



**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: Jason Dickout**

Heard: January 20, 2021 by electronic hearing in Toronto, Ontario

Decision: January 20, 2021

Reasons for Decision: April 28, 2021

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Thomas J. Lockwood, QC  
Rob Christianson  
Kenneth P. Mann

Chair  
Industry Representative  
Industry Representative

Appearances:

Maria Abate	)	Enforcement Counsel for the Mutual Fund
	)	Dealers Association of Canada
	)	
	)	
Jason Dickout	)	Respondent
	)	
	)	

## **I. INTRODUCTION**

1. By Notice of Settlement Hearing, dated October 8, 2020, the Mutual Fund Dealers Association of Canada (“MFDA”) gave notice that an electronic hearing would be held before a hearing panel of the Central Regional Council of the MFDA (“Hearing Panel”) on January 20, 2021, to consider whether, pursuant to section 24.4 of MFDA By-law No. 1, the Hearing Panel should accept the settlement agreement (“Settlement Agreement”) entered into between Staff of the MFDA and Jason Dickout (“Respondent”).

2. Due to the existence of COVID-19, and with the consent of the parties, the Settlement Hearing was conducted by way of electronic hearing on January 20, 2021.

3. At the commencement of the Settlement Hearing, the Hearing Panel granted the joint request of the parties to move the proceedings “in camera” so that the Settlement Agreement could be considered in the absence of the public. This procedure is consistent with Rule 15.2(2) of the *MFDA Rules of Procedure*.

4. The Hearing Panel then considered the provisions of the Settlement Agreement. After hearing submissions both as to the applicable law and as to why this particular Settlement Agreement met the appropriate criteria, the Hearing Panel retired to consider whether we were in a position to accept the Settlement Agreement on the basis of the material before us.

5. After carefully considering the Settlement Agreement and the submissions of the parties, the Hearing Panel unanimously accepted the Settlement Agreement. We made an Order to this effect on January 20, 2021. At that time, we advised that written Reasons would follow. These are those Reasons.

## **II. THE SETTLEMENT AGREEMENT**

6. The salient portions of the Settlement Agreement are as follows:

“4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the Mutual Fund Dealers Association of Canada (“MFDA”):

a) between December 6, 2018 and December 10, 2018, the Respondent signed the signature of 2 clients on 3 account forms, and submitted the account forms to the Member for processing, contrary to MFDA Rule 2.1.1; and

- b) between February 20, 2019 and February 26, 2019, the Respondent misled the Member during its investigation into his conduct when he falsely stated that clients signed account forms, when the Respondent had signed the client's signature on the account forms, contrary to MFDA Rule 2.1.1.
5. Staff and the Respondent agree and consent to the following terms of settlement:
- a) the Respondent shall pay a fine in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No.1;
  - b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement by the Hearing Panel, pursuant to s. 24.2 of MFDA By-law No.1;
  - c) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 6 months, commencing from the date the Settlement Agreement is accepted by the Hearing Panel, pursuant to s. 24.1.1(e) of MFDA By-Law No. 1;
  - d) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
  - e) the Respondent will attend in person or by videoconference 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".

## **AGREED FACTS**

### **Registration History**

- 7. From November 15, 2016 to March 12, 2019, the Respondent was registered in Ontario as a Dealing Representative with TD Investment Services Inc. (the "Member"), a Member of the MFDA.
- 8. At all material times, the Respondent conducted business in the London, Ontario area.

9. On March 12, 2019, the Member terminated the Respondent, and he is not currently registered in the securities industry in any capacity.

### **Respondent signed client signatures**

10. At all material times, the Member's policies and procedures prohibited its Approved Persons from signing client signatures and initials.
11. Between December 6, 2018 and December 10, 2018, the Respondent signed the signatures of 2 clients on 3 account forms, and submitted them to the Member for processing.
12. The account forms consisted of Transaction and Account Maintenance forms.
13. In one instance, the Member identified a missing signature on one of the Transaction and Account Maintenance forms after the Respondent originally submitted it to the Member for processing. As part of a supervisory inquiry, the Member required the Respondent to obtain a customer signature to complete the form. In response, the Respondent reprinted a copy of the form, completed the information and signed the client's signature on the account form.

