



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: Erich Gilles Juillet

Heard: August 23, 2022 by electronic hearing in Toronto, Ontario

Decision: August 23, 2022

Reasons for Decision: September 14, 2022

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Emily Cole
Linda J. Anderson
Robert C. White

Chair
Industry Representative
Industry Representative

Appearances:

Michael Mantle)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
Erich Gilles Juillet)	Respondent
)	
)	

I. INTRODUCTION

1. This was a hearing pursuant to section 24.4 of By-Law No.1 of the Mutual Fund Dealers Association of Canada (“MFDA”) to consider a settlement agreement dated April 27, 2022 (“Settlement Agreement”) between staff of the MFDA (“Staff”) and Erich Gilles Juillet (“Respondent”).

2. After reviewing the Settlement Agreement and the material filed by Staff and hearing the submissions of counsel for Staff and the Respondent the Hearing Panel accepted the Settlement Agreement attached and signed an order reflecting our approval. These are the reasons for our decision.

II. CONTRAVENTIONS

3. Based on the Agreed Facts set out below the Respondent admits that:

- a) On or about February 6, 2018, the Respondent failed to notify the Member of a transactional error in the handling of a client account, contrary to the Member’s policies and procedures and MFDA Rules 1.1.2, 2.5.1 and 2.1.1.;
- b) Between on or about January 25, 2018, and February 6, 2018, the Respondent failed to obtain trade instructions from both joint account holders prior to processing trades in their account, contrary to the Member’s policies and procedures and MFDA Rules 1.1.2, 2.5.1 and 2.1.1.;
- c) On or about February 6, 2018, the Respondent provided a false or misleading statement to the Member in response to a Member supervisory inquiry, contrary to MFDA Rule 2.1.1.; and
- d) On or about October 6, 2016, the Respondent signed the signature of a client on an account form and submitted the account form to the Member for processing, contrary to MFDA Rule 2.1.1.

III. PROPOSED SANCTIONS

4. Staff and the Respondent agree and consent to the following proposed sanctions:

- a) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a

- period of 6 months from the date that this Settlement Agreement is accepted by a Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No.1;
- b) 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, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;
 - c) the Respondent shall pay costs in the amount of \$2,500, pursuant to s. 24.2 of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;
 - d) the Respondent shall successfully complete the Ethics and Professional Conduct Course offered by the IFSE Institute, or an ethics course acceptable to Staff of the MFDA, prior to becoming re-registered as a dealing representative with a Member of the MFDA; and
 - e) the Respondent shall in the future comply with MFDA Rules 1.1.2, 2.5.1 and 2.1.1.

IV. AGREED FACTS

5. Staff and the Respondent agree to the following facts

Registration History

6. Between February 4, 2014, and December 7, 2018, the Respondent was registered in Ontario and Québec as a dealing representative with Investors Group Financial Services Inc. (the “Member”), a Member of the MFDA.

7. On December 7, 2018, the Member terminated the Respondent, and he is not currently registered in the securities industry in any capacity.

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

Failed to Notify the Member of a Transactional Error

9. At all material times, the Member’s policies and procedures required Approved Persons to notify the Member of transactional errors that occur in the handling of client accounts as soon as the errors are identified and prior to correction by the Approved Person.

10. On or about November 27, 2017, the Respondent began servicing the mutual fund accounts at the Member of clients PS and SS, including a jointly held non-registered account (the “Joint Account”).

11. On January 25, 2018, the Respondent received an email from client PS instructing the Respondent to process certain transactions, including a redemption of the investments held in the Joint Account, and the deposit of the proceeds of the redemption into client PS's bank account.

12. The Respondent did not act on the January 25, 2018 instructions to process the redemption in the Joint Account.

13. On February 6, 2018, the Respondent received a follow-up email from client PS that questioned why the redemption had not been executed as requested in the January 25, 2018 e-mail from client PS. Client PS instructed the Respondent to process the redemption by backdating it to January 25, 2018, as the investments in the Joint Account had decreased in value between January 25, 2018, and February 6, 2018.

14. On February 6, 2018, the Respondent processed the redemption of the investments held in the Joint Account and deposited the proceeds into client PS's bank account. The Respondent failed to alert the Member that he had not processed client PS's redemption instructions in a timely manner as required by the policies and procedures of the Member.

