



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: John Lucescu

Heard: April 25, 2019 in Toronto, Ontario

Decision: April 25, 2019

Reasons for Decision: May 22, 2019

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Frederick H. Webber
Rob Christianson
Tim Pryor

Chair
Industry Representative
Industry Representative

Appearances:

Paul Blasiak)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Michael Byers)	Counsel for the Respondent
)	
)	
John Lucescu)	Respondent, in person
)	
)	

I. SETTLEMENT AGREEMENT

1. This was a settlement hearing pursuant to a settlement agreement dated January 27, 2019 (the "Settlement Agreement") between the Mutual Fund Dealers Association of Canada (the "MFDA") and John Lucescu (the "Respondent"), a copy of which is attached hereto as Schedule "1"

II. CONTRAVENTIONS

2. The Respondent has admitted the following contraventions:

- a) between April 2010 and March 2016, he obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of eight clients, contrary to MFDA Rule 2.1.1; and
- b) during April 2010, and between June 2014 and April 2016, he, acting in his capacity as branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f) (previously Rule 2.5.3(b)), and 2.1.1.

III. AGREED PENALTIES

3. The Respondent agreed, as part of the Settlement Agreement, to:

- a) be prohibited from acting as a branch manager or in a supervisory position for a period of 12 months;
- b) pay a fine in the amount of \$6,250, payable in installments set out in the Settlement Agreement;
- c) pay costs in the amount of \$2,500; and
- d) successfully complete the branch manager course prior to acting as a branch manager in the future.

IV. PANEL'S OBLIGATION

4. Pursuant to s.24.4.3 of MFDA By-law No. 1, a Hearing Panel has two options with respect to a settlement agreement. It may either accept the settlement agreement or reject it. As stated in *Milewski (Re)*, [1999] I.D.A.C.D. No. 17 and many other cases, in a settlement hearing the Panel "will tend not to alter a penalty that it considers to be within a reasonable range taking into account

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”. MFDA counsel submitted that the Hearing Panel ought to accept the Settlement Agreement as the proposed resolution falls within 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.

V. FACTS

5. The relevant facts are set out in section III of the Settlement Agreement.

VI. USE OF PRE-SIGNED FORMS

6. MFDA Rule 2.1.1 prescribes the standard of conduct applicable to registrants in the mutual fund industry. The Rule requires that each Member and Approved Person: deal fairly, honestly, and in good 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.

7. As noted in the MFDA written submissions, “Pre-signed forms” is a generic term which applies 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 a partially or completely blank account form, completes the form, and then uses the form to process transactions in the client's account.

8. The MFDA has warned Approved Persons against the use of pre-signed forms in previously issued notices and bulletins which are cited in the MFDA Book of Authorities. This panel agrees with the conclusion stated in numerous cases set out in the MFDA Book of Authorities, by previous Hearing Panels, that obtaining or using pre-signed forms is a contravention of the standard of conduct under MFDA Rule 2.1.1. 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. 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 the forms were actually used by the Approved Person for discretionary trading or other improper purposes.

9. In the present case, the Respondent admits that he obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1.

VII. APPROVAL OF PRE-SIGNED FORMS

10. MFDA Rule 2.5.5(f) states that branch managers must:

supervise the activities of the Member at a branch or sub-branch that are directed towards ensuring compliance with the By-laws, Rules and Policies and with applicable securities legislation by the Member and its Approved Persons.

11. In several cases set out in the MFDA Book of Authorities, previous hearing panels have held that when a branch manager reviews and approves pre-signed account forms, he or she engages in conduct that is contrary to MFDA Rule 2.5.5(f), and also contrary to the standard of conduct set out in Rule 2.1.1.

12. In the present case, the Respondent admits that he, acting in his capacity as branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f) and 2.1.1.

VIII. CONSIDERATIONS IN ACCEPTING A SETTLEMENT

13. MFDA hearing panels have taken into account the following considerations when determining whether a proposed settlement should be accepted:

- a) whether acceptance of the settlement agreement would be in the public interest and whether the penalty imposed will protect investors;
- b) whether the settlement agreement is reasonable and proportionate, having regard to the conduct of the Respondent as set out in the settlement agreement;
- c) whether the settlement agreement addresses the issues of both specific and general deterrence;

- d) whether the proposed settlement will prevent the type of conduct described in the settlement agreement from occurring again in the future;
- e) whether the settlement agreement will foster confidence in the integrity of the Canadian capital markets;
- f) whether the settlement agreement will foster confidence in the integrity of the MFDA; and
- g) whether the settlement agreement will foster confidence in the regulatory process itself.

