



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: Victor Raymond Fook Seng Lee

Heard: February 1, 2011 in Calgary, Alberta
Reasons for Decision: February 8, 2011

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

Robert Hucal
Carol Krienke

Chair
Industry Representative

Appearances:

| | | |
|------------------------------|---|--|
| Lyla Simon |) | For the Mutual Fund Dealers Association of |
| |) | Canada |
| |) | |
| John S. Forstrom |) | For the Respondent |
| |) | |
| Victor Raymond Fook Seng Lee |) | In Person |
| |) | |

1. On February 1, 2011, after hearing representations from Enforcement Counsel, we approved the Settlement Agreement reached between MFDA and the Respondent (Appendix “A”). At the conclusion of the Hearing we signed an Order to that effect, with written reasons to follow. Put briefly, the Agreement provides that Victor Raymond Fook Seng Lee (the “Respondent”) be prohibited for a three-year period from acting as a partner, director or officer of an MFDA Member or as an ultimate designated person, chief compliance officer or branch manager while in the employ of an MFDA Member; that in the event the Respondent seeks a change in any of those capacities, that he complete the required educational components; and that a fine in the amount of \$5,000 be paid, together with costs of \$2,500.

2. In accordance with MFDA By-law No. 1, Section 19.9(b), the Hearing proceeded without a third Panel Member, a quorum being present. The Respondent and his Counsel had no objection and agreed to proceed.

AGREED FACTS

Registration History

3. The Respondent, from February 2007 to October 2008, was the President, Chief Executive Officer, and Chief Compliance Officer of Laurier Capital Planning Inc. (“Laurier”), an MFDA Member since January 24, 2008 which resigned its membership on October 10, 2008.

4. Prior to his Laurier positions, the Respondent held various appointments as Chief Compliance Officer and Registered Representative with three registrants as well as Chief Executive Officer with a fourth registrant from September 1994 until his involvement with Laurier.

Compliance Examination

5. Commencing in May 2008, MFDA staff conducted a compliance examination at Laurier’s Calgary office, covering the period January 24, 2008 to May 15, 2008, and identified in its report dated September 29, 2008 a series of deficiencies, including those related to tier-one

and tier-two supervision and a lack of an operational back office system.

Back Office System

6. Laurier failed to establish and employ a back office system which was sufficiently functional to meet regulatory requirements.

7. Because of the inadequacy of the back office system, Laurier was unable to review clients' accounts at the time of a trade to assess suitability of the trade against the allocations stated on the KYC and NAAF forms previously completed by the client.

8. Because of the deficiencies in the system, Laurier was unable to conduct trade reconciliations or generate trend reports, error reports or trade volume reports and was therefore unable to conduct reviews of excessive trading or off-book activity.

Tier-One Supervision

9. By reason of the failures associated with the lack of a functional back office supervision structure, the tier-one supervision structure was inadequate in that Laurier did not conduct suitability reviews of trades and that although aware of the inadequate supervision, failed to take adequate steps to correct the problem.

Tier-Two Supervision

10. By reason of the failure associated with the lack of a functional back office system, the tier-two supervision was inadequate in that Laurier did not review trade blotters, conduct trade reconciliations, review suitability of trade recommendations in client accounts, and allowed submission of trading instructions directly to mutual fund companies such that trading activity was off-book and was therefore unable to detect unauthorized trading and was unable to conduct reviews for excessive trading activity.

11. The Respondent thereby engaged in business conduct and practice that was unbecoming

or detrimental to the public interest by failing to ensure that in his capacity as President, Chief Executive Officer and Chief Compliance Officer, he maintain a compliance program which identified and addressed material non-compliance risks and establish appropriate supervision and compliance to manage those risks.

Contraventions

12. The Respondent admits that, from January 24, 2008 to May 15, 2008, in his capacity as President, Chief Executive Officer, and Chief Compliance Officer of Laurier, he engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Laurier maintain a compliance program which identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

13. From the commencement of the MFDA examination until his resignation from Laurier and subsequent to his resignation from Laurier, the Respondent cooperated with MFDA staff and attempted in good faith to address the concerns identified by MFDA in its compliance examination report.