### **Misleading the Member**

14. On December 10, 2018, the Member conducted a Tier 2 branch review of the Respondent's files and identified one of the Transaction and Account Maintenance forms that is subject of this Settlement Agreement. As a result, the Member initiated a supervisory review of the Respondent's trading activity.
15. On January 31, 2019 and February 1, 2019, the Member examined 25 client files that were maintained by the Respondent between January and December 2018 and identified the 2 remaining account forms that are the subject of this Settlement Agreement.
16. On February 20, 2019, the Member interviewed the Respondent about the 3 account forms that are the subject of this Settlement Agreement. During this interview, the Respondent denied signing the signatures of the clients on the accounts forms, and

falsely advised the Member that the clients had attended at the branch location and signed the account forms.

17. On February 26, 2019, the Member conducted a further interview of the Respondent, at which time, the Respondent admitted to signing the clients' signatures on the 3 account forms described above.

### **Member's Investigation**

18. The Member sent a letter to or left messages for the clients whose account forms are the subject matter of this Settlement Agreement requesting that the client contact the branch for an appointment to discuss their accounts and to complete new documentation. The clients did not respond to the Member's letter.
19. On March 12, 2019, the Member terminated the Respondent's registration.

### **Additional Factors**

20. There is no evidence that the Respondent received any financial benefit from the conduct set out above beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.
21. There is no evidence of client loss, complaints, or lack of authorization for the underlying transactions.
22. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
23. 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.
24. The Respondent states that he has limited financial means, and as a result, he is unable to pay a monetary penalty that is greater than the total of the fine and costs amounts set out in this Settlement Agreement. MFDA Staff have received evidence which corroborates the Respondent's statement."

### III. THE LAW

7. MFDA Rule 2.1.1 states, in part, as follows:

**“2.1.1 Standard of Conduct.**

Each Member and each Approved Person of a Member shall:

- a) deal fairly, honestly and in good faith with its clients;
- b) observe high standards of ethics and conduct in the transaction of business;
- c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; . . .”

8. In the case before us, the Respondent has admitted to forging signatures of two clients on 3 account forms. The forms consisted of Transaction and Account Maintenance forms.

9. In one instance, when the Member identified a missing signature and required the Respondent to obtain a client signature, the Respondent reprinted a copy of the form, completed the information and then forged the client’s signature on the form.

10. On January 31, 2019, and February 1, 2019, the Member examined 25 client files that were maintained by the Respondent between January and December of 2018, and identified 2 additional account forms.

11. On February 10, 2019, in an interview with the Member, the Respondent denied signing the signatures of the clients on the 3 account forms in question and falsely advised the Member that the clients had attended at the branch and signed the account forms.

12. At a further interview on February 26, 2019, the Respondent admitted to forging the clients’ signatures on all 3 forms. The Respondent was terminated on March 12, 2019.

13. The Respondent’s conduct is clearly in breach of Rule 2.1.1.

14. The prohibition on the use of falsified signatures on account forms applies regardless of whether:

- a) the client was aware of or authorized the use of the deficient forms; and
- b) the form was actually used by the Approved Person for discretionary trading or other improper purposes.

*Byce (Re)* Hearing Panel of the Central Regional Council, MFDA File No. 201311, Decision and Reasons, dated September 4, 2013, at para. 8.

15. Hearing Panels have consistently found that obtaining or using deficient account forms contravenes the standard of conduct set out in MFDA Rule 2.1.1.

*Dias Pereira (Re)*, [2017] Hearing Panel of the Central Regional Council, MFDA File No. 201652, Reasons for Decision dated September 18, 2017.

*Baksh (Re)*, [2019] Hearing Panel of the Central Regional Council, MFDA File No. 201939, Reasons for Decision dated September 20, 2019.

16. In addition to the findings of Hearing Panels on the issue of pre-signed, altered and falsified client signatures on forms, the MFDA has been warning Approved Persons against this type of conduct for a number of years through the publication of Staff Notices and Bulletins.

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

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

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

17. In Bulletin #0661-E, issued October 2, 2015, the MFDA provided examples of the negative consequences that can arise when an Approved Person engages in Signature Falsification (a term that includes conduct like pre-signed account forms, altered account forms and the falsification of a client signature):

- there is an adverse effect on the integrity and reliability of the documents
- the audit trail is destroyed
- the Approved Person's ability to produce valid documentation to support transactions that come into question is impacted
- the client is prejudiced by making it appear as if the client has executed a particular document when this is not the case
- the Member's supervisory personnel are misled as to the circumstances as to how the document was obtained
- the Approved Person's credibility is negatively affected
- Member complaint handling is negatively affected
- The Approved Person uses the forms to facilitate further misconduct like unauthorized trading, fraud and misappropriation of monies

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

18. In summary, the Respondent's conduct adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling, has the potential for misuse in the form of unauthorized trading, fraud and misappropriation and brings the financial services industry and others who work in the financial services industry into disrepute.

