



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: Sarah Solis Maria Suzarah Del Rosario

Heard: September 27, 2018 in Toronto, Ontario

Decision: September 27, 2018

Reasons for Decision: December 7, 2018

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC
Kenneth P. Mann
Joseph Yassi

Chair
Industry Representative
Industry Representative

Appearances:

Thomas Ng)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Laura Paglia)	Counsel for the Respondent
)	
)	
Sarah Solis Maria Suzarah Del)	Respondent, in person
Rosario)	
)	

Background

1. The Hearing Panel accepted the settlement agreement dated June 26, 2018 (“Settlement Agreement”) between the staff of the MFDA and Sarah Solis Maria Suzarah Del Rosario (“Respondent”). A copy of the Settlement Agreement is attached to these Reasons as Appendix “A”. The agreed facts are set out in Section III of the Settlement Agreement.

Contraventions

2. The Respondent admitted that:

- a) on or about April 24, 2015, she failed to ensure that a trade in a client account was suitable for the client having regard to the essential Know-Your -Client (“KYC”) factors, including the client’s age, time horizon and investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- b) on or about April 24, 2015, she processed a trade in a client account, using her discretion to select a version of a mutual fund subject to a deferred sales charge, contrary to MFDA Rules 2.3.1 and 2.1.1.

Agreed penalties

3. The agreed penalties were: i) a fine of \$10,000; ii) a 2 month prohibition from acting as a branch manager; and iii) a costs award of \$2,500.

Considerations

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

5. Not adhering to suitability requirements and the use of discretion where not permitted as occurred in this matter were conduct contrary to the referenced rules.

Other considerations in determining acceptability of agreed penalties

6. The Respondent refunded to the Member the \$3,631.37 commission that she received from the transaction.

7. The Member refunded to the client the deferred sales charge.

8. The Respondent has not previously been subject to MFDA disciplinary proceedings.

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

10. The agreed penalties are within the recommendations of the MFDA penalty guidelines and the reasonable range of appropriateness with regard to MFDA decisions submitted to us by staff and Respondent's counsel, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

Costs

11. The costs award is reasonable.

Conclusion

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

DATED this 7th day of December, 2018.

“Paul M. Moore”

Paul M. Moore, QC
Chair

“Kenneth P. Mann”

Kenneth P. Mann
Industry Representative

“Joseph Yassi”

Joseph Yassi
Industry Representative

DM 642827



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Re: Sarah Solis Maria Suzarah Del Rosario

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Sarah Solis Suzarah Del Rosario (the "Respondent"), consent and agree to settlement of this matter by way of this agreement (the "Settlement Agreement").

2. Staff conducted an investigation of the Respondent's activities which disclosed activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No. 1.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

- a) on or about April 24, 2015, the Respondent failed to ensure that a trade in a client account was suitable for the client having regard to the essential Know-Your-Client (“KYC”) factors, including the client’s age, time horizon and investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- b) on or about April 24, 2015, the Respondent processed a trade in a client account, using her discretion to select a version of a mutual fund subject to a deferred sales charge, contrary to MFDA Rules 2.3.1 and 2.1.1.

5. Staff and the Respondent agree and consent to the following terms of settlement:

- a) the Respondent shall pay a fine in the amount of \$10,000 in certified funds upon acceptance of the Settlement Agreement pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- b) the Respondent shall be prohibited from acting in the capacity of branch manager for a period of 2 months pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement pursuant to s. 24.2 of MFDA By-law No. 1;
- d) the Respondent shall in the future comply with MFDA Rules 2.2.1, 2.3.1 and 2.1.1; and
- e) the Respondent will attend by teleconference, on the date set for the Settlement Hearing.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in Part III herein and consent to the making of an Order in the form attached as Schedule “A”.

III. AGREED FACTS

Registration History

7. Since 2002, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with Sun Life Financial Services (Canada) Inc. (“Sun Life”)¹, a Member of the MFDA.

8. Between September 2009 and May 2015, Sun Life designated the Respondent as a branch manager.

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

Unsuitable Trade and Discretionary Trading

10. At all material times, Sun Life’s policies and procedures permitted clients to sign a Limited Trade Authorization (“LTA”), a document that authorizes Approved Persons to accept verbal instructions from a client in certain circumstances.

