



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: Gerald William Doyle

Heard: December 13, 2016, in Toronto, Ontario

Decision: December 13, 2016

Reasons for Decision: February 8, 2017

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.

Guenther W. K. Kleberg

Joan Smart

Chair

Industry Representative

Industry Representative

Appearances:

Francis Roy

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Counsel for the Mutual Fund Dealers
Association of Canada

Ellen Bessner

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)

Counsel for the Respondent

Gerald William Doyle

)

In Person

Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated September 2, 2016 (“Settlement Agreement”) between the staff of the MFDA (“Staff”) and Gerald William Doyle (the “Respondent”). A copy of the Settlement Agreement is attached to these reasons as Schedule “1”. The agreed facts are set out in section IV of it.

Contraventions

2. The Respondent admitted that :

- a) between September 16, 2013 and March 5, 2014, he permitted SL to engage in securities related business in respect of IG clients when he knew or ought to have known that SL was not registered as a mutual fund salesperson with IG, contrary to MFDA Rules 1.1.1, 1.1.3, and 2.1.1;
- b) between November 26, 2013 and March 5, 2014, he opened eight (8) new accounts and processed trades for at least 26 IG clients without meeting or obtaining instructions from the clients, thereby failing to perform the necessary due diligence to learn the essential facts relative to the clients and failing to ensure that the investments were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- c) in September 2014, he maintained blank pre-signed transfer authorization forms for two (2) clients, thereby failing to observe high standards of ethics and conduct in the transaction of business and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

Agreed penalties

3. The agreed penalties were that the Respondent will pay a fine of \$40,000 and costs of \$5,000.

Considerations

4. The 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 contravention 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 him of the agreed penalties.

The Misconduct

5. The misconduct admitted to by the Respondent concerns at least two cornerstones of the MFDA's investor protection mandate.

6. First, only Approved Persons can conduct securities related business. All securities related business is required to be conducted by properly registered individuals who are Approved Persons of the Member and have fulfilled the proficiency requirements and satisfied securities regulators that they are otherwise fit to provide investment advice and facilitate trading in the securities industry. In this case, the Respondent's conduct enabled an individual not registered with his Member to hold himself out to investors as an Approved Person of that Member.

7. Secondly, it is a fundamental obligation of every Member and Approved Person to learn the essential facts relative to each client and each order accepted and to ensure that each order accepted or recommendation made for any account of a client is suitable and in keeping with the client's investment objectives. By processing trades solicited by an individual not registered with his Member from clients he had not met, the Respondent was not in a position to know his clients, ensure that the investment recommendations made to them and orders accepted from them were suitable and to ensure that any risks associated with the investment recommendations made or strategies implemented for them were appropriately explained.

8. The Respondent's misconduct in the present case was serious. By allowing an unregistered individual to process securities trades using his representative code, the Respondent potentially placed the affected clients in harm's way.

Certain other factors considered in assessing the appropriateness of the agreed penalties

9. There was no evidence that any financial harm was suffered by clients as a result of the arrangement between the Respondent and the individual not registered with the Respondent's Member.

10. The Respondent ultimately admitted what he had done thereby accepting responsibility for his wrongdoing and in the end, provided accurate information about and corroboration of the scope and extent of his misconduct.

11. The Respondent has no previous disciplinary history.

12. There was no evidence that the Respondent intended to subject investors to potential harm.

13. The Respondent has co-operated with Staff throughout the course of Staff's investigation and these proceedings.

14. The fine and the costs that the Respondent has agreed to reflect the seriousness of the Respondent's conduct and will deter him and other Approved Persons from engaging in similar conduct in the future.

15. The Respondent has demonstrated remorse, accepted responsibility for his conduct and deeply regrets the contraventions of his regulatory obligations.

Deterrence

16. The fine and costs are significant and send a message to the Respondent and others in the capital markets about the seriousness of the misconduct at issue.

Penalty guidelines

17. In cases involving the misconduct alleged in the present case, the MFDA Penalty Guidelines recommend consideration of the following penalties for Approved Persons: b) Provincial Securities Requirements: minimum fine of \$5,000, write or rewrite an appropriate industry course exam, suspension or termination in egregious cases; c) Suitability and Know Your Client: minimum fine of \$10,000, write or rewrite an appropriate industry course exam, period of increased supervision, suspension or termination in egregious cases; and d) Standard of Conduct: minimum fine of \$5,000, suspension or termination in egregious cases.

