



**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: Jeffery Chi Kin Lau**

Heard: January 25, 2018 in Toronto, Ontario

Decision: January 25, 2018

Reasons for Decision: February 27, 2018

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC

Edward Jackson

Kenneth P. Mann

Chair

Industry Representative

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers

Association of Canada

Jeffery Chi Kin Lau

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Respondent, in person

## **Settlement Agreement**

1. The Hearing Panel accepted the settlement agreement dated August 21, 2017 (“Settlement Agreement”) between the Staff of the MFDA (“Staff”) and Jeffery Chi Kin Lau (“Respondent”). A copy of the Settlement Agreement is attached to these Reasons as Schedule “1”. The agreed facts are set out in section III of the agreement.

## **Contraventions**

2. The Respondent admitted that
- a) on June 2, 2016, he falsified four client signatures or client initials on two account forms in respect of one client, contrary to MFDA Rule 2.1.1;
  - b) on June 2, 2016, he opened a client account and processed a transaction without client authorization, contrary to MFDA Rules 2.3.1 and 2.1.1;
  - c) between June 6, 2016 and July 18, 2016, he failed to report a complaint to the Member, contrary to the Member's policies and procedures and MFDA Policy No. 6 and MFDA Rule 2.1.1;
  - d) between about June 6, 2016 and June 22, 2016, he attempted to pay compensation directly to a client to settle the client's complaint, without obtaining prior consent of the Member, contrary to the Member's policies and procedures, and MFDA Policy No. 3 and MFDA Rule 2.1.1;
  - e) between June 30, 2016 and July 19, 2016, he misled the Member during the course of its investigation into his conduct, thereby interfering with the Member's ability to supervise the Respondent, contrary to MFDA Rule 2.1.1; and
  - f) between June 3, 2016 and July 19, 2016, he misled the client with respect to the processing of an unauthorized transaction, contrary to MFDA Rule 2.1.1.

### **Agreed penalties**

3. The agreed penalties were: i) a 30 month suspension from conducting securities related business in any capacity while in the employ of or associated with a Member; ii) a \$10,000 fine, payable in instalments; and iii) a costs award of \$2,500.

4. The Settlement Agreement provided that the Respondent would appear in person at the hearing. His counsel appeared in person and the Respondent appeared by teleconference with the agreement of Staff and the concurrence of the Hearing Panel.

### **Considerations**

5. The Hearing Panel determined that it had to be satisfied regarding three considerations before it could accept the Settlement Agreement. First, the agreed penalty had to be within an acceptable range taking into account similar cases. Secondly, the agreed penalty had to be fair and reasonable (i.e. proportional to the seriousness of the contravention and taking into consideration other relevant circumstances) and should appear to be so to members of the public and industry. Thirdly, the agreed penalty 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.

### **Nature of the Misconduct**

6. The Respondent admits that he opened a client account and processed a transaction without client authorization. MFDA Rule 2.3.1 prohibits Approved Persons from engaging in discretionary trading because it is incompatible with their registered status as a dealing representative. Mutual fund salespeople are not permitted to conduct discretionary trades and must always contact the client prior to making any transactions. Where an Approved Person fails to obtain client instructions prior to executing a trade, he engages in discretionary trading beyond

the terms of his or her registration as a mutual funds salesperson and violates MFDA Rules 2.3.1 and 2.1.1.

7. The Respondent admits that he failed to report a complaint to the Member. The Member's policies and procedures required the Respondent to report complaints to the Member. MFDA Policy No. 6 requires that an Approved Person report to the Member any complaint received in respect of a trade completed without client authorization. Hearing Panels have held when an Approved Person fails to report a complaint to the Member, he or she violates MFDA Policy No. 6 and MFDA Rule 2.1.1.

8. The Respondent admits that he attempted to compensate a client directly in order to settle the client's complaint without obtaining prior consent of the Member. Both MFDA Policy No. 3 and the Member's policies and procedures prohibit Approved Persons from offering compensation or redressing an account without the prior approval of the Member. Hearing Panels have held that when an Approved Person engages in this type of conduct, he or she does so in violation of MFDA Policy No. 3 and MFDA Rule 2.1.1.