15. On February 7, 2018, client PS complained to the Member that the Respondent had failed to process the trading instructions that client PS had sent to him on January 25, 2018, in a timely manner, and consequently, client PS incurred investment losses in the amount of \$4,223.84 due to a decrease in the value of the investments held in the Joint Account. The Member subsequently reimbursed client PS for these losses.

16. By virtue of the foregoing, the Respondent failed to notify the Member of his transactional error in respect of the redemption in the Joint Account.

Failed to Obtain Trade Instructions from Both Joint Account Holders

17. At all material times, the Member's policies and procedures required that all joint owners authorize all transactions involving joint accounts, and that if one of the joint owners requests that a transaction be processed, it is the responsibility of the Approved Person to obtain the authorization of the other joint owners of the account prior to submitting the transaction for processing.

18. The Respondent received instructions only from client PS to process the redemption in the Joint Account described above at paragraph 11, and did not contact client SS to obtain authorization from client SS.

19. By virtue of the foregoing, the Respondent failed to obtain trade instructions from both joint account holders prior to processing a trade in their account.

Misleading Statement to the Member

20. As part of its investigation of the complaint from client PS described above at paragraph 15, the Member's compliance personnel sent an inquiry to the Respondent requesting that he confirm that he received authorization from client SS to redeem the investments held in the Joint Account.

21. In response to this inquiry, the Respondent stated to the Member that he had obtained verbal authorization from client SS by phone, but he had failed to document the conversation that he had with client SS.

22. The Respondent's statement to the Member was false or misleading because, as described above at paragraph 18, the Respondent did not communicate with client SS to obtain authorization from client SS to process the redemption requested by client PS.

23. By virtue of the foregoing, the Respondent provided false or misleading information to the Member in response to a supervisory inquiry from the Member.

Signed a Client Signature on an Account Form

24. At all material times, the Member's policies and procedures prohibited Approved Persons from, among other things, executing or signing documents on behalf of clients.

25. On or about October 6, 2016, the Respondent signed the signature of a client on a client update form and submitted the form to the Member for processing.

26. During the Member's investigation into the conduct described in this Settlement Agreement, the Member confirmed with the client that the information on the client update form was accurate.

27. By signing a client's signature on an account form, the Respondent contravened the standard of conduct.

V. ANALYSIS

Jurisdiction of the Hearing Panel

28. A Hearing Panel is authorized to either accept or reject a settlement agreement.

Section 24.4.3 of MFDA By-law No. 1

29. The role of a Hearing Panel in reviewing a settlement agreement is to determine whether the proposed penalties agreed to by Staff and the Respondent fall within a reasonable range of appropriateness – not to determine what is, in its view, the correct penalty. A Hearing Panel “will tend not to alter a penalty that it considers to be within a reasonable range, considering the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness.”

Milewski (Re), [1999] I.D.A.C.D. No. 17.

Sterling Mutuals Inc. (Re), 2008 LNCMFDA 16 at para. 37

30. Settlements are to be encouraged. They make a significant contribution to meeting the MFDA's primary objective of investor protection by providing a practical and efficient way of addressing misconduct in the securities industry. Where the Respondent takes responsibility and admits his misconduct and the parties can agree upon appropriate sanctions, settlements can save time and conserve the regulator's limited resources. Settlements also provide certainty and are likely to result in greater compliance with the sanctions imposed.

British Columbia Securities Commission v. Seifert, [2006] B.C.J. No. 225 at paras. 48-49 (S.C.), aff'd [2007] B.C.J. No. 2186 at para. 31 (C.A.)

The Seriousness of the Misconduct

31. The Respondent admitted to four contraventions. Three of those contraventions arise from an error made by the Respondent and the consequences of his failure to deal with his error appropriately. The fourth contravention relates to a single incident in which the Respondent initialed a change of information form rather than obtaining his client's signature.

32. The facts which gave rise to the first three allegations are simple. On January 25, 2018, the Respondent was instructed by a joint account holder client PS to execute a transaction.

