



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: Alex Wai Yuk Lam

Heard: September 11, 2012 in Toronto, Ontario
Reasons for Decision: September 17, 2012

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Mark J. Sandler
Vlasios Kardaras
Ron Willis

Chair
Industry Representative
Industry Representative

Appearances:

Lyla Simon)	For the Mutual Fund Dealers Association of
)	Canada
James Camp)	For Alex Wai Yuk Lam
)	

Introduction

1. On September 5, 2012, 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 Alex Wai Yuk Lam (the “Respondent”).
2. The Respondent entered into a Settlement Agreement with MFDA Staff, dated September 4, 2012, 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.
3. On September 11, 2012, after hearing submissions from counsel, we approved the Settlement Agreement, and signed an Order reflecting that approval. These are our written reasons for doing so.

Agreed Facts

Registration History

4. The Respondent was registered as a mutual fund salesperson in Ontario with WFG Securities of Canada Inc. (“WFG Securities”) from October 2002 to January 19, 2010, when he was terminated for cause when the subject matter of this proceeding came to light.
5. The Respondent was registered to sell insurance from May 7, 2009 to December 9, 2009 with World Financial Group Insurance Agency of Canada Inc. (“WFG Insurance”).
6. The Respondent is not currently registered in the securities industry in any capacity.

Respondent’s Misconduct

7. On December 8, 2009, the Respondent attended a meeting with supervisory staff at WFG Securities that he had arranged in order to discuss the suitability of potential loans for four of his clients. During this meeting, additional documents from the four clients’ files were reviewed and supervisory staff discovered three blank, pre-signed trade forms, meaning three photocopies of a

blank trade form that had been signed by the client.

8. WFG Securities supervisory staff informed the Respondent that, as a result of the discovered pre-signed forms, WFG Securities would undertake a supervisory investigation, including WFG Securities compliance staff reviewing all of the Respondent's client files to ensure that there were no other blank pre-signed forms in his client files.

9. WFG Securities supervisory staff asked the Respondent at this meeting whether he maintained other pre-signed forms in his client files. The Respondent understood the question to be directed at whether he had conducted any unauthorized trading so he responded that he had not.

10. On December 8, 10 and 11, 2009, WFG Securities conducted a review of the entirety of the Respondent's client files ("Review") and identified further blank or partially completed pre-signed forms in relation to 23 clients and individuals.¹

11. The particulars of the blank or partially completed pre-signed forms were as follows:

a) Eighteen instances (nine clients and four individuals) of pre-signed trade forms, including:

(i) Sixteen instances (seven clients and four individuals) with only the person's name and signature present, and in some instances, partial trade instructions; and

(ii) Two instances (two clients) of photocopying and altering the form or 'whiting out' details on an old form and re-using the form;

b) Ten instances (six clients and four individuals) of pre-signed account opening documents, including:

¹ These individuals were the Respondent's insurance clients, as distinct from clients of WFG Securities. The Respondent's ordinary business dealings with insurance clients are not subject to regulatory oversight by the MFDA and do not form part of the contraventions admitted to by the Respondent.

- (i) Seven instances (three clients and four individuals) with little or no information populated aside from the person's name and signature; and
 - (ii) Three instances (three clients) where the client's signature was photocopied or cut out from a previous form and taped on or information was 'whited out' and altered;
- c) Four instances (two clients and one individual) of pre-signed Client Change forms, with no information populated aside from the person's name and signature including:
- (i) Three instances (one client and one individual) with little or no information populated aside from the person's name and signature; and
 - (ii) One instance (one client) where the client's signature was cut out from a previous form and taped on;
- d) Thirteen instances (four clients and five individuals) of pre-signed investment loan applications:
- (i) Three instances (one client and two individuals) with little or no information populated aside from the person's name and signature; and
 - (ii) Ten instances (three clients and three individuals) where information (such as the loan amount, the person's financial details, the securities to be purchased with the loan proceeds, the repayment options, and the date the client signed) was either missing or was altered without the person initialing.

12. On December 10, 2009, WFG Securities suspended the Respondent's registration with WFG Securities, as well as with WFG Insurance.

13. On December 16, 2009, WFG Securities met with the Respondent to discuss the findings arising from the Review. At this meeting, the Respondent admitted to obtaining and maintaining all of the pre-signed forms.

