



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: Diane Louise Knyf

Heard: July 7, 2021 by electronic hearing in Toronto, Ontario

Decision: July 7, 2021

Reasons for Decision: October 18, 2021

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

The Honourable Robert P. Armstrong, Q.C.	Chair
Linda Anderson	Industry Representative
Samuel Mah	Industry Representative

Appearances:

Audrey Smith)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Joshua Shneer)	Counsel for the Respondent
)	
)	
Diane Louise Knyf)	Respondent
)	
)	

I. INTRODUCTION

1. Ms. Diane Louise Knyf (the “Respondent”), was charged with the following violations of MFDA Rule 2.1.1:

- a) between January 15, 2013 and August 13, 2018, the Respondent obtained, possessed and used to process transactions, 7 pre-signed account forms in respect of 6 clients, contrary to MFDA Rule 2.1.1; and
- b) between January 21, 2014 and December 3, 2015, the Respondent altered and used to process transactions, 19 account forms in respect of 16 clients, by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1.

II. THE AGREED FACTS

2. The agreed facts are set out in paragraphs 6 – 23 of the Settlement Agreement as follows:

Registration History

6. Commencing on January 10, 2008, the Respondent was registered in Ontario as a dealing representative with FundEX Investments Inc. (the “Member”), a Member of the MFDA.

7. At all material times, the Respondent conducted business in the Burlington, Ontario area.

Pre-signed Account Forms

8. At all material times, the Member’s policies and procedures prohibited its dealing representatives from using pre-signed account forms.

9. Between January 15, 2013 and August 13, 2018, the Respondent obtained, possessed and used to process transactions, 7 re-signed account forms in respect of 6 clients.

10. The pre-signed account forms include: Order Entry Forms; Know Your Client update forms; a Client Name Systematic Instruction Form and a Deregistration/Withdrawal Request Form.

Altered Account Forms

11. Between January 21, 2014 and December 3, 2015, the Respondent altered and used to process transactions, 19 account forms in respect of 16 clients, by altering information on the account forms without having the client initial the alterations. In some instances, the Respondent used liquid correction fluid to alter information on the account forms.

12. The Respondent altered information on the account forms including fund codes and names and transaction amounts.

The Member's Investigation

13. On June 19, 2019, the Member conducted a full review of the client files maintained by the Respondent and discovered the account forms that are the subject of this Settlement Agreement.

14. On August 26, 2019, the Member placed the Respondent on strict supervision for a period of 90 days. In addition, the Member required the Respondent to confirm that she had reviewed and would adhere to the Member's Compliance Policies and Procedures Manual.

15. On or about August 28, 2019, the Member sent a letter to all clients for whom the Respondent obtained pre-signed or altered account forms, along with 3-year transaction histories. The Member requested that the clients review their transaction histories to ensure that the trading activity was completed as the client had directed and to advise the Member of any inconsistencies in the information. The Member also requested that clients contact the Member if the client's personal and financial circumstances changed in order to ensure the clients' portfolios are in-line with the clients' investment objectives and risk tolerance. No clients reported any concerns to the Member in response to its letters.

16. On February 18, 2020, the Member issued a Warning Letter to the Respondent for her misconduct and ended her period of strict supervision.

17. During the period of strict supervision, the Member required the Respondent to pay a \$625 monthly non-compliance charge for the costs associated with the period of strict supervision, which amounted to a total of \$3,014.

18. The Respondent also paid a total of \$514 to the Member for the cost of letters and account statements mailed to clients.

Additional Factors

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

20. There is no evidence of client loss, client complaints or lack of authorization for the underlying transactions.

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

22. The Respondent states that she engaged in the conduct described in this Settlement Agreement for the purposes of client convenience.

23. 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.

III. SUBMISSIONS OF COUNSEL FOR THE MFDA

3. Counsel for the MFDA submitted that Rule 2.1.1 prescribes the standard of conduct expected of registrants in the mutual fund industry as follows:

“Each Member and Approved Person of a Member shall: deal fairly, honestly and in good faith with its clients; observe high standards of ethics and conduct in the transaction of business; and not engage in any business conduct or practice which is unbecoming or detrimental to the public interest.”

i. Pre-Signed Forms Are Not Permissible

4. Counsel submitted that obtaining and using pre-signed forms have consistently been held to be in contravention of Rule 2.1.1.

Lok (Re), [2020] Hearing Panel of the Central Regional Council, MFDA File No. 202011, Hearing Panel Decision dated May 11, 2020 at para 9, Staff’s Book of Authorities, Tab 2. (“Lok”).

Warr (Re), [2020] Hearing Panel of the Atlantic Regional Council, MFDA File No. 202037, Hearing Panel Decision dated September 25, 2020 at para 13, Staff’s Book of Authorities, Tab 3 (“Warr”).

5. The MFDA has in the past warned Approved Persons against the use of pre-signed forms.

MFDA Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013 and January 26, 2017), Staff’s Book of Authorities, Tab 4.

MFDA Bulletin #0661-E dated October 2, 2015, Staff’s Book of Authorities, Tab 5.

6. In this case the Respondent admitted that she obtained and possessed seven pre-signed account forms in respect of six clients contrary to MFDA Rule 2.1.1.

ii. Altered Forms Are Not Permissible

7. Altered forms of the Approved Persons without having the client initial such alterations are also contrary to MFDA Rule 2.1.1.

Lok (Re), *supra* at para 9, Staff’s Book of Authorities, **Tab 2.**

Warr (Re), *supra* at para 13, Staff’s Book of Authorities, **Tab 3.**

8. The MFDA has previously warned Approved Persons against altering account forms without having the client initial the forms.

MFDA Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013 and January 26, 2017), Staff’s Book of Authorities, **Tab 4.**

MFDA Bulletin #0661-E dated October 2, 2015, Staff’s Book of Authorities, **Tab 5.**

9. In this case the Respondent admitted that she altered and used to process 19 account forms in respect of 16 clients by altering such forms without having the client initial the changes.

IV. PROPOSED PENALTY

10. The Respondent and Staff have agreed to the following penalties subject to the approval of this Hearing Panel:

- a) the payment of a fine in the amount of \$13,000 in certified funds upon acceptance of the Settlement Agreement;
- b) the payment of costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement.

V. SUBMISSIONS MADE BY COUNSEL FOR MS. KNYF

11. Counsel for Ms. Knyf confirmed that his client was in agreement with the proposed resolution of this matter. Mr. Shneer emphasized the relevant mitigating factors. He pointed out that Ms. Knyf has no prior record of breaches of the MFDA Rules. He advised that no loss was suffered by any of Ms. Knyf's clients and there was no lack of authorization by the clients and no excess fees were charged in respect of the relevant transactions.

VI. CONCLUSION

12. This Panel has reviewed the Terms of the Settlement Agreement and the submissions of counsel. We accept the terms of the Settlement Agreement. We are satisfied that the proposed penalty is within a reasonable range of appropriateness having regard to the conduct of Ms. Knyf in this case.

13. An Order will be issued declaring that Ms. Knyf breached MFDA Rule 2.1.1 as set out in the Settlement Agreement and that a penalty should be imposed in the terms provided for in the Settlement Agreement.

DATED this 18th day of October, 2021.

“Robert P. Armstrong”

The Honourable Robert P. Armstrong, Q.C.
Chair

“Linda Anderson”

Linda Anderson
Industry Representative

“Samuel Mah”

Samuel Mah
Industry Representative

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