Discussion

14. It is generally agreed that the Hearing Panel not interfere with the negotiated settlement so long as the sanctions agreed upon are within a reasonable range of appropriateness given the circumstances.

15. The factors considered in determining the appropriateness of the sanctions and consequent acceptance of the proposed settlement, include the following:

- a) the seriousness of the allegations and whether the proposed settlement will prevent similar conduct from occurring in the future¹ and addresses specific and general deterrence².

¹ Re Tonnie 2005 LCNMFDA 7 June 27, 2005

² Re Cartaway Resources Corp (2004) 1 SCR 672

- b) the Respondent's past conduct, including prior sanctions and whether or not the Respondent recognized the seriousness of the improper activity³.
- c) whether or not the Settlement Agreement would be in the public interest and whether the sanctions imposed will protect investors and foster the integrity of the capital markets, the MFDA and the regulatory process⁴.
- d) whether the Settlement Agreement is reasonable having regard to the conduct of the Respondent⁵.
- e) previous decisions made in similar circumstances⁶.

16. There is no evidence of any client harm or losses having resulted from the Respondent's activities, nor have any benefits accrued to the Respondent. The Respondent attempted to address the concerns identified by MFDA staff in its compliance examination report and has fully cooperated with MFDA staff. The Respondent has not been the subject of any previous MFDA proceedings. The Respondent has placed funds equivalent to the proposed fine and costs in escrow, pending the outcome of these proceedings.

17. We have read the relevant portions of the cases footnoted.

18. We recognize that the fine might be less than the minimum suggested considering all of the factors aforesaid, but we are satisfied that the public's interest is served by the Settlement Agreement terms and accept the Agreement.

DATED this 8th day of February, 2011.

“Robert Hucal”

Robert Hucal,
Chair

“Carol Krienke”

Carol Krienke,
Industry Representative

³ Re Keybase Financial Group Inc. and Dax Sukhraj MFDA No. 200823 June 2, 2009

⁴ Re Larson 2009 LNCMFDA October 14, 2009

⁵ Re Raymer 2009 LNCMFDA 15, July 24, 2009

⁶ Re Hill & Crawford Investment Management Group Ltd. and Albert Rodney Hill MFDA 200834 June 23, 2009; Re The Investment House of Canada Inc, Sawh and Trkulja MFDA 200935 June 29, 2010

Appendix “A”

Settlement Agreement

File No. 201036



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: Victor Raymond Fook Seng Lee

Settlement Agreement

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (“MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to s. 24.4 of By-law No. 1, a hearing panel of the Prairie Regional Council (“Hearing Panel”) of the MFDA should accept the settlement agreement entered into between Staff of the MFDA (“Staff”) and the Respondent, Victor Raymond Fook Seng Lee (“Respondent”) (“Settlement Agreement”).

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 – Laurier

6. Laurier Capital Planning Inc. (“Laurier”) became a Member of the MFDA on January 24, 2008.

7. Laurier’s head office was located in Calgary, Alberta, with a branch in Quesnel, British Columbia, and a sub-branch in Calgary.

8. On October 10, 2008, an MFDA Bulletin was issued advising of Laurier’s intention to resign from MFDA Membership.

9. The MFDA approved, and Laurier completed, a bulk transfer of its client accounts to

another MFDA Member on October 31, 2008.

10. Laurier's rights and privileges were suspended by Order of an MFDA Hearing Panel on November 14, 2008, following which, Laurier's resignation from Membership was accepted on March 2, 2009.

11. Laurier was registered as a mutual fund dealer in Alberta, British Columbia, and Saskatchewan; its registration was subsequently terminated in each of these jurisdictions as follows:

- British Columbia – October 31, 2008;
- Alberta – January 23, 2009; and
- Saskatchewan – March 3, 2009.

