



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: Cory Edwin Griffiths

Heard: October 26, 2009 in Calgary, Alberta
Reasons: January 13, 2010

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

The Hon. Mary M. Hetherington
Richard R. Sydenham
M. Elaine Bradley

Chair
Industry Representative
Industry Representative

Appearances:

Lyla Simon) For the Mutual Fund Dealers Association
) of Canada

Cory Edwin Griffiths) Appeared personally
)

1. The staff of the Mutual Fund Dealers Association of Canada (“MFDA”) and Cory Edwin Griffiths (the “Respondent”) entered into a Settlement Agreement pursuant to section 24.4.1 and 2 of By-law No. 1 of the MFDA. On the recommendation of the MFDA, and in accordance with section 24.4.3 of the By-law, the Settlement Agreement was then referred to this Hearing Panel for acceptance or rejection.

2. As indicated above, Ms. Simon appeared as Enforcement Counsel for the MFDA. Mr. Griffiths appeared without counsel.

3. At the outset, Ms. Simon asked that the Panel direct that the hearing proceed *in camera*. Mr. Griffiths did not object, and the Panel made the direction.

SETTLEMENT AGREEMENT

4. The Settlement Agreement is dated September 25, 2009. It is attached to these Reasons for Decision and marked as Appendix A.

Facts

5. The Settlement Agreement discloses the following facts.

6. From the 8th of May to the 7th of November, 2008, Mr. Griffiths was registered in Alberta as a mutual fund salesperson with ATB Investment Services Inc. Mr. Griffiths had previously been registered in Alberta as a mutual fund salesperson with other companies.

7. Mr. Griffiths has not on any occasion been the subject of an MFDA disciplinary proceeding. He is not registered in the securities industry, and does not intend to return to it.

8. In the Settlement Agreement Mr. Griffiths admitted that he contravened the Rules of the MFDA in the following ways, ATB being the Member:

- Between June 2008 and October 2008, he falsified client initials, client signatures and other information on the account opening documents of clients MB, TB and CB, contrary to MFDA Rule 2.1.1 and
- In October 2008, he interfered with the ability of the Member to conduct a reasonable supervisory investigation of his conduct by providing false and misleading responses to the Member in the course of its investigation, before admitting to the falsification, contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1.

9. Particulars of these contraventions are contained in the Settlement Agreement.

10. The changes that Mr. Griffiths made to client documents did not alter the clients' stated investing intentions. He made the changes to correct the documents that had been completed by him incorrectly and had been signed by the clients. No trades were ever executed in the client's accounts.

11. There is no evidence of any client complaint, or of any harm to a client, arising out of the contraventions of the Rules described above. Mr. Griffiths did not receive any benefit of any kind as a result of these contraventions.

Terms of Settlement

12. In the Settlement Agreement Mr. Griffiths as the Respondent agreed that:

- the Respondent shall pay a fine in the amount of \$1,000, pursuant to section 24.1.1(b) of By-law No. 1;
- the Respondent shall be suspended from acting as a mutual fund salesperson for a period of 3 years, effective from the date of this Order and pursuant to MFDA By-law No. 1, section 24.1.1.(c); and
- the Respondent shall not pay any costs of the MFDA's investigation or of this proceeding.

13. The MFDA staff agree that:

- if the Settlement Agreement was accepted by this Hearing Panel; and
- if Mr. Griffiths honoured the terms of the Settlement;

it would not initiate any proceeding against Mr. Griffiths under By-laws of the MFDA in respect of the facts set out in the Settlement Agreement.

DECISION OF THE HEARING PANEL

14. Ms. Simon referred the panel to the decision of other panels in similar cases. She also referred the panel to the MFDA Penalty Guidelines. These Guidelines set out "...the general principles which should be considered in penalty decisions in all disciplinary cases." They also deal with case types that commonly arise. With respect to each of these types, the Guidelines set out specific factors which should be considered in addition to the general principles. Further they set out types and ranges of penalties appropriate to the case type. Where a disciplinary proceeding involves a case type that is not described in the Guidelines, it is suggested that guidance can be obtained by comparison with a case type that is described in the Guidelines.

15. However, the Penalty Guidelines are not mandatory. "Depending on the facts and circumstances of a case, MFDA Staff and Hearing Panels may determine that no purpose is served by imposing a penalty within the range stated in the Guidelines; i.e., that a penalty below the stated range, or no penalty at all, is appropriate."