IX. SPECIFIC FACTORS RE APPROPRIATENESS OF PENALTY

14. Factors that hearing panels frequently consider when determining whether a penalty is appropriate include the following:

- a) the seriousness of the allegations proved against the Respondent;
- b) the Respondent's past conduct, including prior sanctions;
- c) the Respondent's experience and level of activity in the capital markets;
- d) whether the Respondent recognizes the seriousness of the improper activity;
- e) the harm suffered by investors as a result of the Respondent's activities;
- f) the benefits received by the Respondent as a result of the improper activity;
- g) the risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
- h) the damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- i) the need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
- j) the need to alert others to the consequences of inappropriate activities to those who are permitted to participate in the capital markets; and
- k) previous decisions made in similar circumstances.

X. MFDA SANCTION GUIDELINES

15. Hearing panels may also refer to the MFDA's Sanction Guidelines, which came into effect on November 15, 2018. The Guidelines are not mandatory or binding on the hearing panel, but provide a summary of the key factors upon which discretion can be exercised consistently and fairly. Many of the same factors that are listed above, which have been considered in previous decisions of MFDA hearing panels, are also reflected and described in the Guidelines.

XI. CONSIDERATION IN THIS CASE

16. As stated in the MFDA written submissions, the following factors were particularly relevant in reaching its Settlement Agreement with the Respondent.

a) The nature of the misconduct

The use of pre-signed forms and the review and approval of pre-signed forms are serious breaches of MFDA Rules. This panel agrees.

b) Client Harm

There is no evidence of client loss or lack of authorization.

c) Benefits Received by the Respondent

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

d) Respondent's Past Conduct including Prior Sanctions

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

e) Respondent's Recognition of the Seriousness of the Misconduct

By entering into the Settlement Agreement, the Respondent has accepted responsibility for his misconduct. He has also saved the MFDA the time, resources and expenses associated with a full disciplinary proceeding.

f) Deterrence

The proposed penalties will act as a general deterrent and reinforce the message that pre-signed forms are not permissible. The proposed penalties will also act as a specific deterrent regarding the Respondent engaging in misconduct in the future.

g) The Respondent's Ability to Pay

The Respondent stated that he has limited financial means, and as a result he is unable to pay a monetary penalty that is greater than the total of the fine and costs amounts set out in the Settlement Agreement. MFDA Staff have received evidence which corroborates the Respondent's statement.

h) Previous Decisions Made in Similar Cases

This panel reviewed several cases which were referred to by MFDA counsel, and set out in MFDA's Book of Authorities. Those cases support this panel's conclusion that the proposed resolution is within the reasonable range of appropriateness with regard to other decisions made by MFDA Hearing Panels in similar circumstances.

XII. ORDER

17. At the conclusion of the hearing, this panel accepted the Settlement Agreement and signed an Order to that effect. A copy of that Order is attached as Schedule “2”:

DATED this 22nd day of May, 2019.

“Frederick H. Webber”

Frederick H. Webber
Chair

“Rob Christianson”

Rob Christianson
Industry Representative

“Tim Pryor”

Tim Pryor
Industry Representative

DM 676053

Schedule “1”

Settlement Agreement

File No. 2017114



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: John Lucescu

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, John Lucescu (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 2010 and March 2016, the Respondent obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1; and
- b) during April 2010, and between June 2014 and April 2016, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f)¹ and 2.1.1.

5. Staff and the Respondent agree and consent to the following terms of settlement:

- c) the Respondent shall be prohibited from acting as a branch manager or in a supervisory position while in the employ of or associated with any Member of the MFDA for a period of 12 months, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;
- d) the Respondent shall pay a fine in the amount of \$6,250 pursuant to s. 24.1.1(b) of MFDA By-law No.1 (the “Fine”);
- e) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No.1 (the “Costs”);
- f) the payment by the Respondent of the Fine and Costs shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (Costs) upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii. \$520.83 (Fine) on or before the last business day of the first month following the acceptance of the Settlement Agreement by the Hearing Panel;
 - iii. \$520.83 (Fine) on or before the last business day of the second month following the acceptance of the Settlement Agreement by the Hearing Panel;

¹ Rule 2.5.5(f) has been re-numbered and reworded during the period of the Respondent’s conduct described in this Settlement Agreement. Prior to December 2010, the Respondent’s conduct was contrary to Rule 2.5.3(b).