Registration History – Respondent

12. From February 2007 to October 2008, the Respondent was the President, Chief Executive Officer, and Chief Compliance Officer of Laurier.

13. Prior to his registration with Laurier, the Respondent was registered as follows:

- September 1994 to April 1999: Compliance Officer at Regal Capital Planners Ltd (a mutual fund dealer);
- April 1999 to June 2003: Chief Compliance Officer at Rogers Group Advisors Ltd.;
- November 2003 to October 2004: Registered Representative at Haywood Securities Inc.; and
- October 2004 to November 2006: Compliance Officer, President, and Chief Executive Officer at Futureworth Financial Planners Corp. ("Futureworth") (a mutual fund dealer); and President and Chief Executive Officer at Western Pacific Trust Company (Futureworth's parent company).

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

MFDA Compliance Examination 2008

15. Commencing May 26, 2008, MFDA Compliance Staff attended at Laurier's head office and completed a compliance examination covering the period January 24, 2008 to May 15, 2008 ("material time").

16. The results of the MFDA 2008 compliance examination were summarized and delivered to Laurier in a report dated September 29, 2008, which identified a number of deficiencies, including those related to tier-one supervision, tier-two supervision, and the lack of an operational back office system.

Back Office System

17. During the material time, Laurier employed various back office systems to conduct its business, none of which were sufficiently functional to permit Laurier to meet its regulatory obligations.

18. In May 2008, when MFDA Compliance Staff attended at Laurier's head office, the back office system in place was not sufficiently functional to permit Laurier to meet its regulatory obligations.

19. Laurier's KYC and NAAF forms required clients to state their risk tolerance using a percentage basis only.⁷ However, Laurier relied solely on hard copies of KYCs and NAAFs in client files when conducting trade reviews and, due to the failings of its back office systems, was unable to review the actual investments in a client's account at the time of a trade to assess the suitability of the trade against the client's percentage risk allocations as stated on the client's KYC and/or NAAF.

20. Additionally, due to the deficiencies with its back office system, Laurier was unable to, among other things, conduct trade reconciliations, or generate (and review) trend reports, error

⁷ For example, a client might indicate that they wished 25% of their account to be in high risk investments, 25% in medium risk investments, and the remaining 50% in low risk investments.

reports, and trade volume reports and, therefore, was unable to conduct reviews for, among other things, excessive trading and off-book trading activity.

Tier-One Supervision

21. During the material time, Laurier failed to implement and maintain an adequate tier-one supervision structure.

22. In addition to, or due to, the failures associated with not having a functional back office system, the tier-one supervision structure was inadequate in that the Compliance Officer responsible for tier-one supervision at Laurier did not conduct suitability reviews of trades; but rather, reviewed trade documents solely for completeness of information.

23. During the material time, Laurier was aware that it was not adequately conducting tier-one supervision, but failed to take adequate steps to correct the problems.

Tier-Two Supervision

24. During the material time, Laurier failed to establish, implement and maintain an adequate tier-two supervision structure.

25. In addition to, or due to, the failures associated with not having a functional back office system, Laurier's tier-two supervision structure was inadequate in that:

- i. Laurier did not review trade blotters or conduct trade reconciliations;
- ii. Laurier failed to adequately review the suitability of trade recommendations in client accounts;
- iii. Laurier allowed Approved Persons to submit their trading instructions directly to the mutual fund companies, such that all trading activity was effectively 'off-book' and Laurier was unable to detect unauthorized off-book trading;
- iv. Laurier was unable to conduct reviews for excessive trading activity.

26. The Respondent, as President, Chief Executive Officer, and Chief Compliance Officer of Laurier, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Laurier maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

V. CONTRAVENTIONS

27. The Respondent admits that, from January 24, 2008 to May 15, 2008, in his capacity as President, Chief Executive Officer, and Chief Compliance Officer of Laurier, he engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Laurier maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

VI. MITIGATING CIRCUMSTANCES

28. From the time the MFDA began its compliance examination of Laurier until he resigned from Laurier in October 2008, the Respondent cooperated with MFDA staff in its investigation of this matter, and attempted in good faith to address the concerns identified by MFDA in its compliance examination report.

