



**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: Bobby Donkar Narine Gocool**

Heard: July 28, 2016 in Toronto, Ontario  
Reasons for Decision: August 10, 2016

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.

Wanda Traczewski

Paige A. Wadden

Chair

Industry Representative

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers  
Association of Canada

Robert J. Brush

Counsel for the Respondent

## **Settlement Agreement**

1. The Hearing Panel in this matter accepted the settlement agreement dated March 29, 2016 (the “Settlement Agreement”) between the Staff of the MFDA (“Staff”) and Bobby Donkar Narine Gocool (the “Respondent”). A copy of the Settlement Agreement is attached to these reasons as Schedule “1”. The agreed facts are set out in Section III of the agreement.

## **Contraventions**

2. The Respondent admitted that between January 2013 and August 2014, he:
- a) obtained, possessed, and in some instances, used to process transactions, 52 pre-signed account forms in respect of ten (10) clients;
  - b) altered and used five (5) client account forms in respect of five (5) clients by using liquid correction fluid to change information on the account forms to reflect client instructions, without having the clients initial the changes; and
  - c) acting in the capacity of branch manager, reviewed and approved the use of 54 account forms.

## **Agreed penalties**

3. The agreed penalties were that the Respondent will pay a fine in the amount of \$15,000 and costs of in the amount 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. Firstly, 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.

### **Pre-signed account forms**

5. Hearing panels have held that obtaining or using pre-signed account forms is a contravention of the standard of conduct under MFDA Rule 2.1.1.

*Byce (Re)*, [2013] Hearing Panel of the Ontario Regional Council, MFDA File No. 201311, Panel Decision dated September 4, 2013

*Price (Re)*, [2011] Hearing Panel of the Ontario Regional Council, MFDA File No. 200814, Panel Decision (Misconduct) dated April 18, 2011

### **Altering forms**

6. Hearing Panels have held that altering forms is a contravention of the standard of conduct as set out in MFDA Rule 2.1.1.

*Byce (Re)*, [2013] supra,

*Ewart (Re)*, [2015] Hearing Panel of the Central Regional Council, MFDA File No. 201528, Panel Decision dated September 11, 2015

### **Approval of account forms**

7. Hearing panels have held that the review and approval of pre-signed account forms by a branch manager is a violation of Rules 2.1.1 and 2.5.5(d) (now Rule 2.5.5(f)).

*Durotoye (Re)*, [2014] Hearing Panel of the Central Regional Council, MFDA File no. 201328, Panel Decision dated May 20, 2014

*Hogan (Re)*, [2016], Hearing Panel of the Central Regional council, MFDA File no. 201567, Panel decision April 28, 2016

8. The Respondent was designated as the branch manager responsible for the activities at the branch in question by the Member.

9. By reviewing and approving the 54 account forms in question, he violated the standard of conduct required of industry participants pursuant to Rule 2.1.1 and failed to comply with the supervisory duties directed by Rule 2.5.5(f) (previously MFDA Rule 2.5.5(d)).

10. The Respondent failed to lead by example - Branch managers should act as standard bearers of conduct for the industry.

*Durotoye (Re)*, *supra*

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

11. There was no evidence of client harm.

12. There was no evidence that the Respondent received any financial benefit from engaging in the misconduct, other than the commissions and fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

13. The Respondent has been registered in the mutual fund industry since 1991. The Respondent has been designated by the Member as a branch manager since 2003. He ought to have known and respected the compliance requirements of the Member and the MFDA.

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

15. By entering into the settlement agreement, the Respondent has accepted responsibility for his misconduct and avoided the necessity of the MFDA incurring the time and expense of conducting a full disciplinary hearing.

## **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. Where an Approved Person fails to adhere to the standard of conduct, the MFDA Penalty Guidelines recommend one or all of the following: a minimum fine of \$5,000; writing or re-writing an appropriate industry course; suspension; a permanent prohibition in egregious cases.

18. Where an Approved Person, who is also a branch manager, fails to meet his or her responsibilities under Rule 2.5.5(f), the MFDA Penalty Guidelines recommend one or all of the following: a minimum fine of \$10,000; writing or re-writing an appropriate industry course; conditions on registration, suspension; a permanent prohibition in egregious cases.

19. The proposed fine of \$15,000 is greater than the \$10,000 suggested minimum fine for a supervisory rule violation as set out in the MFDA Penalty Guidelines, but the Respondent also violated Rule 2.1.1 with his use of pre-signed and altered forms.

20. The agreed penalties are within the reasonable range of appropriateness with regard to other decisions made by MFDA hearing panels in similar circumstances. In particular, we reviewed the following cases:

a) *Ewart (Re)*, [2015] *supra*

b) *Hogan (Re)*, [2015] *supra*

c) *Wilson (Re)* [2016], Hearing Panel of the Central Regional Council, MFDA File No. 201562, Panel Order dated February 25, 2016

**Fair and reasonable**

21. 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**

22. Costs of \$2,500 are reasonable in the circumstances.

**Conclusion**

23. 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 10<sup>th</sup> day of August, 2016.

