



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: Catharina Hendrika Henrietta Van Benthem Jutting
(also known as Carien Jutting)**

Heard: January 31, 2020 in Toronto, Ontario

Decision: January 31, 2020

Reasons for Decision: March 16, 2020

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC
Matthew Prew
Katherine Samayoa

Chair
Industry Representative
Industry Representative

Appearances:

Jacklyn Neborak)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Catharina Jutting)	Respondent, in person
)	
)	

Acceptance of Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated November 19, 2019 (“Settlement Agreement”) between the Staff of the Mutual Fund Dealers Association of Canada (“MFDA”) and Catharina Hendrika Henrietta Van Benthem Jutting (“Respondent”).
2. A copy of the Settlement Agreement is attached to these reasons as Schedule “1”.

Agreed Facts

3. The agreed facts are set out in Part III of the Settlement Agreement.

Contraventions

4. The Respondent admitted to the following violations of the By-laws, Rules or Policies of the MFDA:
 - a) between April 2014 and May 2016, the Respondent altered and used to process transactions, 2 account forms in respect of 2 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and
 - b) between March 2011 and August 2018, the Respondent obtained, possessed, and used to process transactions, 6 pre-signed account forms in respect of 5 clients, contrary to MFDA Rule 2.1.1.
5. The Hearing Panel determined that the violations amounted to breaches of MFDA Rule 2.1.1.

Agreed Penalties

6. The agreed penalties were
 - a) a fine of \$11,500; and
 - b) costs of \$2,500.

Considerations

7. The Hearing Panel determined that it had to be satisfied regarding three considerations before it could accept the Settlement Agreement. First, the agreed penalties had to be within the reasonable range of appropriateness taking into account penalties imposed in similar cases by MFDA Hearing Panels. Secondly, the agreed penalties had to be fair and reasonable (i.e. proportional to the seriousness of the contraventions 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 the Respondent of the agreed penalty.

8. The Hearing Panel took into consideration submissions of Staff, the precedent cases provided by Staff, the MFDA Sanction Guidelines, and the additional factors set out in paragraphs 18 to 30 of the Settlement Agreement.

9. We also noted that \$3,125 was deducted from the Respondent's commissions by the Member during the time of strict supervision by the Member and that the Respondent paid to the Member \$991 in administrative fees to cover the cost of client mailings.

Determinations

10. The Hearing Panel concluded that the agreed penalties are consistent with the suggestions in the MFDA Sanction Guidelines and are within the reasonable range of appropriateness taking into account the precedent cases submitted to us by Staff. They are fair and reasonable and will serve as a specific and general deterrent.

11. By entering into the Settlement Agreement, the Respondent has accepted responsibility for her misconduct and avoided the necessity of the MFDA incurring the time and expense of conducting a full disciplinary hearing.

Costs

12. The costs award is reasonable.

Conclusion

13. We concluded that the Settlement Agreement was in the public interest and, consequently, we accepted it and signed an order in the form of the order attached as Schedule “A” to the Settlement Agreement.

DATED this 16th day of March, 2020.

“Paul M. Moore”

Paul M. Moore, QC
Chair

“Matthew Prew”

Matthew Prew
Industry Representative

“Katherine Samayoa”

Katherine Samayoa
Industry Representative



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**Re: Catharina Hendrika Henrietta Van Benthem Jutting
(also known as Carien Jutting)**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Catharina Hendrika Henrietta Van Benthem Jutting (also known as Carien Jutting) (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 Mutual Fund Dealers Association of Canada (“MFDA”):

- a) between April 2014 and May 2016, the Respondent altered and used to process transactions, 2 account forms in respect of 2 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and
- b) between March 2011 and August 2018, the Respondent obtained, possessed, and used to process transactions, 6 pre-signed account forms in respect of 5 clients, contrary to MFDA Rule 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 \$11,500 in certified funds upon acceptance of the Settlement Agreement, 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 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No.1;
- c) the Respondent shall in the future comply with MFDA Rule 2.1.1; 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”.

III. AGREED FACTS

Registration History

7. Since February 1989, the Respondent has been registered in the mutual fund industry.

8. Since August 2010, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a dealing representative) with FundEX Investments Inc. (the “Member”), a Member of the MFDA.

9. Since August 2014, the Respondent has been registered in British Columbia as a dealing representative with the Member.

10. At all material times, the Respondent conducted business in the Stratford, Ontario area.

Altered Account Forms

11. At all material times, the Member had policies and procedures that required client initials on all changes made to client documents.