29. After resigning from Laurier, the Respondent continued to cooperate with MFDA in its investigation of Laurier.

VII. TERMS OF SETTLEMENT

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

- i. The Respondent shall be prohibited for a period of 3 years from acting:

- a. as a Partner, Director, or Officer of a Member of the MFDA; and
 - b. in the capacity of Ultimate Designated Person, Chief Compliance Officer, Compliance Officer, or Branch Manager, while in the employ of, or associated with, a Member of the MFDA;

pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
- ii. In the event that the Respondent seeks to become registered as a Partner, Director, or Officer of a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Officers, Partners & Directors course (or other course acceptable to the MFDA) prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
- iii. In the event that the Respondent seeks to become registered in the capacity of Ultimate Designated Person, Chief Compliance Officer, Compliance Officer, or Branch Manager, while in the employ of, or associated with, a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Branch Managers' Examination Course or the IFSE (IFIC) Mutual Fund Dealer Compliance (or other course acceptable to the MFDA) prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
- iv. In the event that the Respondent seeks to become registered as an Approved Person in the employ of, or associated with, a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Canadian Investment Funds course prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
- v. The Respondent shall pay a fine in the amount of \$5,000, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
- vi. The Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of MFDA By-law No. 1; and

- vii. The Respondent shall attend in person at the Settlement Hearing.

VIII. STAFF COMMITMENT

31. 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 set out in Part IV and the contraventions described in Part V of this Settlement Agreement, subject to the provisions of Part XI below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and 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.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

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

33. 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.

34. 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.

35. 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.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

36. 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.

XI. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

37. 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.

38. 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.

XII. DISCLOSURE OF AGREEMENT

39. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated: December 7th, 2010

“John Forstrom”
Witness - Signature

John Forstrom
Witness - Print name

“Victor Raymond Fook Seng Lee”
Victor Raymond Fook Seng Lee

“Mark Gordon”
Staff of the MFDA
Per: Mark T. Gordon
Executive Vice-President



Mutual Fund Dealers Association of Canada
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**IN THE MATTER OF A SETTLEMENT HEARING
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
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Re: Victor Raymond Fook Seng Lee

ORDER

WHEREAS on _____, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to s. 24.4 of By-law No. 1 in respect of Victor Raymond Fook Seng Lee ("Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated December 7, 2010 ("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 the Respondent, from January 24, 2008 to May 15, 2008, in his capacity as President, Chief Executive Officer, and Chief Compliance Officer of Laurier, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Laurier maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2;

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

1. The Respondent shall be suspended for a period of 3 years from registering:
 - a. as a Partner, Director, or Officer of a Member of the MFDA; and
 - b. in the capacity of Ultimate Designated Person, Chief Compliance Officer, Compliance Officer, or Branch Manager, while in the employ of, or associated with, a Member of the MFDA;pursuant to s. 24.1.1(c) of MFDA By-law No. 1;
2. In the event that the Respondent seeks to become registered as a Partner, Director, or Officer of a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Officers, Partners & Directors course (or other course acceptable to the MFDA) prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
3. In the event that the Respondent seeks to become registered in the capacity of Ultimate Designated Person, Chief Compliance Officer, Compliance Officer, or Branch Manager, while in the employ of, or associated with, a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Branch Managers' Examination Course or the IFSE (IFIC) Mutual Fund Dealer Compliance (or other course acceptable to the MFDA) prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
4. In the event that the Respondent seeks to become registered as an Approved Person, in the employ of, or associated with, a Member of the MFDA, the Respondent shall successfully complete the IFSE (IFIC) Canadian Investment Funds course, prior to becoming so registered, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
5. The Respondent shall pay a fine in the amount of \$5,000, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
6. The Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of MFDA By-law No. 1; and
7. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and

transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*;

DATED December ____, 2010

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]