18. The agreed fine exceeds the \$5,000-\$10,000 minimum fine recommended for each of the listed contraventions.

Previous decisions

19. The agreed penalties are within the reasonable range of appropriateness with regard to other decisions referred to by Staff made by MFDA hearing panels in similar circumstances.

Fair and reasonable

20. Whether agreed penalties are fair and reasonable will depend to a large degree on the particular facts and circumstances of a matter. Where agreed penalties are within an acceptable range based on precedents, and they serve as a specific and general deterrent, and the parties are represented by counsel and have the means to undergo a contested hearing but have reached a settlement, it is unlikely that a panel would ever conclude that the agreed penalties were unfair and not reasonable.

Costs

21. Costs of \$5,000 are reasonable in the circumstances.

Conclusion

22. We concluded that the agreed penalties were within an acceptable range based on precedents, would serve as a specific and general deterrent, and were fair and reasonable. We concluded, therefore, that the Settlement Agreement was in the public interest and, consequently, we accepted it.

DATED this 8th day of February, 2017.

“Paul M. Moore”

Paul M. Moore, Q.C.
Chair

“Guenther W. K. Kleberg”

Guenther W. K. Kleberg
Industry Representative

“Joan Smart”

Joan Smart
Industry Representative



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**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: Gerald William Doyle

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, Gerald William Doyle.

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 X) 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. The Respondent has been registered in the mutual fund industry since December 1998.

7. Since December 30, 1998, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a dealing representative) with Investors Group Financial Services Inc. (“IG”), a Member of the MFDA. He has been registered as a mutual fund salesperson in Quebec since May 22, 2012.

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

Contravention #1 – Facilitating Registerable Activities by an Approved Person who was Not Registered with IG

9. In about September 2013, the Respondent and SL, an Approved Person who was registered with Keybase Financial Group Inc. (“Keybase”), agreed that SL would transfer his registration as a mutual fund salesperson from Keybase to IG, and assist the Respondent to service his IG client base.

10. On or about September 16, 2013, the Respondent, SL and IG executed an Associate Agreement in furtherance of the arrangement described above. At that time, SL continued to be registered with Keybase, a fact unknown to the Respondent.

11. On the same day that he signed the Associate Agreement, SL began attending the Respondent’s branch office each day and assist the Respondent service the client accounts for which he was responsible. SL was provided with, among other things, a desk adjacent to the Respondent’s office, a telephone, a computer and an IG email address. The Respondent further created, and provided to SL, electronic login credentials enabling SL to access IG’s electronic client management system and enter notes of his activities.

12. At the time SL began working out of the Respondent’s branch office, an application was submitted to transfer SL’s registration to IG. SL did not resign from Keybase until November 25, 2013 and remained registered with that Member until that date. SL did not become registered in any capacity with IG until March 6, 2014.¹

13. Between September 16, 2013 and March 5, 2014, the Respondent knew or ought to have known that SL was not registered as a mutual fund salesperson with IG, and therefore knew or ought to have known that SL was not permitted to advise or trade in securities on behalf of IG clients.

¹SL was not registered with any MFDA Member between November 25, 2013 and March 5, 2014.

14. Between September 16, 2013 and March 5, 2014, the Respondent knew, or ought to have known, that SL engaged in the following activities which were not permitted:

- (a) in the absence of the Respondent, SL provided investment advice and/or made trade recommendations to at least 26 IG clients for whom the Respondent was the servicing mutual fund salesperson²;
- (b) SL opened accounts at IG for at least 8 individuals by providing completed account opening forms (including Know-Your-Client Information Forms, Orders Tickets and Transfer Forms) to the Respondent, which account opening forms the Respondent signed as the advisor of record and submitted to IG for processing despite never having met the 8 individuals³; and
- (c) SL placed trades in the accounts of at least 26 IG clients for whom the Respondent was the sole servicing mutual fund salesperson, which trades were processed by the Respondent and without the Respondent having met or otherwise discussed those trades with the clients.⁴ The Respondent states that he nevertheless reviewed those orders before they were processed.

Contravention #2 – The Respondent Failed to Know the Clients and Assess Suitability

15. As described above in paragraph 14, the Respondent opened 8 new accounts and processed trades for at least 26 IG clients without meeting or obtaining instructions from the clients. The Respondent signed account opening forms provided by SL and placed trades based upon client instructions obtained by SL.