9. The Respondent admits that he misled the Member during its investigation into his misconduct. Hearing Panels have held that misleading the Member contravenes the standard of conduct set out in MFDA Rule 2.1.1. The consequences of misleading the Member in this manner are multifold: the misconduct may go undetected, client harm may arise, and an investigation may be closed down prematurely or diverted down an avenue of inquiry that wrongfully implicates others.

10. The Respondent misled the client with respect to the processing of the unauthorized transaction in question. When an Approved Person misleads a client, he or she fails to meet the standard of conduct set out in MFDA Rule 2.1.1, particularly, the requirement that an Approved Person deal fairly, honestly and in good faith with clients. As the Hearing Panel in stated in *Hill & Crawford Investment Management Group Ltd. and Albert Rodney Hill (Re)* [2009 MFDA Central Regional Council, File No. 200834, decision dated June 23, 2009]: Approved Persons

carry on a business that is based on the trust of their clients. A violation of this trust is serious and the resulting penalty should help re-establish the trust of the public.

### **Other considerations in determining acceptability of agreed penalties**

11. On July 19, 2016, the Respondent resigned from his Member and is no longer registered in the securities industry in any capacity.

12. There was no evidence that the Respondent received any financial benefit from engaging in the misconduct beyond any commissions and fees that he would normally be entitled to receive if the transactions had been carried out in the proper manner.

13. There was no evidence of client loss.

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

15. 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.

16. The agreed penalties are within the recommendations of the MFDA penalty guidelines and the reasonable range of appropriateness with regard to MFDA decisions submitted to us by staff, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

### **Costs**

17. The costs award is reasonable.

## Conclusion

18. We concluded that the Settlement Agreement was in the public interest and, consequently, we accepted it.

**DATED** this 27<sup>th</sup> day of February, 2018.

“Paul M. Moore”

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Paul M. Moore, QC  
Chair

“Edward Jackson”

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Edward Jackson  
Industry Representative

“Kenneth P. Mann”

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Kenneth P. Mann  
Industry Representative

DM 599967



**Mutual Fund Dealers Association of Canada**  
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**IN THE MATTER OF A SETTLEMENT HEARING  
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**Re: Jeffery Chi Kin Lau**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Jeffery Chin Kin Lau ("Respondent"), consent and agree to settlement of this matter by way of this agreement ("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 MFDA:

- a) on June 2, 2016, the Respondent falsified 4 client signatures or client initials on 2 account forms in respect of 1 client, contrary to MFDA Rule 2.1.1;
- b) on June 2, 2016, the Respondent opened a client account and processed a transaction without client authorization, contrary to MFDA Rules 2.3.1 and 2.1.1;
- c) between June 6, 2016 and July 18, 2016, the Respondent failed to report a complaint to the Member, contrary to the Member's policies and procedures and MFDA Policy No. 6 and MFDA Rule 2.1.1;
- d) between about June 6, 2016 and June 22, 2016, the Respondent attempted to pay compensation directly to a client to settle the client's complaint, without obtaining prior consent of the Member, contrary to the Member's policies and procedures, and MFDA Policy No. 3 and MFDA Rule 2.1.1;
- e) between June 30, 2016 and June 19, 2016, the Respondent misled the Member during the course of its investigation into his conduct, thereby interfering with the Member's ability to supervise the Respondent, contrary to MFDA Rule 2.1.1 and
- f) between June 3, 2016 and July 19, 2016, the Respondent misled the client with respect to the processing of an unauthorized transaction, 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 be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 30 months pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
- b) the Respondent shall pay a fine in the amount of \$10,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1 (the "Fine");
- c) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1 ("Costs");
- d) the Respondent shall pay the Fine and Costs in certified funds as follows:

- i) \$2,500 in Costs upon entering into the settlement hearing;
- ii) \$1666.67 on the last business day of the first month following the date of the settlement hearing;
- iii) \$1666.67 on the last business day of the second month following the date of the settlement hearing;
- iv) \$1666.67 on the last business day of the third month following the date of the settlement hearing;
- v) \$1666.67 on the last business day of the fourth month following the date of the settlement hearing;
- vi) \$1666.67 on the last business day of the fifth month following the date of the settlement hearing; and
- vii) \$1666.67 on the last business day of the sixth month following the date of the settlement hearing;
- e) the Respondent shall in the future comply with MFDA Rules 2.3.1 and 2.1.1 and MFDA Policies Nos. 3 and 6; and
- f) 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. Between November 2014 and July 19, 2016, the Respondent was registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with HSBC Investment Funds (Canada) Inc. (“HSBC”), a Member of the MFDA.