- iv. \$520.83 (Fine) on or before the last business day of the third month following the acceptance of the Settlement Agreement by the Hearing Panel;
- v. \$520.83 (Fine) on or before the last business day of the fourth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- vi. \$520.83 (Fine) on or before the last business day of the fifth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- vii. \$520.83 (Fine) on or before the last business day of the sixth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- viii. \$520.83 (Fine) on or before the last business day of the seventh month following the acceptance of the Settlement Agreement by the Hearing Panel;
- ix. \$520.83 (Fine) on or before the last business day of the eighth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- x. \$520.83 (Fine) on or before the last business day of the ninth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- xi. \$520.83 (Fine) on or before the last business day of the tenth month following the acceptance of the Settlement Agreement by the Hearing Panel;
- xii. \$520.83 (Fine) on or before the last business day of the eleventh month following the acceptance of the Settlement Agreement by the Hearing Panel; and
- xiii. \$520.83 (Fine) on or before the last business day of the twelfth month following the acceptance of the Settlement Agreement by the Hearing Panel;

- g) the Respondent shall successfully complete the branch manager course offered by either the Canadian Securities Institute or the Investment Funds Institute of Canada prior to acting as a branch manager in the future, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;
- h) the Respondent shall in the future comply with MFDA Rules 2.1.1 and 2.5.5(f); and
- i) 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 November 1995, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with PFSL Investments Canada Inc. (“PFSL”), a Member of the MFDA.

8. PFSL designated the Respondent as a branch manager between November 2003 and May 2010, and between May 2014 and December 2016.

9. At all material times, the Respondent conducted business in the Niagara Region and Whitby, Ontario areas.

Pre-Signed Account Forms

10. At all material times, PFSL’s policies and procedures prohibited its Approved Persons, including the Respondent, from having clients complete pre-signed account forms.

11. Between April 2010 and March 2016, the Respondent obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of 8 clients.

12. The pre-signed account forms consisted of redemption forms.

Approval of Pre-Signed Account Forms

13. During April 2010, and between June 2014 and March 2016, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 26 pre-signed account forms described above in paragraphs 11 and 12.

14. Between December 2014 and April 2016, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 10 pre-signed account forms by another Approved Person of his Branch.

PFSL's Investigation

15. Beginning in May 2016, PFSL's compliance staff identified the pre-signed account forms that are the subject of this Settlement Agreement as a result of a routine branch audit and subsequent follow-up investigation.

16. As part of its investigation, PFSL sent letters to 6 affected clients from whom the Respondent had obtained pre-signed account forms and a portion of non-affected clients serviced by the Respondent in order to determine whether the Respondent had engaged in any unauthorized trading. No clients reported concerns.

17. On September 22, 2016, PFSL issued a disciplinary letter to the Respondent.

18. On December 7, 2016, the Ontario Securities Commission imposed interim terms and conditions on the Respondent, which required that he be subject to close supervision by PFSL, and no longer be designated as branch manager.

Additional Factors

19. 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.

20. There is no evidence of client loss or lack of authorization.

21. The Respondent is 68 years old.

22. The Respondent states that he does not have any retirement savings.
23. The Respondent suffers from a serious medical condition involving his eyesight, and has had four eye surgeries since May 2018.
24. The Respondent's only sources of income are from PFSL, insurance sales, and payments from the Canada Pension Plan and Old Age Security. The Respondent has provided evidence to MFDA Staff substantiating that he earns only a modest income from these sources.
25. The Respondent states that he has limited financial means, and as a result he is unable to pay a monetary penalty that is greater than the total of the fine and costs amounts set out in this Settlement Agreement. MFDA Staff have received evidence which corroborates the Respondent's statement.
26. The Respondent acknowledges that if it were not for his limited financial means it would have been appropriate for him to be subject to a monetary penalty that is greater than the fine and costs amounts set out in this Settlement Agreement.
27. The Respondent states that the pre-signed forms that he obtained were obtained for the purpose of client convenience.
28. The Respondent has not been the subject of any client complaints with respect to the misconduct described above.
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 27th day of January, 2019.

“John Lucescu”

John Lucescu

“PL”

Witness – Signature

PL

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. 2017114



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: John Lucescu

ORDER

WHEREAS on November 17, 2017, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to ss. 20 and 24 of By-law No. 1 in respect of John Lucescu (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 2010 and March 2016, the Respondent obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1; and

- b) during April 2010, and between June 2014 and April 2016, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f)¹ and 2.1.1.

