



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: Jarnail S. Kahlon

Heard: February 23, 2015, in Toronto, Ontario
Reasons for Decision: March 4, 2015

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore Q.C	Chair
Guenther Kleberg	Industry Representative
Colleen Waring	Industry Representative

Appearances:

Charles A. Toth)	For the Mutual Fund Dealers Association of
)	Canada
)	
Jarnail S. Kahlon)	In person and not represented by Counsel
)	
)	

Decision

1. We, the Hearing Panel, approve the Settlement Agreement attached hereto as Schedule 'A' to these Reasons for Decision as being in the public interest; and, therefore we accept the Settlement Agreement under the rules of the Mutual Fund Dealers Association of Canada (the "MFDA").

Alternatives of the panel

2. A panel considering a settlement agreement has three alternatives. It may approve the agreement as being in the public interest and accept it under the MFDA rules. Or it may suggest amendments to the agreement that, if the parties agree to make, would result in a settlement agreement that was in the public interest and therefore acceptable to the panel. Or it may reject the agreement as not being in the public interest and therefore not accepted by it under the MFDA Rules.

Factors

3. There are several factors that can make a settlement agreement in accordance with the public interest and therefore acceptable to a panel. There are two factors, however, that are paramount.

4. First and foremost, the settlement terms should be appropriate to serve as a deterrent to the respondent and others to discourage recurrences of the sanctioned conduct.

5. Secondly, the sanctions should be proportional to the impugned conduct, and not more severe than is necessary for deterrence.

6. In considering these two factors, a panel will usually be persuaded that sanctions are an adequate deterrence and proportional if they fall within an acceptable range of possible sanctions.

7. In this regard, the acceptable range will often be indicated by sanctions imposed in similar situations. However, since an important factor is the deterrent value of sanctions, a panel may decide that the level of sanctions applied in similar cases in the past are no longer serving as a sufficient deterrence and are being viewed as no more than a fee to engage in the impugned conduct, payable only if caught: a simple cost of doing business.

8. In the case before us we note that the impugned conduct was not substantially subsequent in time to the conduct sanctioned in the cases presented to us as comparable.

Facts

9. Jarnail S. Kahlon (the "Respondent") admits that, between about May 2012 and January 2014, he obtained, maintained and, in some instances, used to process trades, 21 blank pre-signed trade forms in respect of 16 clients, contrary to MFDA Rule 2.1.1. The Respondent agrees, as a term of the Settlement Agreement, to pay a fine in the amount of \$5,000 and costs in the amount of \$2,500.

10. The Respondent did not falsify or alter client signatures. There was no evidence of client harm.

11. There was no evidence that the Respondent received any financial benefit from the impugned conduct.

12. The Respondent has not previously been the subject of MFDA disciplinary proceedings. However, in about November 2011, the Member detected, during a sales compliance audit, that the Respondent had been using corrective fluid (i.e., "white-out") to correct errors on account forms without obtaining the initials of the client to acknowledge the correction. The Member directed the Respondent to stop this practice. There is no evidence that the Respondent failed to comply with this directive.

Reasons for Acceptance

13. The proposed sanctions do not fall outside the reasonable range of appropriateness having regard to the nature of the conduct admitted by the Respondent and the MFDA's regulatory objective of protecting the public.

Pre-Signed Forms are Not Permissible

14. MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry. It requires that each Member and Approved Person: deal fairly, honestly, and in good with faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from engaging in any business conduct or practice which is unbecoming or detrimental to the public interest.

15. "Pre-signed forms" is a generic term which is applied to a variety of situations where an Approved Person seeks to rely on a client's signature on a document when the signature was not provided by the client at the time the document was completed. Most commonly, an Approved Person obtains a client's signature on one or more partially or completely blank account forms, such as trading or Know-Your-Client forms, which the Approved Person then uses to process transactions in the client's account.