16. In particular Ms. Simon referred the Panel to a case type entitled "Forgery/Fraud/Theft/Misappropriation/Misapplication". The penalty types and ranges suggested for such a case are a fine of a minimum of \$50,000 and permanent prohibition. The case before the Hearing Panel could only come within this case type if it was a case of forgery. Under the heading set out above forgery is defined as follows:

"Forgery is the creation of a false document with the intent that it be acted upon as the original or genuine document, where the victim is deprived of property or rights."

17. In this case none of the victims was deprived of property rights. Therefore this is not a case of forgery as that word is defined in the MFDA Guidelines. The Panel is not of the view that comparison with this case type would be of assistance to it when no client was harmed and Mr. Griffiths received no benefit.

18. Ms. Simon also referred the Hearing Panel to a case type entitled “Failure to Cooperate”. The penalty type and range suggested for such a case are a fine of a minimum of \$50,000 and permanent prohibition. There is no doubt that for a period of 6 days Mr. Griffiths failed to respond truthfully to officials of ATB who were investigating the matter before this Panel. However, since that time he has cooperated fully, as evidenced by the Settlement Agreement. Because Mr. Griffiths signed the Settlement Agreement, the MFDA has been spared the expense of a full investigation and hearing, which would have involved the clients.

19. The penalties provided for in the Settlement Agreement are not as severe as those described above. However, this Panel is of the view that they are appropriate in the circumstances of this case. In coming to this conclusion it has taken into consideration the following facts:

- Mr. Griffiths has not on any other occasion been the subject of an MFDA disciplinary proceeding.
- He is not registered in the securities industry, and does not intend to return to it.
- The changes that he made to client documents did not alter the clients’ stated investing intentions.
- Mr. Griffiths did not intend to receive, nor did he receive, any benefit as a result of the changes.
- There is no evidence of any client complaint, or of any harm to a client.
- After a short period of time, Mr Griffiths admitted that he had contravened the MFDA Rules as set out above, and he cooperated with the investigation thereafter.

20. In addition, the Panel has taken into consideration Mr. Griffiths’ present circumstances. He is now a full time student at university. He is living with his sister, and works from time to time for his brother-in-law as a labourer. Unfortunately, his brother-in-law is not always able to pay him. There is nothing in the evidence before the Hearing Panel to indicate that he has assets of any kind. In these circumstances, Mr. Griffiths could not pay a substantial fine.

21. The Hearing Panel is of the view that the penalties provided for in the Settlement Agreement are such as to deter Mr. Griffiths and others from contravening the MFDA Rules as Mr. Griffiths did. It is satisfied that those penalties suffice to protect the investing public. The Hearing Panel therefore accepted the Settlement Agreement pursuant to section 24.4.3 of the MFDA By-laws on the 26th of October, 2009. The members of the Hearing Panel signed an Order to this effect on that date. A copy of this Order is attached to these Reasons for Decision as Appendix B.

DATED this 13th day of January, 2010.

“Mary M. Hetherington”
The Honourable Mary M. Hetherington, Chair

“Richard R. Sydenham”
Richard R. Sydenham, Industry Representative

“M. Elaine Bradley”
M. Elaine Bradley, Industry Representative



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THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Cory Edwin Griffiths

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing dated October 8, 2009, the Mutual Fund Dealers Association of Canada (the “MFDA”) announced that it proposed to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Prairie 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 Cory Edwin Griffiths (the “Respondent”).

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 paragraph 42 below) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is approved by the MFDA.

IV. AGREED FACTS

Registration History

6. From May 8, 2008 to November 7, 2008, the Respondent was registered in Alberta as a mutual fund salesperson with ATB Investment Services Inc. (“ATB”). Prior to his registration with ATB, the Respondent was registered in Alberta as a mutual fund salesperson as follows:

- (a) February 2007 to February 2008 – Scotia Securities Inc.;
- (b) May 2006 to October 2006 – Credential Asset Management Inc.; and
- (c) August 2004 to December 2004 – CIBC Securities Inc.

7. The Respondent has not previously been the subject of an MFDA disciplinary proceeding. The MFDA did not receive any client complaints regarding the Respondent in respect of this matter.

8. The Respondent is not currently registered in the securities industry in any capacity. He is in his early 40s, and states that he is registered to return to full-time post-secondary studies in an unrelated field.

Falsification of Account Documents

Clients MB and TB

9. On or about June 9, 2008, clients MB and TB met with the Respondent to open a joint, non-registered account. At this time, MB and TB completed and signed a New Client Application Form (“NCAF”) that included queries about MB’s and TB’s combined annual income, investment objectives and risk tolerance.

10. The relevant portions of MB and TB’s NCAF read as follows:

- Annual income: “\$25,000 - \$50,000”;
- Investment Objectives: “safety”; and
- Risk Tolerance: “low”.

