



**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: Cho-Tak Albert Lok**

Heard: April 9, 2020 in Toronto, Ontario

Decision: April 9, 2020

Reasons for Decision: May 11, 2020

**REASONS FOR DECISION**

Hearing Panel of the Central Regional Council:

Frederick W Chenoweth  
Edward Jackson  
Selwyn Kossuth

Chair  
Industry Representative  
Industry Representative

Appearances:

Brendan Forbes	)	Enforcement Counsel for the Mutual Fund
	)	Dealers Association of Canada
	)	
	)	
Cho-Tak Albert Lok	)	Respondent, by teleconference
	)	
	)	

## **I. INTRODUCTION**

1. By Notice of Settlement Hearing, a Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (the “MFDA”) was convened to consider whether, pursuant to s. 24.4 of By-law No. 1 of the MFDA, the Hearing Panel should accept a settlement agreement dated February 3, 2020, (“Settlement Agreement”) entered into by the Staff of the MFDA (“Staff”) and Cho-Tak Albert Lok (the “Respondent”).

2. At the outset of the proceeding, the Hearing Panel considered a joint motion by Staff and the Respondent to move the proceedings “*in camera*”. The Hearing Panel granted the motion. The Hearing Panel then considered the provisions of the Settlement Agreement, aided by submissions as to the applicable law, which should guide the Hearing Panel in determining whether or not to accept or reject the Settlement Agreement. The Hearing Panel unanimously accepted the Settlement Agreement and issued an Order accordingly. These are the Hearing Panel’s reasons for doing so.

## **II. THE CONTRAVENTIONS**

3. In the Settlement Agreement, the Respondent admits that:

- a) Between January 2013 and January 2016, the Respondent altered and used to process transactions, 11 account forms in respect of 10 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and
- b) Between January 2012 and May 2018, the Respondent obtained, processed and in some instances, used to process transactions, 8 pre-signed account forms in respect of 7 clients, contrary to MFDA Rule 2.1.1.

## **III. THE FACTS**

4. In the Settlement Agreement, Staff and the Respondent agreed to the existence of a series of facts, which are set out in Part III of the said Settlement Agreement. The Settlement Agreement is attached as Appendix “A” to these Reasons.

5. As set out in the Settlement Agreement, the Respondent, from March of 2002 has been registered in the securities industry in Ontario. Since January 2012, the Respondent has been registered as a dealing representative with Investia Financial Services Inc. (the “Member “), a Member of the MFDA. At all material times, the Respondent conducted business in Richmond Hill, Ontario. The Respondent continues to be employed in the securities industry.

#### IV. DISCUSSION

6. The Hearing Panel was aware that prior to accepting a Settlement Agreement, a Hearing Panel must be satisfied that:

- a) The facts admitted by the Respondent constitute misconduct in contravention of By-law No. 1 of the MFDA, MFDA Rules or policies, or provincial securities legislation; and
- b) The penalties contemplated in the Settlement Agreement fall within a reasonable range of appropriateness, bearing in mind the nature and extent of the misconduct and all the circumstances.

7. The Hearing Panel accepted that the role of a Hearing Panel at a settlement hearing is fundamentally different than its role at a contested hearing. As stated by the MFDA Hearing Panel in *Sterling Mutuals Inc. (Re)*, citing the I.D.A. Ontario District Council in *Milewski (Re)*:

We also note that while in a contested hearing the Panel attempts to determine the correct penalty, 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.” [Emphasis added].

*Sterling Mutual Inc. (Re)*, MFDA File No. 200820, Hearing Panel of the Central Regional Council, Decision and Reasons dated August 21, 2008 at para. 37.

*Milewski (Re)*, [1999] I.D.A.C.D. No. 17 at p. 12, Ontario District Council Decision dated July 28, 1999.

8. The Hearing Panel also considered the principle that a Hearing Panel will not reject a settlement agreement unless the proposed penalty clearly falls outside the reasonable range of appropriateness. Settlements are necessary to assist the MFDA to fulfill its regulatory objective

of protecting the public. Settlements advance this regulatory objective by proscribing activities that are harmful to the public, while enabling the parties to reach a flexible remedy tailored to address the interests of both the regulator and a respondent.