16. Hearing Panels have held that collecting or using pre-signed forms is a contravention of the standard of conduct under MFDA Rule 2.1.1.

17. The use of pre-signed forms adversely affects the integrity and reliability of account documents, leads to the destruction of the audit trail, has a negative impact on Member complaint handling, and has the potential for misuse in the form of unauthorized trading, fraud and misappropriation.

18. As the Hearing Panel explained in *Price (Re)*:

"Pre-signed forms present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading. . . .At its worst, pre-signed forms create a mechanism for an Approved Person to engage in acts of fraud, theft or other forms of harmful conduct towards a client. . . Pre-signed forms also subvert the ability of a Member to properly supervise trading activity. They destroy the audit trail. The presence of the

client's signature on a trade form can no longer be taken as confirmation that the client authorized a particular trade. It also compromises the ability of the Member to subsequently investigate and respond to a client complaint concerning the propriety of trading activity in his or her account."

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

19. In response to inquiries from his Member, the Respondent explained that he collected and used pre-signed forms to "save [clients] the hassle of travelling" to his office and that all transactions were authorized by the clients. While such factors may be relevant to penalty, the prohibition on the use of pre-signed forms applies regardless of whether the client was aware, or authorized the use, of the pre-signed forms or whether the forms were actually used by the Approved Person for discretionary trading or other improper purposes.

Other factors

20. 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.

21. Our acceptance of the Settlement Agreement with its sanctions is consistent with decisions made by other MFDA hearing panels in similar circumstances and with the MFDA penalty guidelines.

DATED this 4th day of March, 2015.

"Paul M. Moore"

Paul M. Moore, Q.C.
Chair

"Guenther Kleberg"

Guenther Kleberg
Industry Representative

“Colleen Waring”

Colleen Waring
Industry Representative



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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
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Re: Jarnail S. Kahlon

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central 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 the Respondent, Jarnail S. Kahlon.

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 Part XI) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

IV. AGREED FACTS

Registration History

6. The Respondent was registered in the mutual fund industry from December 2001 to June 2014.

7. From September 28, 2009 until he was terminated effective June 9, 2014, the Respondent was registered in Ontario as a mutual fund salesperson with Investia Financial Services Inc. (“Investia”), a Member of the MFDA.

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

9. The Respondent is not currently registered in the securities industry in any capacity.

Background

10. At all material times, Investia's policies and procedures contained the following prohibition on the collection and use of blank pre-signed account forms:

Under no circumstances should an Investia Representative be holding pre-signed documents in a client file. A signed form that is only partially complete is still considered a pre-signed form.

11. Investia's compliance staff detected the conduct which is the subject of this Settlement Agreement during a routine sales compliance audit of the Respondent's client files completed in about January 2014.

Blank Pre-Signed and Photocopied Trade Forms

12. Between about May 2012 and January 2014, the Respondent obtained, maintained and, in some instances, used to process trades, 21 blank pre-signed trade forms in respect of 16 clients. In particular, the Respondent:

- (a) obtained, and used to process trades, 11 photocopies of blank pre-signed Order Instruction Forms; and
- (b) obtained, and maintained in client files, 9 original blank pre-signed Order Instruction Forms and 1 facsimile of a blank pre-signed Order Instruction Form.

13. With regards to the conduct described in subparagraph 12(b) above, the blank pre-signed Order Instruction Forms were undated and, therefore, could be used by the Respondent to process trades in the future.

14. On or about May 3, 2014, the Respondent provided the following written statement to Investia explaining his conduct with respect to the blank pre-signed forms:

I have been asked to provide a statement regarding the pre-signed forms identified in my annual sales compliance review. Many of my clients are long time clients, and old friends and family friends who have faith in me, and trust me both as a friend and

investment consultant. They also live further than 20km from my office, and each one of these clients requested that they provide pre-signed forms to save them the hassle of travelling. They authorized all trades that were made in their accounts by phone to myself, and I am in the process of having each client sign off attesting to this (as a part of my compliance review resolutions). In the future, I will ensure that this practice does not take place, and under no circumstances will I hold any pre-signed forms.

