



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: Richard Fenton

Heard: May 26, 2016 in Toronto, Ontario
Reasons for Decision: August 8, 2016

**ORAL REASONS FOR DECISION FOR ACCEPTANCE OF
SETTLEMENT AGREEMENT**

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
David W. Kerr	Industry Representative
Colleen Waring	Industry Representative

Appearances:

Sarah Glickman)	Counsel for the Mutual Fund Dealers
)	Association of Canada
)	
)	
Wendy Sun)	Counsel for the Respondent
)	

Decision

1. On May 26, 2016, the Hearing Panel accepted a settlement agreement (the “Settlement Agreement”) between the Mutual Fund Dealers Association of Canada (the “MFDA”) and Richard Fenton, (the “Respondent”). A copy of the Settlement Agreement is attached to these reasons as Schedule “1”. The Settlement Agreement sets out the agreed facts, agreed penalties, and relevant factors why the settlement agreement ought to be accepted.

Oral Reasons

2. The reasons were delivered orally at the hearing. This is an edited version of the oral reasons which serves as a written record.

Contraventions

3. The contraventions were that:
- a) between April 2006 and August 2014, the Respondent obtained, possessed and in some instances used to process transactions 12 pre-signed account forms in respect of eight (8) clients, contrary to MFDA Rule 2.1.1; and
 - b) Between 2007 and 2014, the Respondent failed to accurately respond to the Member's annual attestations for Approved Persons contrary to MFDA Rule 2.1.1.

Agreed penalties

4. The agreed penalties were:
- i) a fine of \$8,000, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
 - ii) a condition that the Respondent shall successfully complete the Branch Manager's Course offered by the Canadian Securities Institute within six months of the

- acceptance of the settlement agreement pursuant to section 24.1.1(f) of MFDA By-law No. 1;
- iii) an order that the Respondent shall in the future comply with MFDA Rule 2.1.1; and
 - iv) an order that the Respondent will pay costs of \$2,500 pursuant to section 24.2 of MFDA By-law No. 1.

Factors considered

5. The Hearing Panel reviewed the Settlement Agreement, Staff's submission, and the Book of Authorities provided by Staff of the MFDA ("Staff"). We noted that:

- a) The Respondent has co-operated with the Member and the MFDA;
- b) The Respondent has accepted the seriousness of the contraventions;
- c) The Respondent has had no prior disciplinary problems.

6. We looked at the impact that the agreed penalties would have on the Respondent.

7. We considered the guidelines of the MFDA for penalties and the precedent cases presented by Staff.

Three considerations

8. The Hearing Panel was satisfied regarding three considerations requisite to an acceptance by it of the settlement agreement. First, the agreed penalties were within an acceptable (i.e. appropriate) range based on precedents and other relevant factors. Secondly, that they were fair and reasonable in the circumstances. And thirdly, that they were an adequate deterrent to the Respondent and to the industry.

Conclusion

9. We concluded that for the forgoing reasons the settlement agreement was in the public interest; and, therefore, we accepted it.

This written version of the oral Reasons for Decision is

DATED this 8th day of August, 2016.

“Paul M. Moore”

Paul M. Moore, Q.C.
Chair

“David W. Kerr”

David W. Kerr
Industry Representative

“Colleen Waring”

Colleen Waring
Industry Representative

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Re: Richard Fenton

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Richard Fenton, 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) between April 2006 and August 2014, the Respondent obtained, possessed, and in some instances, used to process transactions, 12 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1; and
- b) between 2007 and 2014, the Respondent failed to accurately respond to the Member's Annual Attestations for Approved Persons, 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 \$8,000 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 pursuant to section 24.2 of MFDA By-law No. 1;
- c) the Respondent shall successfully complete the branch manager's course offered by the Canadian Securities Institute within 6 months of the date of the acceptance of this Settlement Agreement pursuant to s. 24.1.1(f) 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, 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 October 1993, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with Investors Group Financial Services Inc. ("Investors Group"), a member of the MFDA.

8. The Respondent was registered as a branch manager from June 21, 2007 to August 1, 2014.

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

Pre-signed Account Forms

10. At all material times, Investors Group's policies and procedures prohibited its representatives, including the Respondent, from holding blank or partially complete pre-signed account forms.

11. Between April 2006 and August 2014, the Respondent obtained, maintained, and in some instances, used to process transactions, 12 pre-signed account forms in respect of 8 clients.

12. The pre-signed account forms, 5 of which were used, consisted of 7 Investment Instruction forms, 2 Client Update forms, and 3 Know-Your-Client forms.

Failing to Accurately Respond to Member Inquiries

13. Between 2007 and 2014, the Respondent failed to accurately respond to Investor's Group's Annual Attestations for Approved Persons. Over this period, when completing Investors Group's Annual Attestations, the Respondent affirmed that he had not, "...arranged for any client to sign pre-signed forms(s) and do(es) no maintain any pre-signed forms in any client file".

Investors Group's Investigation

14. Investors Group's compliance staff detected the conduct that is the subject of this Settlement Agreement during a branch review on September 26, 2014

15. As part of its investigation, Investors Group reviewed all of the Respondent's client files. Investors Group did not detect any other instances of pre-signed forms beyond those described above.

16. The Respondent states that all transactions were authorized by the clients.

17. The Respondent states that he used pre-signed account forms for client convenience for clients who could not easily visit the branch.

18. Investors Group issued a warning letter to the Respondent on December 11, 2014.

Additional Factors

19. There is no evidence that the Respondent received any benefit from obtaining, possessing, and using the pre-signed account forms, including any commissions or fees.

20. There is no evidence of client harm or lack of authorization.

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

22. The Respondent cooperated with Investors Group's investigation into his conduct.

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 merits.

IV. ADDITIONAL TERMS OF SETTLEMENT

24. 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.

25. 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.

26. 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.

27. 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 facts and the contraventions described in this Settlement Agreement. 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 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.

28. 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.

29. 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.

30. 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 24th day of May, 2016.

“LB”

Witness – Signature

LB

Witness – Print name

“Richard Fenton”

Richard Fenton

“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 Richard K. Fenton (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 between April 2006 and August 2014, the Respondent obtained, possessed, and in some instances, used to process transactions, 12 pre-signed forms in respect of 8 clients, and, between 2007 and 2014, Failed to accurately respond to the Member's Annual Attestations for Approved Persons;

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 \$8,000 pursuant to s. 24.1.1.(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
3. The Respondent shall successfully complete the branch manager's course offered by the Canadian Securities Institute within 6 months of the date of the acceptance of this Settlement Agreement pursuant to s. 24.1.1(f) 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 requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or 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]