



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: Adrian Lo

Heard: December 14, 2017 in Toronto, Ontario

Decision: December 14, 2017

Reasons for Decision: February 7, 2018

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart

Rob Christianson

Robert J. Wright, CM, QC

Chair

Industry Representative

Industry Representative

Appearances:

Sarah Glickman

)

)

)

Counsel for the Mutual Fund Dealers

Association of Canada

Adrian Lo

)

)

)

Respondent, in person

I. Background

1. Proceedings were commenced against Adrian Lo (“Respondent”) by Notice of Settlement Hearing, dated August 14, 2017. The settlement hearing was held under Section 24.4 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (“MFDA”) on December 14, 2017 in respect of a settlement agreement, dated August 10, 2017, (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent.

2. The Hearing Panel accepted the proposed Settlement Agreement at the conclusion of the hearing. These are our Reasons for Decision.

II. Respondent’s Admission of Violation

3. The Respondent admitted to the following violations of the Rules of the MFDA:

- a) between February 2014 and February 2016, he altered, and in some instances used to process transactions, 7 account forms in respect of 8 clients by altering information on the account forms without having obtained client initials authorizing the changes, contrary to MFDA Rule 2.1.1; and
- b) between February 2014 and February 2016, he obtained, possessed, and in some instances used to process transactions, 4 pre-signed account forms in respect of 5 clients, contrary to MFDA Rule 2.1.1.

III. Terms of Settlement

4. Staff and the Respondent agreed on the following terms of settlement:

- a) the Respondent shall pay a fine in the amount of \$8,500 pursuant to section 24.1.1(b) of MFDA By-law No. 1;

- b) the Respondent shall pay costs in the amount of \$2,500 pursuant to section 24.2 of MFDA By-law No. 1; and
- c) the Respondent shall in the future comply with MFDA Rule 2.1.1.

IV. Agreed Facts

Registration History

5. Since April 1997, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) and since September 1997, has been registered with Keybase Investments Inc. (“Keybase”), a Member of the MFDA.

Altered Account Forms

6. Between February 2014 and February 2016, the Respondent altered, and in some instances used to process transactions, 7 account forms in respect of 8 clients by altering information on the account forms without having obtained client initials authorizing the changes.

7. The altered account forms consisted of order request forms, Know-Your-Client update forms and New Account Application forms.

Pre-Signed Account Forms

8. At all material times, Keybase’s policies and procedures prohibited its Approved Persons, including the Respondent, from using pre-signed account forms.

9. Between February 2014 and February 2016, the Respondent obtained, possessed, and in some instances used to process transactions, 4 pre-signed account forms in respect of 5 clients.

10. The pre-signed account forms consisted of order request forms and Know-Your-Client update forms.

Keybase's Investigation

11. On or about February 3, 2016, MFDA Sales Compliance notified Keybase's compliance department that during the course of an examination of the Respondent's branch, MFDA Sales Compliance identified the altered and pre-signed account forms that were the subject of this Settlement Agreement.

12. As part of its investigation, Keybase reviewed all client files serviced by the Respondent and identified no other altered or pre-signed account files, and sent letters to all clients serviced by the Respondent in order to determine whether the Respondent had engaged in unauthorized trading.

13. On February 11, 2016, Keybase placed the Respondent under close supervision.

V. Considerations

14. In determining whether to accept the Settlement Agreement, the Hearing Panel considered whether it was reasonable and proportionate, having regard to the Respondent's conduct; whether it would serve as a specific and general deterrent; and whether it fell within a reasonable range of appropriateness, having regard to MFDA guidance and other similar cases.

15. The use of pre-signed and altered account forms is a serious breach of MFDA Rule 2.1.1 which requires that Approved Persons 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.

16. We note that the MFDA has been warning Approved Persons against using pre-signed account forms and altering forms for a number of years, most recently in MFDA Bulletin #0661-

E, dated October 2, 2015, in which the MFDA warned that it would be seeking increased penalties in upcoming cases involving such breaches.

17. In deciding to accept the Settlement Agreement, the Hearing Panel took into consideration several mitigating factors concerning the Respondent, including that there was no evidence of financial loss suffered by the clients; there was no evidence that the Respondent received any financial benefit from engaging in the subject misconduct, other than usual commissions and fees; and the Respondent has accepted responsibility for his misconduct. We also noted that the Respondent has not previously been the subject of MFDA disciplinary proceedings.

18. The proposed penalty is consistent with the MFDA's Penalty Guidelines, which suggest a minimum fine of \$5,000 for a violation of MFDA Rule 2.1.1 and is also consistent with other similar cases, when considering MFDA Bulletin #0661-E.

VI. Conclusion

19. The Hearing Panel concluded that the agreed penalty was reasonable and proportionate, having regard to the Respondent's conduct, would serve as a specific and general deterrent and fell within a reasonable range of appropriateness, having regard to MFDA guidance and precedents. Accordingly, we concluded that it would be in the public interest to accept the Settlement Agreement and we did so.

DATED this 7th day of January, 2018.

“Joan Smart”

Joan Smart
Chair

“Rob Christianson”

Rob Christianson
Industry Representative

“Robert J. Wright”

Robert J. Wright, CM, QC
Industry Representative

DM 591424