8. On July 19, 2016, the Respondent resigned from HSBC during the course of HSBC’s investigation into the conduct that is the subject of this Settlement Agreement. The Respondent is no longer registered in the securities industry in any capacity.

9. At all material times, the Respondent conducted business in the Markham, Ontario area.

## **Background**

10. At all material times, client EW was a client of HSBC whose account was serviced by the Respondent.

11. On June 1, 2016, client EW met with the Respondent, opened a new account at HSBC, and processed an authorized transaction in client EW's account.

12. On June 2, 2016, without authorization from client EW, the Respondent completed a New Account Application Form for client EW (the "NAAF") and processed the purchase of \$15,000 of mutual funds in client EW's account (the "Unauthorized Trade").

13. In order to process the Unauthorized Trade, the Respondent falsified client EW's signature and initials on the NAAF and an Acknowledgment of Receipt of Documents form (the "Acknowledgment"). The Respondent submitted the NAAF and Acknowledgment to HSBC for processing.

14. The Respondent states that he inadvertently failed to obtain instructions to process the Unauthorized Trade during his meeting client EW on June 1, 2016.

15. On June 3, 2016, client EW sent an email complaint to the Respondent stating that she had not authorized the Unauthorized Trade.

16. At all material times, HSBC's policies and procedures required that its Approved Persons, including the Respondent, to report any complaints to HSBC within one business day.

17. The Respondent failed to advise HSBC of the complaint from client EW.

18. On June 6, 2016, the Respondent sent an email to client EW in which he falsely stated that a “trader” had mistakenly processed the Unauthorized Trade.
19. On the same date, client EW requested that the Respondent reverse the Unauthorized Trade. The Respondent advised client EW that she could not redeem the monies invested through the Unauthorized Trade for 30 days and that HSBC would reimburse her for any losses incurred as a result of the Unauthorized Trade.
20. Later on June 6, 2016, client EW attended the Respondent’s branch office to discuss the Unauthorized Trade. At this meeting, the Respondent offered to purchase a \$20 gift card for client EW to resolve her complaint.
21. At all material times, HSBC’s policies and procedures prohibited its Approved Persons, including the Respondent, from paying compensation or redressing an account without prior approval from HSBC. The prohibition expressly included the use of gift cards provided to customers as goodwill gestures without authorization from HSBC.
22. Between June 6, 2016 and June 22, 2016, the Respondent and client EW exchanged emails about the Unauthorized Trade and the gift card.
23. The Respondent did not provide the gift card to client EW.
24. On June 30, 2016, the Respondent completed a mandatory Quarterly Compliance Certificate (the “Compliance Certificate”) and submitted it to HSBC. In the Compliance Certificate, the Respondent falsely represented to HSBC that he had: (a) not falsified client signatures; and (b) immediately reported complaints to HSBC in accordance with its policies and procedures.
25. On July 15, 2016, client EW complained directly to HSBC about the Unauthorized Trade.

26. On July 18, 2016, the Respondent's branch manager became aware of the complaint and met with the Respondent (the "July 18 Meeting").

27. At the July 18 Meeting, the Respondent falsely stated that:

- a) client EW visited the branch on June 2, 2016 and authorized the Unauthorized Trade;
- b) he did not have further communications with client EW after the Unauthorized Trade was submitted for processing;
- c) client EW had not requested the reversal of the Unauthorized Trade; and
- d) he did not offer to purchase a gift card for client EW.

28. After the Respondent made these false statements, the branch manager advised the Respondent that HSBC had received a complaint from client EW. For the second time, the Respondent falsely denied that client EW had authorized the Unauthorized Trade and suggested that client EW had forgotten that she had done so.

29. During the July 18 Meeting, the branch manager directed the Respondent not to contact client EW.

30. After the July 18 Meeting ended, the Respondent made a telephone call to client EW and advised her as to how to redeem the monies invested in the Unauthorized Trade.