11. At all material times, Sun Life’s policies and procedures prohibited its Approved Persons, including the Respondent, from engaging in discretionary trading.

12. On February 6, 2014, client JR opened a mutual fund account at the Member (the “Mutual Fund Account”) and completed a KYC form, on which form client JR indicated that the time horizon for her investment in the Mutual Fund Account was less than five years, and that her risk tolerance was low to medium. Client JR also signed a LTA at this time.

13. At the time Client JR opened the Mutual Fund Account, the Respondent explained to her the difference between deferred sales charges and front end load charges. Client JR informed the Respondent that she intended to use the monies invested in the Mutual Fund Account to pay taxes on a property within a period of less than five years.

¹ Between 2002 and 2005, the Respondent was registered with Clarica Investco. Inc. (“Clarica”); in 2005, Clarica merged with Sun Life.

14. In March 2014, in accordance with client JR's instructions, the Respondent processed a purchase in a money market fund in the Mutual Fund Account, subject to a front end load charge.

15. On April 24, 2014, the Respondent states that client JR verbally instructed the Respondent to process a switch in the Mutual Fund Account to transfer the monies to another fund with a risk rating of low to medium called the Signature Diversified Yield Fund (the "Switch").

16. Prior to accepting the order for the Switch, the Respondent states that client JR advised her that client JR did not need the invested monies immediately. The Respondent failed to ask any further questions to determine client JR's time horizon for the invested monies.

17. Without obtaining instructions from client JR, the Respondent used her discretion to select a version of the Signature Diversified Yield Fund that was subject to a 7 year deferred sales charge ("DSC"), and processed the Switch.

18. At the time of the Switch, the Respondent failed to inform client JR that she would incur DSC fees if she redeemed monies from the investment within seven years.

19. On April 25, 2015, client JR redeemed her investment at a \$10,822.89 gain, but incurred \$6,052.29 in DSC fees.

Sun Life's Investigation

20. In or around April 2015, client JR complained to Sun Life's compliance department about the DSC fees arising from the Switch.

21. Sun Life completed a review of the client complaint and refunded client JR the DSC fees incurred from the Switch.

22. The Respondent also refunded to Sun Life the \$3,631.37 commission that she received from the Switch.

Additional Factors

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

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

IV. ADDITIONAL TERMS OF SETTLEMENT

25. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the MFDA Rules of Procedure.

26. The Settlement Agreement is subject to acceptance by the Hearing Panel which shall be sought at a hearing (the “Settlement Hearing”). At, or following the conclusion of, the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

27. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

28. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter;
- b) the Respondent waives any rights to a full hearing, a review hearing before the Board of Directors of the MFDA or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction;

- c) Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in this Settlement Agreement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;
- d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1; and
- e) neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against the Respondent

29. If, for any reason, this Settlement Agreement is not accepted by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by the Settlement Agreement or the settlement negotiations.

30. Staff and the Respondent agree that the terms of the Settlement Agreement, including the attached Schedule “A”, will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

31. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile copy of any signature shall be effective as an original signature.

DATED this 26th day of June, 2018.

“Sarah Solis Maria Suzarah Del Rosario”

Sarah Solis Maria Suzarah Del Rosario

“MFL”

Witness – Signature

MFL

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.**



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Re: Sarah Solis Maria Suzarah Del Rosario

ORDER

(ARISING FROM SETTLEMENT HEARING ON SEPTEMBER 27, 2018)

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 Sarah Solis Maria Suzarah Del Rosario (the “Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the “Settlement Agreement”), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that:

- a) on or about April 24, 2015, the Respondent failed to ensure that a trade in a client account was suitable for the client having regard to the essential Know-Your-Client (“KYC”) factors, including the client’s age, time horizon and investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and

- b) on or about April 24, 2015, the Respondent processed a trade in a client account, using her discretion to select a version of a mutual fund subject to a deferred sales charge, 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. The Respondent shall pay a fine in the amount of \$10,000 in certified funds upon acceptance of the Settlement Agreement pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall be prohibited from acting in the capacity of branch manager for a period of 2 months pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
3. The Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement pursuant to s. 24.2 of MFDA By-law No. 1;
4. The Respondent shall in the future comply with MFDA Rules 2.2.1, 2.3.1 and 2.1.1; and
5. 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]