#### **IV. PRINCIPLES REGARDING THE ACCEPTANCE OF SETTLEMENT AGREEMENTS**

19. In our view, the role of a Hearing Panel in a Settlement Hearing is not the same as its role in making a penalty determination after 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 penalties set out in the Settlement Agreement. In our view, a Hearing Panel should not interfere lightly in a negotiated settlement and should not reject a Settlement Agreement unless it views the penalty as clearly falling outside a reasonable range of appropriateness.

20. Previous MFDA Hearing Panels have determined the factors which should be considered in determining whether a Settlement Agreement should be accepted. These include the following:

- a) Whether acceptance of the Settlement Agreement would be in the public interest and whether the penalty imposed will protect investors;
- b) Whether the Settlement Agreement is reasonable and proportionate, having regard to the conduct of the Respondent as set out in the Settlement Agreement;
- c) Whether the Settlement Agreement addresses the issues of both specific and general deterrence;
- d) Whether the proposed settlement will prevent the type of conduct described in the Settlement Agreement from occurring again in the future;
- e) Whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets;
- f) Whether the Settlement Agreement will foster confidence in the integrity of the MFDA;
- g) Whether the Settlement Agreement will foster confidence in the regulatory process itself.

21. Previous Hearing Panels have also identified a number of additional factors which should be considered when determining whether the penalty sought to be imposed is appropriate. These include:

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

### Sanction Guidelines

22. The MFDA Sanction Guidelines are an additional source of factors to be taken into account with regards to penalty. The Sanction Guidelines are not mandatory but are intended to assist Hearing Panels, Staff and Respondents in considering the appropriate penalties in MFDA disciplinary proceedings.

23. The Sanction Guidelines provide that a sanction imposed by the Member against the Respondent for the same misconduct may be considered a mitigating factor.

24. The Sanction Guidelines also permit Staff and the Hearing Panel to consider a Respondent's ability to pay when imposing an appropriate monetary sanction. The burden is on the Respondent to raise the issue and to provide evidence of inability to pay. If evidence of a bona fide inability is presented, it may result in the reduction of a fine, or in the imposition of an installment payment plan.

## **V. CONSIDERATIONS IN THE PRESENT CASE**

25. Staff made very detailed submissions as to how these principles applied to the case before us. These submissions included the following.

### (a) Nature of the Misconduct

26. The admitted conduct of the Respondent is a very serious breach of MFDA Rule 2.1.1.

### (b) Client Harm

27. Staff submitted that there is no evidence of client complaints, client loss or lack of authorization for the underlying transactions. This submission would appear to be based, in part, on the fact that the clients, whose account forms are the subject matter of the Settlement Agreement, did not respond to the Member's letters and messages requesting that they contact the branch to discuss their accounts and complete new documentation. We do not view this lack of response as a mitigating factor.

### (c) Benefits Received by the Respondent

28. We accept the submission of Staff that there is no evidence that the Respondent received a financial benefit from engaging in the admitted misconduct beyond any commissions and fees that he would ordinarily be entitled to had the transaction been carried out in the proper manner.

### (d) Respondent's Experience and Level of Activity in the Capital Markets

29. The Respondent was an Approved Person from November 2016 to March 2019. He ought to have known and respected the Member's compliance requirements, as well as those of the MFDA. We do not accept Staff's submission that his limited experience in the financial services industry may be considered a mitigating factor. It should not take any experience to know that the conduct the Respondent engaged in was wrong.

(e) Respondent's Past Conduct

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

(f) Respondent's Recognition of the Seriousness of his Misconduct

31. The Respondent has acknowledged that his conduct constitutes a serious contravention of MFDA Rules. By entering into the Settlement Agreement, the Respondent has accepted responsibility for his misconduct, and has saved the MFDA the time, resources and expenses associated with a full disciplinary hearing.