31. After contacting client EW, the Respondent then falsely advised the branch manager that client EW had contacted the Respondent to request information about how to redeem the monies invested in the Unauthorized Trade.

32. During a second meeting with the branch manager on July 18, 2016, the Respondent again falsely denied offering client EW a gift card.

33. After the second meeting on July 18, 2016, the Respondent made a second telephone call to client EW and told her that he was not supposed to contact her because he was under investigation by HSBC. The Respondent also asked client EW to visit the branch office the next day.

34. On June 19, 2016, the Respondent placed three telephone calls to client EW. He asked client EW not to escalate the complaint any further and not to visit the branch office. The Respondent told client EW that he was resigning from HSBC in order to protect the “trader” who he falsely claimed had made the Unauthorized Trade.

35. On June 19, 2016, the Respondent resigned from HSBC.

### **HSBC’s Investigation**

36. After receiving the complaint on July 15, 2016, HSBC’s compliance department commenced its investigation. It interviewed client EW, obtained copies of correspondence between the Respondent and client EW, and completed a physical and electronic review of other transactions processed by the Respondent.

37. In response to the complaint, HSBC advised client EW to redeem her monies and close the account in which the Unauthorized Trade was processed. Client EW did this which resulted in a gain of \$1,062.91.

### **Additional Factors**

38. There is no evidence that the Respondent received any benefit from the conduct set out above beyond the commissions or fees he would ordinarily be entitled to receive had the transaction been carried out in the proper manner.

39. There is no evidence of client loss.

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

41. 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**

42. 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.

43. 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](http://www.mfda.ca).

44. 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.

45. 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.

46. 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.

47. 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.

48. 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 21<sup>st</sup> day of August, 2017.

“Jeffery Chin Kin Lau”

\_\_\_\_\_  
Jeffery Chin Kin Lau

“MMA”

\_\_\_\_\_  
Witness – Signature

MMA

\_\_\_\_\_  
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. 201779**



**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: Jeffery Chi Kin Lau**

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**ORDER**

(ARISING FROM SETTLEMENT HEARING ON JANUARY 25, 2018)

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**WHEREAS** on [date], the Mutual Fund Dealers Association of Canada (“MFDA”) issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Jeffery Chi Kin Lau (“Respondent”);

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (“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) on June 2, 2016, the Respondent falsified 4 client signatures or client initials on 2 account forms in respect of 1 client, contrary to MFDA Rule 2.1.1;

- b) on June 2, 2016, the Respondent opened a client account and processed a transaction without client authorization, contrary to MFDA Rules 2.3.1 and 2.1.1;
- c) between June 6, 2016 and July 18, 2016, the Respondent failed to report a complaint to the Member, contrary to the Member's policies and procedures and MFDA Policy 6 and MFDA Rule 2.1.1;
- d) between about June 6, 2016 and June 22, 2016, the Respondent attempted to pay compensation directly to a client to settle the client's complaint, without obtaining prior consent of the Member, contrary to the Member's policies and procedures, and MFDA Policy No. 3 and MFDA Rule 2.1.1;
- e) between June 30, 2016 and June 19, 2016, the Respondent misled the Member during the course of its investigation into his conduct, thereby interfering with the Member's ability to supervise the Respondent, contrary to MFDA Rule 2.1.1 and
- f) between June 3, 2016 and July 19, 2016, the Respondent misled the client with respect to the processing of an unauthorized transaction, 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 be prohibited from conducting securities related business in any capacity while in the employ of or associated with a Member of the MFDA for a period of 30 months, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;
2. the Respondent shall pay a fine in the amount of \$10,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1 (the "Fine");
3. Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1 ("Costs");
4. the Respondent shall pay the Fine and Costs in certified funds as follows:

- i) \$2,500 in Costs upon entering into the settlement hearing;
- ii) \$1666.67 on [date];
- iii) \$1666.67 on [date];
- iv) \$1666.67 on [date];
- v) \$1666.67 on [date];
- vi) \$1666.67 on [date];
- vii) \$1666.67 on [date];

5. the Respondent shall in the future comply with MFDA Rules 2.3.1 and 2.1.1 and MFDA Policies Nos. 3 and 6; and

6. 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]