11. On or about May 29, 2008, in advance of his meeting with MB and TB on June 9, 2008, the Respondent had prepared an Asset Allocation Report for MB and TB’s joint account, the relevant portions of which read as follows:

- Annual income: “\$50,001 - \$75,000”;
- Investment Objectives: “conservative”; and
- Risk Tolerance: “medium”.

12. The Asset Allocation Report incorrectly identified the account type as “registered”. MB and TB signed the Asset Allocation Report, dated May 29, 2008.

13. Following the June 9, 2008 meeting, the Respondent submitted MB and TB’s account opening documents to head office.

14. ATB's New Accounts Administrator advised the Respondent that deficiencies had been identified on MB and TB's documents and that trading would not be permitted in their account until the deficiencies had been rectified.

15. On or about October 3, 2008, the Respondent prepared a revised version of the Asset Allocation Report for MB and TB's joint account, the relevant portions of which read as follows:

- Annual income: "\$25,001 - \$50,000";
- Investment Objectives: "safety"; and
- Risk Tolerance: "low".

16. The revised version of the Asset Allocation Report also correctly identified the account type as "non-registered".

17. The Respondent falsified the signatures of MB and TB on the revised version of the Asset Allocation Report so that it would appear that MB and TB had authorized the changes to it and submitted the document to ATB head office.

18. MB and TB were not aware of and did not authorize the changes to their annual income, investment objectives, risk tolerance and account type as stated on the revised version of the Asset Allocation Report.

Client MB

19. On or about June 18, 2008, client MB met with the Respondent to open a new account. At this time, MB completed and signed an NCAF, which designated the account as a registered retirement savings plan ("RRSP").

20. Following his meeting with MB, the Respondent submitted the account opening documentation to ATB head office.

21. On or about June 19, 2008, ATB's New Accounts Administrator advised the Respondent that deficiencies had been identified on MB's NCAF and that trading would not be permitted in MB's account until the deficiencies had been rectified. The noted deficiencies pertained to various pieces of missing or incomplete information, including MB's initials on the portion of the NCAF authorizing ATB to apply for registration of the new account as an RRSP.

22. At some point between June 19, 2008 and June 30, 2008, the Respondent falsified MB's initials on MB's NCAF so that it appeared that MB had authorized ATB to apply for registration of the new account as an RRSP. The Respondent resubmitted the NCAF to ATB head office.

23. MB had intended that the account be opened as an RRSP but was not aware that the Respondent had changed the NCAF to authorize ATB to do so by falsifying MB's initials on it.

Client CB

24. On or about September 29, 2008, client CB met with the Respondent to open a new account. At this time, CB completed and signed an NCAF that included queries about CB's annual income, net worth, investment knowledge and risk tolerance. In the portion concerning CB's risk tolerance, the box labelled "low" was checked off.

25. At the same meeting, an Asset Allocation Report was also prepared for CB, wherein her risk tolerance was indicated to be "medium".

26. Following the meeting, at some point between September 29, 2008 and October 8, 2008, the Respondent changed CB's risk tolerance from "low" to "medium" on the NCAF by checking off the "medium" box and falsifying CB's initials next to the "medium" box so that it would appear that CB had authorized the change in her risk tolerance.

27. CB was not aware of and did not initial the change to her risk tolerance on the NCAF.

28. The falsifications that the Respondent made to client documents did not alter the clients' stated investing intentions. The Respondent states that he made the changes to 'match' documents that had been incorrectly completed by him. No trades were ever executed in the above-noted clients' accounts.

29. There is no evidence of any client complaint or harm with respect to this matter.

30. The Respondent received no monetary or other benefit with respect to the falsifications he made on the client documents.

Providing False and Misleading Responses to the Member

31. Upon reviewing CB's account opening documentation, ATB compliance personnel noticed that CB's initials purportedly authorizing the change in her risk tolerance on her NCAF appeared to be inconsistent with CB's handwriting elsewhere on the account opening documentation.

32. Accordingly, on October 21, 2008, ATB compliance personnel questioned the Respondent about the change in CB's risk tolerance on the NCAF.

33. The Respondent initially stated that he had left CB's NCAF at branch reception for CB to sign and that CB had come in to initial the change when reception staff was present but the Respondent was not present.

34. ATB compliance personnel then asked the Respondent how CB had known to initial the change to the risk tolerance portion of the NCAF since it had not been indicated to CB that there was a deficiency. The Respondent stated that he had told CB to do so after noticing the discrepancy in CB's risk tolerance between the NCAF and the Asset Allocation Report.

