’s account without client DA’s knowledge or consent, thereby engaging in unauthorized discretionary trading, contrary to MFDA Rules 2.3.1 and 2.1.1.
6. The agreed penalties were a fine of \$10,000 and a costs award of \$2,500 payable in instalments.

Considerations

7. The Hearing Panel determined that it had to be satisfied regarding three considerations before it could accept the Settlement Agreement. First, the agreed penalties had to be within an acceptable range taking into account similar cases. Secondly, the agreed penalties had to be fair and reasonable (i.e. proportional to the seriousness of the contraventions and taking into consideration other relevant circumstances) and should appear to be so to members of the public

and industry. Thirdly, the agreed penalties should serve as a deterrent to the Respondent and to industry. To be satisfied on these three considerations required an understanding of the particular facts of the case, the circumstances of the Respondent, and the impact on the Respondent of the agreed penalty.

Nature of the Misconduct

8. The trading in question was unauthorized and discretionary and constituted conduct contrary to the cited rules.

Other considerations in determining acceptability of agreed penalties

9. The misconduct was an isolated incident.

10. Although the Respondent disregarded the client's instructions, there was no fraud or deceit involved: he promptly informed the client of what he had done.

11. Because the client took immediate action, losses were limited.

12. The Respondent has not previously been subject to MFDA or any other regulatory disciplinary proceedings.

13. The Respondent cooperated with the MFDA in its investigation into his conduct.

14. By entering into the Settlement Agreement, the Respondent has accepted responsibility for his misconduct and avoided the necessity of the MFDA incurring the time and expense of conducting a full disciplinary hearing.

15. The agreed penalties are consistent with the suggestions in the MFDA Sanction Guidelines and the reasonable range of appropriateness with regard to MFDA decisions submitted to us by staff, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

Costs

16. The costs award is reasonable.

Conclusion

17. We concluded that the Settlement Agreement was in the public interest and, consequently, we accepted it.

DATED this 9th day of May, 2019.

“Paul M. Moore”

Paul M. Moore, QC
Chair

“Melody Potter”

Melody Potter
Industry Representative

“Gregory Stoeckl”

Gregory Stoeckl
Industry Representative

Schedule “1”

Settlement Agreement

File No. 201835



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Re: Ryan Russell Gerard Corcoran

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the “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 Central Regional Council (the “Hearing Panel”) of the MFDA should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Ryan Russell Gerard Corcoran.

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 further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) 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. Since September 17, 2010, the Respondent has been registered in Ontario and Quebec as a mutual fund salesperson (now known as a dealing representative) with Investors Group Financial Services Inc. (“Investors Group”), a Member of the MFDA.

7. The Respondent conducts business from Investors Group’s branch located in Laval, Quebec.

Unauthorized Trades and Failure to Disclose Deferred Sales Charges to a Client

8. At all material times, the Respondent was the mutual fund salesperson at Investors Group responsible for servicing the accounts of client DA, a resident of Ontario.

9. On November 2, 2015, the Respondent spoke with client DA by telephone and recommended that she transfer certain mutual funds held in her Investors Group account (the

"Initial Funds") into a different equity mutual fund (the "New Fund"). The New Fund was subject to a 7 year deferred sales charge ("DSC") redemption schedule.

10. On November 3, 2015, client DA sent text messages to the Respondent instructing him to transfer her Initial Funds to a money market fund, not the New Fund.

11. The Respondent did not follow client DA's instructions sent via text message. Instead, on November 4, 2015, the Respondent redeemed the Initial Funds and, using his sole discretion, invested the proceeds totaling \$52,540.86 in the New Fund.

12. The Respondent purchased the New Fund for client DA's account without client DA's knowledge or instructions.

13. On November 6, 2015, the Respondent sent a text message to client DA informing her that he had redeemed her Initial Funds and invested the proceeds in the New Fund on the basis that he thought it was in her best interest and he did not think it was sensible for her to invest in a money market mutual fund.

14. On November 6, 2015, following receipt of the Respondent's text, client DA contacted the Respondent's branch manager, GH, to inform him that the Respondent had purchased the New Fund for her account contrary to her specific instructions.

15. On November 9, 2015, further to a direction he received from GH, the Respondent transferred all of the investments held by client DA in her Investors Group account, including the New Fund, into a money market fund.

16. Between November 4, 2015 (the date the Respondent processed the unauthorized mutual fund purchases in client DA's account) and November 9, 2015 (the date all investments held in client DA's account were transferred into a money market fund), client DA's New Fund declined by a total amount of \$106.84.

17. Upon transferring client DA's investments into a money market fund on November 9, 2015, Investors Group provided to client DA \$106.84, which was full compensation for the loss in value of her investments as a result of the Respondent's actions.

Additional Factors

18. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
19. The Respondent has cooperated with Staff during its investigation and during this disciplinary proceeding.
20. By entering into this Settlement Agreement, the Respondent has expressed remorse for his actions and avoided the need for a prolonged hearing on the merits.

V. CONTRAVENTIONS

21. On or about November 4, 2015, the Respondent processed trades in client DA's account without client DA's knowledge or authorization, thereby engaging in unauthorized discretionary trading, contrary to MFDA Rules 2.3.1 and 2.1.1.

VI. TERMS OF SETTLEMENT

22. The Respondent agrees to the following terms of settlement:
 - a) Upon acceptance of this Settlement Agreement, the Respondent shall pay a fine in the amount of \$10,000 (the "Fine"), pursuant to section 24.1.1(b) of MFDA By-law No. 1;
 - b) Upon acceptance of this Settlement Agreement, the Respondent shall pay costs of this proceeding in the amount of \$2,500 (the "Costs"), pursuant to section 24.2 of MFDA By-law No. 1; and
 - c) The Fine and Costs are to be paid by the Respondent as follows:
 - i. an initial payment to the MFDA in the amount of \$2,000 upon acceptance of this Settlement Agreement; and
 - ii. commencing 30 days following acceptance of this Settlement Agreement, 11 additional, and consecutive, monthly installment payments in the amount of \$954.55 until the Fine and Costs are paid in full; and
 - d) The Respondent shall attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

23. 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. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in Parts IV and V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and V, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

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

25. 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.

26. 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 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.

27. 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

28. 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

29. 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.

30. 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

31. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 10th day of December, 2018.

“Ryan Russell Gerard Corcoran”

Ryan Russell Gerard Corcoran

“ES”

Witness – Signature

ES

Witness – Print Name

“Shaun Devlin”

Shaun Devlin
Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President,
Member Regulation – Enforcement



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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 Ryan Russell Gerard Corcoran (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 on or about November 4, 2015, the Respondent processed trades in a client’s account without the client’s knowledge or authorization, thereby engaging in unauthorized discretionary trading, contrary to MFDA Rules 2.3.1 and 2.1.1;

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

1. 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*;

2. The Respondent shall pay a fine in the amount of \$10,000 (the “Fine”), pursuant to section 24.1.1(b) of MFDA By-law No. 1;

3. The Respondent shall pay costs of this proceeding in the amount of \$2,500 (the “Costs”), pursuant to section 24.2 of MFDA By-law No. 1;

4. The Fine and Costs are to be paid by the Respondent as follows:

- a) an initial payment to the MFDA in the amount of \$2,000 on the date of this order; and
- b) commencing 30 days following the date of this order, 11 additional, and consecutive, monthly installment payments in the amount of \$954.55 until the Fine and Costs are paid in full.

DATED this [day] day of [month], 20[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]