33. The Respondent failed to execute the transaction in a timely manner. Twelve days later, client PS followed up. Client PS complained because in the intervening days the investment had declined in value by \$4223.84 resulting in a loss of \$4223.84 to the holders of the joint account: client PS and client SS.

34. During the investigation into the Respondent's failure to execute the transaction in a timely manner it became apparent that the Respondent had also failed to obtain the instructions of the other joint account holder client SS before executing the transaction.

35. When asked by the Member whether he had obtained instructions of the other joint account holder, client SS, the Respondent aggravated his misconduct, by falsely stating that he had obtained verbal instructions which he had failed to document.

36. The Respondent tried to cover up his errors rather than telling the Member and asking for help. The rationale for Member Policies and Procedures that require an Approved Person to notify the Member of a transactional error when handling a client account is to access the Member's authority and expertise to try to limit any potential or in this case actual harm to the client.

37. We agree with Staff that when an Approved Person fails to inform the Member of an error that could result in financial harm to the account holders, the Member is deprived of an opportunity to bring its authority and expertise in circumstances to try to limit the resulting harm and if appropriate, to compensate clients or other individuals who are affected by the error.

38. We also agree with Staff that by accepting instructions from only one of two joint account holders, an Approved Person runs the risk of one joint account holder acting in the account without the knowledge, authorization, or approval of the other joint account holder and potentially to the other joint account holder's detriment. Fortunately, that was not the case here.

39. In this case, there was no evidence that client PS who provided the Respondent with trading instructions applicable to the joint account, was doing so without the knowledge or authorization of the other joint account holder, client SS, or contrary to the interests of client SS. The loss to the holders of the joint account was the result of the Respondent's failure to execute the transaction in a timely manner.

40. In failing to respond to the Member's inquiry honestly, the Respondent attempted to protect himself rather than protect his client. His misconduct is contrary to the business conduct standard

expected of a dealing representative and the Member's policies and procedures and MFDA Rules 1.1.2, 2.5.1 and 2.1.1.

Signed a Client's Initials on a Client Update Form

41. The events that gave rise to the fourth allegation occurred on October 6, 2016, about two and a half years into the Respondent's career as a dealing representative. The Respondent signed a client's initials on a client update form.

42. The Member confirmed with the client that the information on the client update form was accurate. The client did not suffer any harm. Although this was an isolated incident, signing a client's signature on an account form is a serious contravention of MFDA Rule 2.1.1.

Mitigating Factors

43. We considered the following mitigating factors

- a) The Respondent did not receive any financial benefit from his misconduct
- b) The joint account holder client SS authorized the transaction
- c) The account holder authorized the change of information
- d) The Respondent has not been previously the subject of MFDA disciplinary proceedings
- e) The Respondent accepted responsibility for his misconduct
- f) The Respondent cooperated fully in Staff's investigation
- g) By entering into the Settlement Agreement, the Respondent has saved the MFDA time, resources and expenses associated with conducting a full hearing on the allegations and,
- h) The Respondent has limited means and significant personal debt.

Costs

44. The costs award is appropriate and consistent with previous MFDA decisions.

VI. CONCLUSION

45. We are satisfied that the proposed sanctions, including the six-month prohibition of the Respondent's authority to conduct securities related business, the \$5,000 fine and \$2,500 in costs

will serve as a specific deterrence to the Respondent and general deterrence to others in the industry who may contemplate engaging in similar misconduct in the future.

46. Staff provided eight previous MFDA decisions but acknowledged that none of them were directly on point. We agree with Staff’s submission that it is a balancing act to use the available disciplinary tools (prohibition, fine, course requirement) in such a way that together the sanctions appropriately address the misconduct in all the circumstances. We are persuaded that the proposed sanctions in this case accomplish that goal.

47. Based on a review of these cases and taking into consideration the factors discussed above we are satisfied the proposed sanctions fall within a reasonable range of appropriateness.

48. We therefore accepted the Settlement Agreement and made an order reflecting the agreed upon sanctions against the Respondent.

DATED this 14th day of September, 2022.

“Emily Cole”

Emily Cole
Chair

“Linda J. Anderson”

Linda J. Anderson
Industry Representative

“Robert C. White”

Robert C. White
Industry Representative

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