



**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: Kallol Ghose**

Heard: November 24, 2016, in Toronto, Ontario  
Reasons for Decision: January 19, 2017

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Guenther W. K. Kleberg	Industry Representative
Robert C. White	Industry Representative

Appearances:

Sarah Glickman	)	Counsel for the Mutual Fund Dealers
	)	Association of Canada
	)	
Stephen Simpson	)	Counsel for the Respondent
	)	
	)	

1. The Hearing Panel accepted the settlement agreement dated September 6, 2016 (the “Settlement Agreement”) between the Mutual Fund Dealers Association of Canada (the “MFDA”) and Kallol Ghose (the “Respondent”), a copy of which is attached as Schedule ‘1’ to these reasons.
2. The violations admitted to, the relevant law, and the pertinent facts and considerations taken into account in arriving at the penalty, are set out and explained in the Settlement Agreement.
3. The Respondent admitted that, acting in his capacity as branch manager, he reviewed and approved the use of ten (10) account forms that the Respondent knew or ought to have known had been altered without obtaining client initials authorizing the alterations.
4. The agreed penalties included a fine of \$5,000, and a costs award of \$2,500. In addition, the Respondent is required to successfully complete the branch manager's course offered by either the Canadian Securities Institute or the Investment Funds Institute of Canada within 6 months of the acceptance of the Settlement Agreement.
5. There was no evidence of client harm or that any transactions were unauthorized.
6. There was no evidence that the Respondent had received any benefit apart from ordinary fees and commissions.
7. The Respondent has not previously been the subject of disciplinary proceedings by the MFDA.
8. The fine is less than the minimum fine suggested in the penalty guidelines of the MFDA. However, we considered that the amount of \$5,000, coupled with the requirement to complete an appropriate industry course, was very appropriate in the circumstances and in an acceptable range of appropriateness when compared with the facts and circumstances of precedent cases submitted by staff.

9. They will provide an appropriate deterrent to the Respondent and to members of the industry in general.

10. The sanctions are fair and reasonable.

11. For the above reasons the panel accepted the Settlement Agreement because it was in the public interest to do so.

**DATED** this 19<sup>th</sup> day of January, 2017.

“Paul M. Moore”

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Paul M. Moore, Q.C.  
Chair

“Guenther W. K. Kleberg”

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Guenther W. K. Kleberg  
Industry Representative

“Robert C. White”

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Robert C. White  
Industry Representative

DM 516074 v1

## Schedule "1"

Settlement Agreement

File No. 201671



**Mutual Fund Dealers Association of Canada**  
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## **SETTLEMENT AGREEMENT**

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### **I. INTRODUCTION**

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Kallol Ghose (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) between February 2010 and October 2014, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 10 account forms that the Respondent knew or ought to have known had been altered without obtaining client initials authorizing the alterations, contrary to MFDA Rules 2.5.5(f)<sup>1</sup> 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 \$5,000 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 pursuant to s. 24.2 of MFDA By-law No. 1;
- c) the Respondent shall successfully complete a relevant industry course within 6 months of the date of the acceptance of the settlement agreement by the Hearing Panel, 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**

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<sup>1</sup> Prior to September 2013, MFDA Rule 2.5.5(f) was numbered as 2.5.5(d).

7. Since 2006, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with Desjardins Financial Security Investments Inc. (“Desjardins”), a Member of the MFDA.

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

9. Since 2007, Desjardins has designated the Respondent as a branch manager.

### **Approval of Altered Account Forms**

10. Between February 2010 and October 2014, an Approved Person who the Respondent had the responsibility to supervise as branch manager, submitted 10 account forms for the Respondent’s review and approval (the “Forms”).

11. The Respondent reviewed and approved the Forms, which he knew or ought to have known had been altered by the Approved Person.

12. The Approved Person altered information on the Forms without obtaining client initials authorizing the alterations.

### **Desjardins’ Investigation**

13. On or about February 25, 2015, Desjardins’ compliance staff identified the conduct that is the subject of this Settlement Agreement during the audit of the files of the Approved Person.

14. In May 2015, Desjardins sent letters to all clients serviced by the Approved Person in order to determine whether the Approved Person had engaged in any unauthorized trading. No clients reported any concerns to Desjardins.

15. On or about September 3, 2015, Desjardins issued a warning letter to the Respondent, as a result of its investigation.

## **Additional Factors**

16. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond any commissions and fees that he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.
17. There is no evidence of any client harm or that the transactions were unauthorized.
18. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
19. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

## **IV. ADDITIONAL TERMS OF SETTLEMENT**

20. 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.
21. 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.
22. 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.
23. 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.

24. 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.

25. 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.

26. 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 6<sup>th</sup> day of September, 2016.

“Kallol Ghose”

\_\_\_\_\_  
Kallol Ghose

“RC”

\_\_\_\_\_  
Witness – Signature

RC

\_\_\_\_\_  
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. 201671**



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**ORDER**

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**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 [Respondent] (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 February 2010 and October 2014, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 10 account forms that the Respondent knew or ought to have known had been altered without obtaining client initials authorizing the alterations, contrary to MFDA Rules 2.5.5(f)<sup>2</sup> and 2.1.1.

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<sup>2</sup> Prior to September 2013, MFDA Rule 2.5.5(f) was numbered as 2.5.5(d).

**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 \$5,000 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 a relevant industry course within 6 months of the acceptance of the settlement agreement by the Hearing Panel;
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 [day] day of [month], 20[ ].

Per: \_\_\_\_\_  
[Name of Public Representative], Chair

Per: \_\_\_\_\_  
[Name of Industry Representative]

Per: \_\_\_\_\_  
[Name of Industry Representative]