14. WFG Securities' policies and procedures manual contained a section prohibiting the use of pre-signed forms by Approved Persons.

Respondent's Circumstances

15. The Respondent is 35 years old, and has worked in the financial services industry for most of his career.

16. As a result of these events, the Respondent lost his book of business at WFG Securities. He wishes to return to the mutual fund industry.

17. There is no evidence of misappropriation, unauthorized trading, or client harm arising out of the Respondent's misconduct.

18. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct beyond that to which he would have been ordinarily entitled had the subject transactions been carried out properly.

19. The Respondent states that the following factors contributed to his misconduct:

- his belief that he was providing convenient service to his clients by not 'bothering' them to sign the client account forms; and
- the fact that he was not up to date with, and did not appreciate the importance of, an Approved Person's obligations to be compliant with the regulatory regime.

20. The Respondent has undertaken a proactive course of action to comply with his regulatory obligations going forward. In particular, he has registered for, and is working towards successful completion of, the IFSE (IFIC) Mutual Fund Dealer Compliance course.

21. The Respondent has no prior disciplinary history with the MFDA. He cooperated fully with Staff during the course of the investigation. By entering into a Settlement Agreement, he

has reduced the resources required to be allocated to the investigation and obviated the necessity of a full hearing on the merits.

Analysis

22. The Respondent admits that between 2002 and 2010, he obtained and maintained 28 blank and incomplete pre-signed forms for 16 clients. By doing so, the Respondent engaged in conduct prohibited by MFDA Rule 2.1.1: Gary Alan Price (Re), MFDA File No. 200814, Hearing Panel of the Central Regional Council, Decision and Reasons (Misconduct) dated April 18, 2011, at paras. 135-138.

23. The Settlement Agreement provides that the Respondent shall (i) 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 15 months commencing from the date of our Order; (ii) successfully complete the IFSE (IFIC) Mutual Fund Dealer Compliance course (“Course”); (iii) continue to be prohibited as described above until such time as he successfully completes the Course, in the event that he does not do so by the end of the 15 month prohibition; (iv) pay costs in the amount of \$2,500; and (v) in future, comply with MFDA Rule 2.1.1(a).

24. A hearing panel should not interfere lightly in a negotiated settlement. More specifically, it should not reject a Settlement Agreement unless it views the proposed disposition as clearly falling outside the range of reasonableness. In our view, the Settlement Agreement here advances the public interest, and is reasonable and proportionate having regard to all of the circumstances.

25. In so concluding, we have considered the following factors:

- a) A significant number of blank and incomplete pre-signed forms were obtained and maintained (28) involving 16 separate clients. Some of these forms were altered or involved the cutting out of the client’s signature from a previous form and taping it onto the subject form.
- b) The Respondent has not been the subject of previous MFDA disciplinary proceedings.

- c) He has cooperated fully with Staff during the investigation and, by signing a Settlement Agreement, has both accepted responsibility for his misconduct and obviated the necessity of a full hearing on the merits.
- d) As a result of his conduct, the Respondent lost his book of business at WFG Securities, and has been unable to return to the mutual fund industry for an extended period of time.
- e) The Respondent has registered for, and is working towards successful completion of the Course.
- f) There is no evidence of misappropriation, unauthorized trading, or client harm. Nor is there any evidence that the Respondent received any financial benefit from the misconduct beyond that to which he would have been ordinarily entitled had the subject transactions been carried out properly.

26. As is obvious from the above, apart from the nature of the misconduct itself there are a number of mitigating factors here.

27. We have also considered the existing precedents on penalty, as well as the MFDA non-binding Penalty Guidelines. The precedents often turn on their own unique facts. Accordingly, they provide some, but admittedly limited assistance. That being said, we are satisfied that the proposed penalty falls within the range of penalties imposed for similar misconduct.

28. In summary, we conclude that the Settlement Agreement is in the public interest. The proposed disposition is reasonable and proportionate, addresses specific and general deterrence, and ultimately fosters public confidence in the integrity of the Canadian capital markets, and the industry. That is why we approved it.

29. We thank both counsel for their helpful assistance.

DATED this 17th day of September, 2012.

“Mark J. Sandler”

Mark J. Sandler,
Chair

“Vlasios Kardaras”

Vlasios Kardaras,
Industry Representative

“Ron Willis”

Ron Willis,
Industry Representative

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