35. The Respondent denied knowing who CB might have met with at reception and stated that he had not instructed that copies of the NCAF be retained.

36. Further investigation by ATB compliance personnel determined that CB could only have attended at reception to initial the change to the NCAF after the NCAF had already been altered and submitted, which was, therefore, impossible.

37. Given the inconsistencies in the Respondent's explanations, the Branch Manager met with the Respondent on October 27, 2008. During this meeting, the Respondent initially maintained that he was unable to explain how the initials and the change in risk tolerance had been made to CB's NCAF, and in so asserting, abandoned his earlier explanation that CB had initialed the changes at reception.

38. After the Branch Manager informed the Respondent that the authenticity of CB's initials on the NCAF was going to be verified by a handwriting expert, the Respondent admitted that he had falsified CB's initials.

39. Based on further admissions and statements made by the Respondent to the Branch Manager, ATB compliance personnel subsequently determined that the Respondent had also falsified the account documents of MB and TB, in the manner described above. ATB terminated the Respondent's employment on November 7, 2008.

V. CONTRAVENTIONS

40. The Respondent admits that:

- (a) between June 2008 and October 2008, he falsified client initials, client signatures and other information on the account opening documents of clients MB, TB and CB, contrary to MFDA Rule 2.1.1; and
- (b) in October 2008, he interfered with the ability of the Member to conduct a reasonable supervisory investigation of his conduct by providing false and misleading responses to the Member in the course of its investigation, before admitting to the falsifications, contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

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

- (a) the Respondent shall pay a fine in the amount of \$1,000.00, pursuant to section 24.1.1(b) of By-law No. 1;
- (b) the Respondent shall be suspended from acting as a mutual fund salesperson for a period of 2 years, effective from the date of this Order and pursuant to MFDA By-Law No. 1, section 24.1.1(c); and
- (c) the Respondent shall not pay any costs of the MFDA's investigation or of this proceeding.

VII. STAFF COMMITMENT

42. 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 any conduct or alleged conduct of the Respondent in relation to the facts set out in Part IV of this Settlement Agreement, subject to the provisions of paragraph 42 below.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

43. Acceptance of this Settlement Agreement shall be sought at a hearing of the Prairie Regional Council of the MFDA on October 26, 2009, as previously agreed to by counsel for Staff and the Respondent.

44. 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.

45. 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.

46. 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.

47. 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 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.

48. 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.

49. 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.

IX. DISCLOSURE OF AGREEMENT

50. 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.

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

X. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated: September 25, 2009

Witness Signature: "Marcia Steer"

"Cory Edwin Griffiths"
Cory Edwin Griffiths

Print Name: Marcia Steer

"Mark Gordon"
Staff of the MFDA
Per: Mark Gordon
Executive Vice-President



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PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Cory Edwin Griffiths

ORDER

WHEREAS on June 25, 2009, 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 Cory Edwin Griffiths (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated September 25, 2009 (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:

- between June 2008 and October 2008, the Respondent falsified client initials, client signatures and other information on the account opening documents of clients MB, TB and CB, contrary to MFDA Rule 2.1.1; and

- in October 2008, the Respondent interfered with the ability of the Member to conduct a reasonable supervisory investigation of the Respondent's conduct by providing false and misleading responses to the Member in the course of its investigation, before admitting to the falsifications, contrary to MFDA Rules 1.1.2 and 2.5.1 and 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 requests production of or access to exhibits in this proceeding that contain intimate financial or personal information, 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 intimate financial or 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 \$1,000.00, pursuant to section 24.1.1(b) of By-law No. 1;
3. The Respondent shall be suspended from acting as a mutual fund salesperson for a period of 2 years, effective from the date of this Order and pursuant to MFDA By-Law No. 1, section 24.1.1(c);
4. The Respondent shall not pay any costs of the MFDA's investigation or of this proceeding.

DATED this _____ day of _____, 2009.

Per: _____
_____, Chair

Per: _____
_____, Industry Representative

Per: _____
_____, Industry Representative



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course of its investigation, before admitting to the falsifications, contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1.

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3. The Respondent shall be suspended from acting as a mutual fund salesperson for a period of 2 years, effective from the date of this Order and pursuant to MFDA By-Law No. 1, section 24.1.1(c);
4. The Respondent shall not pay any costs of the MFDA's investigation or of this proceeding.

DATED this 26th day of October, 2009.

Per: “Mary Hetherington”
The Hon. Mary Hetherington, Chair

Per: “Richard Sydenham”
Richard Sydenham, Industry Representative

Per: “Elaine Bradley”
Elaine Bradley, Industry Representative

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