15. The Respondent had not obtained limited trade authorizations in respect of the 16 clients for which he obtained, maintained and, in some instances, used to process trades, blank pre-signed trade forms. As a result, the Respondent was not permitted to execute trades based upon instructions received from the clients by telephone.

16. On February 5, 2014, Investia sent letters to all of the clients serviced by the Respondent to determine whether the Respondent had engaged in any unauthorized trading activity in the clients' accounts. None of the clients reported any concerns to Investia.

17. On February 18, 2014, Investia placed the Respondent on close supervision.

18. On May 9, 2014, Investia terminated the Respondent, in good standing, effective June 9, 2014 on the basis of unresolved compliance deficiencies, including the events at issue in this Settlement Agreement, detected during sales compliance reviews.

Additional Factors

19. No clients serviced by the Respondent have complained about his conduct.

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

21. The Respondent cooperated with Investia's internal investigation into his conduct.

22. The Respondent has expressed remorse for his actions.

23. The Respondent has not previously been the subject of MFDA disciplinary proceedings. However, in about November 2011, Investia detected, during a sales compliance audit, that the Respondent had been using corrective fluid (i.e., “white-out”) to correct errors on account forms without obtaining the initials of the client to acknowledge the correction. Investia directed the Respondent to stop this practice. There is no evidence that the Respondent failed to comply with this directive.

24. 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.

V. CONTRAVENTIONS

25. The Respondent admits that, between about May 2012 and January 2014, he obtained, maintained and, in some instances, used to process trades, 21 blank pre-signed trade forms in respect of 16 clients, contrary to MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

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

- (a) 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, payable as follows:
 - i. \$500 shall be paid upon acceptance of the settlement by the Hearing Panel;
 - ii. 9 installments of \$500 shall be paid on or before the final business day of each month following the acceptance of the settlement by the Hearing Panel;
- (b) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1, payable as follows:

- i. \$250 shall be paid upon acceptance of the settlement by the Hearing Panel;
 - ii. 9 installments of \$250 shall be paid on or before the final business day of each month following the acceptance of the settlement by the Hearing Panel;
- (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.

VII. STAFF COMMITMENT

27. 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 the facts or contraventions described in Parts IV and V of this Settlement Agreement, subject to the provisions of Part X below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts or contraventions that are not set out in Parts IV and V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and V, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

28. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

29. 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.

30. 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. 24.1.2 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.

31. 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.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

32. 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 section 24.3 of 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. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the hearing panel that accepted the Settlement Agreement, if available.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

33. 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.

34. 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.

XI. DISCLOSURE OF AGREEMENT

35. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 14th day of December, 2014.

“Ramanpreet Dhaliwal”
Witness – Signature

Ramanpreet Dhaliwal
Witness – Print name

“Jarnail S. Kahlon”
Jarnail S. Kahlon

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



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Re: Jarnail S. Kahlon

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 MFDA By-law No. 1 in respect of Jarnail S. Kahlon (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA (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 about May 2012 and January 2014, the Respondent obtained, maintained and, in some instances, used to process trades, 21 blank pre-signed trade forms in respect of 16 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 \$5,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1, payable as follows:

- (i) \$500 shall be paid upon acceptance of the settlement by the Hearing Panel;
- (ii) 9 installments of \$500 shall be paid on or before the final business day of each month following the acceptance of the settlement by the Hearing Panel;

2. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1, payable as follows:

- (i) \$250 shall be paid upon acceptance of the settlement by the Hearing Panel;
- (ii) 9 installments of \$250 shall be paid on or before the final business day of each month following the acceptance of the settlement by the Hearing Panel;

3. The Respondent shall in the future comply with MFDA Rule 2.1.1.

DATED this [day] day of [month], 20[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]