² Namely, clients GB, LV, CB, JE, CE, RM, CR, JR, BM, AL, MH, LK, KK, TL, NL, JL, SM, DR, LR, AW, AB, BB, AnB, LB, BLM and JA.

³ Namely, clients CB, JE, CE, RM, CR, JR, BM and AL (though the Respondent did eventually meet with client CE, but only after client CE's account had been opened at IG under the Respondent's IG representative code). These 8 clients are the same clients referred to at note 4 above.

⁴ Namely, clients GB, LV, CB, JE, CE, RM, CR, JR, BM, AL, MH, LK, KK, TL, NL, JL, SM, DR, LR, AW, AB, BB, AnB, LB, BLM and JA.

Contravention #3 – The Respondent Maintained Blank Pre-Signed Account Forms

16. At all material times, IG's policies and procedures prohibited its Approved Persons, including the Respondent, from obtaining or using pre-signed account forms.

17. During a review of the Respondent's client files conducted in September 2014, IG found that the Respondent had obtained, and possessed, 2 blank pre-signed transfer authorization forms in respect of clients LV and GW.

The Respondent's Position

18. The Respondent states that he has not been the subject of prior MFDA regulatory proceedings. The Respondent further states that even though no known client complaints were made as a result of the facts described in Part IV, he ought to have known that his admitted-to misconduct was in violation of MFDA Rules, Policies and By-laws. Nevertheless, he regrets his conduct and fully accepts responsibility for his actions, including the consequential penalties agreed to herein.

V. CONTRAVENTIONS

19. The Respondent admits that he engaged in the following contraventions of the By-law, Policies and Rules of the MFDA:

- (a) between September 16, 2013 and March 5, 2014, the Respondent permitted SL to engage in securities related business in respect of IG clients when he knew or ought to have known that SL was not registered as a mutual fund salesperson with IG, contrary to MFDA Rules 1.1.1, 1.1.3, and 2.1.1;
- (b) between November 26, 2013 and March 5, 2014, the Respondent opened 8 new accounts and processed trades for at least 26 IG clients without meeting or obtaining instructions from the clients, thereby failing to perform the necessary due diligence to learn the essential facts relative to the clients and failing to ensure

that the investments were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 2.1.1; and

- (c) in September 2014, the Respondent maintained blank pre-signed transfer authorization forms for 2 clients, thereby failing to observe high standards of ethics and conduct in the transaction of business and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

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

- (a) the Respondent shall in the future comply with MFDA Rules 1.1.1, 1.1.3, 2.2.1 and 2.1.1;
- (b) the Respondent will attend in person, on the date set for the Settlement Hearing;
- (c) the Respondent shall pay a fine in the amount of \$40,000, pursuant to section 24.1(b) of By-law No. 1, upon the acceptance of this Settlement Agreement; and
- (d) the Respondent shall pay the costs of this proceeding and investigation in the amount of \$5,000, pursuant to section 24.2 of By-law No. 1, upon the acceptance of this Settlement Agreement.

VII. STAFF COMMITMENT

21. 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 VI of this Settlement Agreement, subject to the provisions of Part X 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 VI 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 VI, 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

22. 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.

23. 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.

24. 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.

25. 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

26. 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

27. 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.

28. 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

29. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 2nd day of September, 2016.

“Gerald William Doyle”

Gerald William Doyle

“NC”

Witness – Signature

NC

Witness – Print Name

“Shaun Devlin”

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

Schedule “1”

Order

File No. 201665



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: Gerald William Doyle

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 Gerald William Doyle (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) between September 16, 2013 and March 5, 2014, the Respondent permitted SL to engage in securities related business in respect of IG clients when he knew or ought to have known that SL was not registered as a mutual fund salesperson with IG, contrary to MFDA Rules 1.1.1, 1.1.3, and 2.1.1;

- b) between November 26, 2013 and March 5, 2014, the Respondent opened 8 new accounts and processed trades for at least 26 IG clients without meeting or obtaining instructions from the clients, thereby failing to perform the necessary due diligence to learn the essential facts relative to the clients and failing to ensure that the investments were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- c) In September 2014, the Respondent maintained blank pre-signed transfer authorization forms for 2 clients, thereby failing to observe high standards of ethics and conduct in the transaction of business and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 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 \$40,000, pursuant to section 24.1(b) of By-law No. 1; and

3. The Respondent shall pay the costs of this proceeding and investigation in the amount of \$5,000, pursuant to section 24.2 of By-law No. 1.

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

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]

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