12. Between April 2014 and May 2016, the Respondent altered and used to process transactions, 2 account forms in respect of 2 clients by altering information on the account forms without having the client initial the alterations.

13. The altered account forms consisted of Order Entry forms.

14. The Respondent made alterations on the account forms including alterations to a fund code and the transaction type.

Pre-Signed Account Forms

15. At all material times, the Member had policies and procedures that prohibited its Approved Persons from obtaining or using pre-signed account forms.

16. Between March 2011 and August 2018, the Respondent obtained, possessed, and used to process transactions, 6 pre-signed forms in respect of 5 clients.

17. The pre-signed account forms consisted of Order Entry forms.

Previous Use of Pre-Signed Account Forms

18. In or about August 2017, the Member conducted an audit of files maintained by the Respondent and identified 5 pre-signed forms.

19. On February 8, 2018, the Member issued a warning letter to the Respondent advising her that the use of pre-signed forms was prohibited, and on February 9, 2018, the Respondent signed

a Letter of Undertaking from the Member acknowledging that she had read and understood the Member's policies and procedures regarding pre-signed forms, and agreed that she would comply with the Member's policies and procedures. The Respondent also acknowledged that she would comply with all applicable rules and regulations of the MFDA and provincial securities regulations in the jurisdictions in which she is registered.

20. The Respondent obtained 1 of the pre-signed forms that is the subject of the Settlement Agreement in the period after the Member issued the warning letter to the Respondent and after the Respondent signed the Letter of Undertaking.

The Member's Investigation

21. On or about October 1, 2018, during the course of a branch audit, the Member reviewed all of the client files serviced by the Respondent and detected the pre-signed and altered account forms that are the subject of this Settlement Agreement.

22. On November 13, 2018, the Member issued to the Respondent a reprimand letter for pre-signed forms and placed her under strict supervision, effective November 14, 2018. During the period of strict supervision the Member imposed on the Respondent a monthly financial penalty of \$625.

23. On November 16, 2018, the Member sent a letter with a 3-year transactional summary to all clients serviced by the Respondent. The Member requested that the clients review their transaction summaries to ensure that the trading activity was completed as directed and to report any inconsistencies by December 16, 2018. No clients have reported any concerns.

24. On November 19, 2018, the Respondent signed a Letter of Undertaking from the Member acknowledging that she agreed with the facts and discipline set out in the Member's reprimand letter dated November 13, 2018. The Respondent also signed an Acknowledgment from the Member acknowledging that she had read and understood the Member's policies and procedures, and that she agreed to comply with all applicable rules and regulations of the MFDA and provincial securities regulations in the jurisdictions in which she is registered.

25. On April 10, 2019, the Respondent was removed from strict supervision. During the period of strict supervision a total of \$3,125 was deducted from the Respondent's commissions. The Respondent also paid to the Member a total of \$991 in administrative fees to cover the cost of client mailings.

26. On April 10, 2019, the Member issued a warning letter to the Respondent with respect to the pre-signed and altered account forms that are the subject of this Settlement Agreement. The Member also required the Respondent to complete the Ethics and Professional Conduct Course offered through the Investment Funds Institute of Canada by November 30, 2019.

Additional Factors

27. There is no evidence that the Respondent received any benefit from engaging in the misconduct described above beyond the commissions or fees she would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

28. There is no evidence of client loss or lack of authorization for the underlying transactions.

29. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

30. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing on the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

31. 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.

32. 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. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy

of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

33. 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.

34. 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 contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any 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.

35. 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.

36. 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.

37. 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 19th day of November, 2019.

“Catharina Hendrika Henrietta Van Benthem Jutting”
Catharina Hendrika Henrietta Van Benthem Jutting
(also known as Carien Jutting)

“MS”
Witness – Signature

MS
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. 201970



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ORDER

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 Catharina Hendrika Henrietta Van Benthem Jutting (also known as Carien Jutting) (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:

- a) between April 2014 and May 2016, the Respondent altered and used to process transactions, 2 account forms in respect of 2 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and

- b) between March 2011 and August 2018, the Respondent obtained, possessed, and used to process transactions, 6 pre-signed account forms in respect of 5 clients, contrary to MFDA Rule 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 \$11,500 in certified funds, pursuant to s. 24.1.1(b);
2. The Respondent shall pay costs in the amount of \$2,500 in certified funds, pursuant to s. 24.2 of MFDA By-law No.1;
3. The Respondent shall in the future comply with MFDA Rule 2.1.1; and
4. 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]