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall be prohibited from acting as a branch manager or in a supervisory position while in the employ of or associated with any Member of the MFDA for a period of 12 months, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;
2. The Respondent shall pay a fine in the amount of \$6,250 pursuant to s. 24.1.1(b) of MFDA By-law No.1 (the “Fine”);
3. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No.1 (the “Costs”);
4. The payment by the Respondent of the Fine and Costs shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (Costs) upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii. \$520.83 (Fine) on or before [insert date];
 - iii. \$520.83 (Fine) on or before [insert date];
 - iv. \$520.83 (Fine) on or before [insert date];
 - v. \$520.83 (Fine) on or before [insert date];
 - vi. \$520.83 (Fine) on or before [insert date];
 - vii. \$520.83 (Fine) on or before [insert date];
 - viii. \$520.83 (Fine) on or before [insert date];
 - ix. \$520.83 (Fine) on or before [insert date];
 - x. \$520.83 (Fine) on or before [insert date];
 - xi. \$520.83 (Fine) on or before [insert date];
 - xii. \$520.83 (Fine) on or before [insert date]; and

¹ Rule 2.5.5(f) has been re-numbered and reworded during the period of the Respondent’s conduct described in the Settlement Agreement. Prior to December 2010, the Respondent’s conduct was contrary to Rule 2.5.3(b).

xiii. \$520.83 (Fine) on or before [insert date];

5. The Respondent shall successfully complete the branch manager course offered by either the Canadian Securities Institute or the Investment Funds Institute of Canada prior to acting as a branch manager in the future, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;

6. The Respondent shall in the future comply with MFDA Rules 2.1.1 and 2.5.5(f); and

7. 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]

Schedule “2”

Order

File No. 2017114



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: John Lucescu

ORDER

(ARISING FROM SETTLEMENT HEARING ON APRIL 25, 2019)

WHEREAS on November 17, 2017, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to ss. 20 and 24 of By-law No. 1 in respect of John Lucescu (the “Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated January 27, 2019 (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 2010 and March 2016, the Respondent obtained, possessed, and used to process transactions, 42 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1; and

- b) during April 2010, and between June 2014 and April 2016, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f)² and 2.1.1.

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall be prohibited from acting as a branch manager or in a supervisory position while in the employ of or associated with any Member of the MFDA for a period of 12 months, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;
2. The Respondent shall pay a fine in the amount of \$6,250 pursuant to s. 24.1.1(b) of MFDA By-law No.1 (the “Fine”);
3. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No.1 (the “Costs”);
4. The payment by the Respondent of the Fine and Costs shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (Costs) upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii. \$520.83 (Fine) on or before May 31, 2019;
 - iii. \$520.83 (Fine) on or before June 28, 2019;
 - iv. \$520.83 (Fine) on or before July 31, 2019;
 - v. \$520.83 (Fine) on or before August 30, 2019;
 - vi. \$520.83 (Fine) on or before September 30, 2019;
 - vii. \$520.83 (Fine) on or before October 31, 2019;
 - viii. \$520.83 (Fine) on or before November 29, 2019;
 - ix. \$520.83 (Fine) on or before December 31, 2019;
 - x. \$520.83 (Fine) on or before January 31, 2020;
 - xi. \$520.83 (Fine) on or before February 28, 2020;
 - xii. \$520.83 (Fine) on or before March 31, 2020; and

² Rule 2.5.5(f) has been re-numbered and reworded during the period of the Respondent’s conduct described in the Settlement Agreement. Prior to December 2010, the Respondent’s conduct was contrary to Rule 2.5.3(b).

xiii. \$520.83 (Fine) on or before April 30, 2020;

5. The Respondent shall successfully complete the branch manager course offered by either the Canadian Securities Institute or the Investment Funds Institute of Canada prior to acting as a branch manager in the future, pursuant to s. 24.1.1(f) of MFDA By-law No. 1;

6. The Respondent shall in the future comply with MFDA Rules 2.1.1 and 2.5.5(f); and

7. 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 25th day of April, 2019.

“Frederick H. Webber”

Frederick H. Webber
Chair

“Rob Christianson”

Rob Christianson
Industry Representative

“Tim Pryor”

Tim Pryor
Industry Representative