



**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 Michael Hefford**

Heard: November 15, 2011 in Winnipeg, Manitoba  
Reasons for Decision: November 24, 2011

**REASONS FOR DECISION**

Hearing Panel of the Prairie Regional Council:

Robert Hucal  
Gary Zeeben  
Patricia Kloepfer

Chair  
Industry Representative  
Industry Representative

Appearances:

H. C. Clement Wai	)	For the Mutual Fund Dealers Association of Canada
	)	
Thor Hansell	)	Legal Counsel for Richard Michael Hefford
	)	
Richard Michael Hefford	)	Respondent
	)	

1. On November 15, 2011, after hearing representation from Enforcement Counsel and Respondent's Counsel, we approved a Settlement Agreement reached between MFDA and the Respondent. Briefly, the Agreement provided for a permanent prohibition of the Respondent's ability to conduct securities-related business while employed by an MFDA Member and that he pay costs in the amount of \$5,000. At the conclusion of the hearing, we signed an Order to that effect, with written reasons to follow.

#### Agreed Facts

2. The Respondent became registered in Manitoba and Alberta as a mutual fund salesperson with Aegon Dealer Services Canada Inc. in January 1989. Aegon subsequently amalgamated and continued business under the name Investia Financial Services Inc., which successor employer terminated the Respondent's employment on June 30, 2009. The Respondent is not currently registered as a mutual fund salesperson.

3. Antares Investment Management Inc. ("Antares") is a portfolio management company based in Winnipeg and registered in the Province of Manitoba, among others, as a portfolio manager.

4. Pre-signed blank investment forms were used in the Respondent's office in January, 2002. The Branch Manager cautioned the Respondent relating to the use of the forms.

5. Subsequently, in March 2005 and again in February 2007 and June 2007, the same issues arose and the same instructions to destroy the forms to cease the practice of maintaining the blank pre-signed forms were given.

6. The practice did not end and pre-signed forms were again found in the Respondent's possession in February 2008 and December 2008.

7. It was determined that between March 2005 and March 2009 the Respondent obtained and possessed approximately 170 blank pre-signed forms for approximately 65 client accounts.

## Referral Arrangements in Antares

8. In early 2009, the Respondent began referring some clients to Antares without informing his then successor employer Investia.

9. On June 30, 2009, the Respondent was terminated because of his unapproved referral arrangements, his prior use of blank pre-signed forms and his failure to follow instructions relating to use of the forms.

## Contraventions

10. Between March 7, 2005 and March 6, 2009, the Respondent failed to observe high standards of ethics and engaged in business conduct or practice that was unbecoming an Approved Person by obtaining and possessing 170 blank, pre-signed forms for approximately 65 client accounts, contrary to MFDA Rule 2.1.1.

11. Between March 7, 2005 and March 6, 2009, the Respondent failed to observe high standards of ethics and engaged in business conduct or practice that was unbecoming an Approved Person by failing to comply with the branch manager's directions on six occasions to destroy all pre-signed blank investment forms in client files and to thereafter cease obtaining them, contrary to MFDA Rules 2.1.1.

12. In or about 2008 and 2009, the Respondent entered into a referral arrangement with a portfolio management company that he did not disclose to the Member, contrary to MFDA Rules 1.1.1, 2.1.4 and 2.4.2.

## Discussion

13. It is generally agreed that the Hearing Panel should not interfere with a negotiated settlement, provided that the penalties agreed upon are within a reasonable range of appropriateness considering the circumstances. Hearing Panels have also recognized that settlement agreements are reached by the parties after significant discussion and negotiations and

they represent what the parties believe is an appropriate resolution.<sup>1</sup>

14. Appropriateness<sup>2</sup> depends on several facts and we have taken into account the following, in determining whether or not the Settlement Agreement is to be accepted:

- i) The seriousness of the allegation proved and whether or not the settlement will prevent similar future conduct;
- ii) The Respondent's past conduct and sanctions and recognition of improper activity;
- iii) Whether the public interest is served;
- iv) Reasonableness in the context of the conduct of the Respondent;
- v) Whether specific and general deterrence are addressed;
- vi) Whether confidence in the integrity of the MFDA and the regulatory process is fostered; and
- vii) Previous decisions in similar circumstances.

15. At the onset of the proceedings we considered a joint Motion to move the proceedings "in camera". We granted that Motion. We heard and considered the details of the Settlement Agreement. We heard submissions as to the applicable law which guided us in determining whether we should accept or reject the Settlement Agreement. We also heard submissions as to why this Agreement met the appropriate criteria. We, after raising the issue, heard representations regarding the financial portion of the penalty, particularly the sufficiency of the amount. We retired and considered the terms of the Settlement Agreement in the context of the principles applicable. After deliberation we concluded, as noted aforesaid, to accept the Settlement Agreement.

16. We particularly focused on the question of the amount of the fine and determined that, in conjunction with the lifetime prohibition, the amount was reasonable and appropriate. We also considered the fact that the Respondent had no disciplinary history and no complaints from clients as a result of his contraventions; that his misconduct did not cause any known financial loss or harm to his clients; and that he cooperated fully and acknowledged his mistakes.

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<sup>1</sup> Re Clark 1999 IDACD #40  
Re Milewski 1999 IDACD #17

<sup>2</sup> Re Parkinson MFDA ORC 200501  
Investors Group Financial Services 2005 MFDA ORC 200610

17. The Panel concluded that the Settlement Agreement was reasonable and in the public interest and has signed the Order, as requested.

**DATED** this 24<sup>th</sup> day of November, 2011.

“Robert Hucal”

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Robert Hucal,  
Chair

“Gary Zeeben”

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Gary Zeeben,  
Industry Representative

“Patricia Kloepfer”

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Patricia Kloepfer,  
Industry Representative