“Paul M. Moore”

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Paul M. Moore, Q.C.  
Chair

“Wanda Traczewski”

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Wanda Traczewski  
Industry Representative

“Paige A. Wadden”

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Paige A. Wadden  
Industry Representative

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**Re: Bobby Donkar Narine Gocool**

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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, Bobby Donkar Narine Gocool, 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 January 2013 and August 2014, the Respondent obtained, possessed, and in some instances, used to process transactions, 52 pre-signed account forms in respect of 10 clients, contrary to MFDA Rule 2.1.1;
- b) between January 2013 and August 2014, the Respondent altered and used 5 client account forms in respect of 5 clients by using liquid correction fluid to change information on the account forms to reflect client instructions, without having the clients initial the changes, contrary to MFDA Rule 2.1.1; and
- c) between January 2013 and August 2014, the Respondent, acting in the capacity of branch manager, reviewed and approved the use of 54 account forms, 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 \$15,000 pursuant to s. 24.1.1(b) if 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 in the future comply with MFDA Rules 2.1.1 and 2.5.5; and
- d) 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".

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<sup>1</sup> Prior to September 2013, the Respondent's misconduct violated MFDA Rule 2.5.5(d).

### **III. AGREED FACTS**

#### **Registration History**

7. Since November 1991, the Respondent has been registered with PFSL Investments Canada Ltd. (“PFSL”), a Member of the MFDA. Since November 2003, the Respondent has been registered as a branch manager.

8. At all material times, PFSL designated the Respondent as branch manager in his branch.

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

#### **Pre-Signed Account Forms**

10. At all material times, PFSL’s policies and procedures prohibited its Approved Persons, including the Respondent, from holding, obtaining, or using pre-signed account forms.

11. Between January 2013 and August 2014, the Respondent obtained, possessed, and in some instances, used to process transactions, 52 pre-signed account forms in respect of 10 clients (the “Pre-Signed Account Forms”).

12. The Pre-Signed Account Forms included redemption, exchange request and Know-Your-Client forms.

13. The Respondent submitted 49 of the Pre-Signed Account Forms to PFSL to process transactions in client accounts.

#### **Altered Account Forms**

14. Between January 2013 and August 2014, the Respondent altered and used to process transactions 5 client account forms in respect of 5 clients (the “Altered Forms”).

15. The Respondent altered the forms by using liquid correction fluid to change information on the Altered Forms to reflect client instructions, without obtaining the clients' initials authorizing the change.

### **Approval of Pre-Signed and Altered Forms**

16. Between January 2013 and August 2014, the Respondent, acting in the capacity of branch manager, reviewed and approved the use of 54 of the Pre-Signed Account Forms and Altered Forms described above in paragraphs 10-15.

### **PFSL's Investigation**

17. Beginning in September 2014, PFSL's compliance staff detected the conduct that is the subject of this Settlement Agreement as a result of a branch audit and subsequent follow-up review.

18. As part of its investigation, PFSL sent letters to all of the affected clients and a portion of the non-affected clients serviced by the Respondent in order to determine whether the Respondent had engaged in any unauthorized trading. No clients reported any concerns.

19. On October 7, 2015, PFSL completed a follow-up audit of the Respondent's files and did not identify any further issues.

### **Additional Factors**

20. 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.

21. There is no evidence of any client harm or that the transactions were unauthorized.

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 of the allegations.

#### **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 29<sup>th</sup> day of March, 2016.

“CG”  
\_\_\_\_\_  
Witness – Signature

CG  
\_\_\_\_\_  
Witness – Print name

“Bobby Narine Donkar Gocool”  
\_\_\_\_\_  
Bobby Narine Donkar Gocool

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



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**Re: Bobby Donkar Narine Gocool**

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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 Bobby Donkar Narine Gocool (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 January 2013 and August 2014:

- a) the Respondent obtained, possessed, in some instances, used to process transactions, 52 pre-signed account forms, contrary to MFDA Rule 2.1.1;

- b) altered and used 5 account forms by using liquid correction fluid to change information on the account forms to reflect client instructions, without having the clients initial the changes, contrary to MFDA Rule 2.1.1; and
- c) while acting in the capacity of Branch Manager, reviewed and approved the use of 54 account forms, contrary to MFDA Rules 2.5.5(f) (prior to September 2013, MFDA Rule 2.5.5(d); prior to December 2010, MFDA Rule 2.5.3(b)) 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 \$15,000 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 in future comply with MFDA Rules 2.1.1 and 2.5.5; and
4. 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]