(g) Deterrence

32. When the Member became aware of the Respondent's conduct, his registration was terminated. This occurred on March 12, 2019. The Respondent is not currently registered in the securities industry in any capacity. We believe that a further 6 month prohibition from conducting securities related business, while in the employ of or associated with a Member of the MFDA, will serve as a specific deterrent to the Respondent. It would also give recognition to the provision in the Sanction Guidelines that a sanction imposed by the Member against the Respondent for the same misconduct may be considered by the Hearing Panel as a mitigating factor.

33. We accept the statement from MFDA Staff that it has received evidence which corroborates that the Respondent has limited financial means and, as a result, is unable to pay a monetary penalty greater than the total of the fine and costs amounts set out in the Settlement Agreement. The suggested fine of \$2,500 is clearly lower than what would have been acceptable if the Respondent had the ability to pay more.

(h) Previous Decisions Made in Similar Circumstances

34. Staff provided the Hearing Panel with a detailed chart seeking to show that the proposed resolution is within the reasonable range of appropriateness with regards to other decisions made by MFDA Hearing Panels in similar circumstances.

35. The following cases were discussed:

- a) *Khanna, Sudhir (Re)*, [2018] Hearing Panel of the Central Regional Council, MFDA File No. 2017105, Reasons for Decision dated February 27, 2018.

- b) *Kidnie, Kyle Norman (Re)*, [2019] Hearing Panel of the Central Regional Council, MFDA File No. 201926, Reasons for Decision dated October 22, 2019.
- c) *Truong, Alan (Re)*, [2019] Hearing Panel of the Pacific Regional Council, MFDA File No. 201904, Reasons for Decision dated June 20, 2019.
- d) *Pang Yan Chi, Peter (Re)*, [2016] Hearing Panel of the Pacific Regional Council, MFDA File No. 201563, Reasons for Decision dated July 5, 2016.

## **VI. DECISION**

36. After a thorough review of the factors by which we should be guided, and the facts of this case, as reflected in the Settlement Agreement, we were, unanimously, of the view that this Settlement Agreement was reasonable and in the public interest and should be accepted by the Hearing Panel. We so informed the parties at the conclusion of the Settlement Hearing.

## **VII. ORDER**

37. After accepting the Settlement Agreement, we made the following Order:

- a) the Respondent shall pay a fine in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to section 24.1.1(b) of MFDA By-law No.1;
- b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement by the Hearing Panel, pursuant to section 24.2 of MFDA By-law No. 1;
- c) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 6 months, commencing from the date the Settlement Agreement is accepted by the Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-Law No. 1;
- d) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
- e) 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 28<sup>th</sup> day of April, 2021.

“Thomas J. Lockwood”  
Thomas J. Lockwood, QC  
Chair

“Rob Christianson”  
Rob Christianson  
Industry Representative

“Kenneth P. Mann”  
Kenneth P. Mann  
Industry Representative

## Schedule "A"

Order

File No. 202056



**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: Jason Dickout**

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### **ORDER**

(ARISING FROM SETTLEMENT HEARING JANUARY 20, 2021)

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**WHEREAS** on June 5, 2020, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 in respect of Jason Dickout (the "Respondent");

**WHEREAS** on October 8, 2020, 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 Jason Dickout (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated October 8, 2020 (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to sections 20 and 24.1 of By-law No. 1;

**AND WHEREAS** the Hearing Panel is of the opinion that:

- a) between December 6 and December 10, 2018, the Respondent signed the signature of 2 clients on 3 account forms, and submitted the account forms to the Member for processing, contrary to MFDA Rule 2.1.1; and
- b) between February 20, 2019 and February 26, 2019, the Respondent misled the Member during its investigation into his conduct when he falsely stated that clients

signed account forms, when the Respondent had signed the client's signature on the account forms, contrary to MFDA Rule 2.1.1.

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

1. the Respondent shall pay a fine in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to section 24.1.1(b) of MFDA By-law No.1;
2. the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement by the Hearing Panel, pursuant to section 24.2 of MFDA By-law No. 1;
3. the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 6 months, commencing from the date the Settlement Agreement is accepted by the Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-Law No. 1;
4. the Respondent shall in the future comply with MFDA Rule 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 20<sup>th</sup> day of January, 2021.

“Thomas J. Lockwood”

Thomas J. Lockwood, QC  
Chair

“Rob Christianson”

Rob Christianson  
Industry Representative

“Kenneth P. Mann”

Kenneth P. Mann  
Industry Representative

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