*British Columbia (Securities Commission) v. Seifert*, [2006] B.C.J. No. 225 at paras. 48-49 (S.C.), aff'd, [2007] B.C.J. No. 2186 at para. 31 (C.A) [*“British Columbia (Securities Commission)”*], SBA

9. MFDA Hearing Panels have consistently held that obtaining or using pre-signed or altered forms is a contravention of the standard of conduct prescribed under MFDA Rule 2.1.1.

*Donais (Re) [2020]*, Hearing Panel of the Pacific Regional Council, MFDA File No. 201945, Hearing Panel Decision dated January 20, 2020 at paras 10-11.

*Smith (Re) [2019]*, Hearing Panel of the Central Regional Council, MFDA File No. 201960, Hearing Panel Decision dated December 17, 2019 at para. 14.

10. The MFDA has warned Approved Persons against the use of pre-signed account forms for a number of years.

MFDA Staff Notice #MSN-0066 dated October 31, 2007

MFDA Bulletin #0661-E dated October 2, 2015

11. In the present case, as reflected in the Settlement Agreement, the Respondent admits the contraventions described in paragraph 3 of these Reasons. The Hearing Panel accordingly concluded that the Respondent's conduct constituted misconduct in contravention of the by-laws, MFDA Rules or policies or provincial securities legislation.

12. The Hearing Panel then proceeded to consider the appropriateness of the proposed penalty as set out in the Settlement Agreement. In doing so, the Hearing Panel considered the submissions of Staff and the Respondent, the MFDA Sanction Guidelines and the substantial case law to which it was referred.

13. The Hearing Panel was mindful that the primary goal of securities regulation is the protection of the investor. The Hearing Panel was further mindful that in addition to protection of

the public, the goals of securities regulation also include fostering public confidence in the capital markets and the securities industry.

*Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557.

*Breckenridge (Re)*, MFDA File No. 200718, Hearing Panel of the Central Regional Council, Decision and Reasons dated November 14, 2007 at para. 71.

14. The Hearing Panel accepted the submissions of Staff that the following factors are frequently considered by Hearing Panels when determining whether a penalty is appropriate:

- 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 activity;
- 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 activity in the capital markets; and
- k) Previous decisions made in similar circumstances.

*Breckenridge*, supra.

15. In this respect, the Hearing Panel was mindful that, the nature of the contraventions that had been admitted by the Respondent were serious and warranted significant penalties. In particular, the use of pre-signed and altered account forms was a serious breach of MFDA Rule 2.1.1.

*Balani (Re)*, MFDA File No. 201402, Hearing Panel of the Central Regional Council, Decision and Reasons dated January 15, 2015

16. The Hearing Panel noted that in this matter, the account forms were obtained after the MFDA issued a Bulletin warning against the use of pre-signed or altered forms or the use of same to facilitate transactions. Staff considered this to be an aggravating factor which has been discussed by Hearing Panels in MFDA decisions.

*Techer (Re)*, [2016] Hearing Panel of the Prairie Regional Council, MFDA File No. 201662, Panel Decision dated December 5, 2016, at para. 44, SBA

*Ackerman (Re)*, Hearing Panel of the Prairie Regional Council, MFDA File No. 201734, Panel Decision dated September 13, 2017, at para. 29, SBA.

17. With respect to the particular factors which were considered by the Hearing Panel when assessing the appropriateness of the penalties agreed to in this matter, the Hearing Panel was mindful that:

- a) The use of pre-signed forms and altered forms were serious breaches of MFDA Rule 2.1.1;
- b) The Respondent had previously been placed under close supervision by his employer in August of 2007, for the Respondent's previous use of pre-signed account forms. The Panel was cognizant that all of the account forms that were the subject of the present Settlement Agreement were obtained or possessed by the Respondent in a period after the Member placed the Respondent under close supervision in August of 2007. The prior sanctions were specifically described in paragraph 20 and 21 of the Settlement Agreement;
- c) The Respondent had acknowledged that his conduct constitutes a serious contravention of MFDA Rules. By entering into the Settlement Agreement, the Respondent had accepted responsibility for his misconduct and had saved the MFDA the time, resources and expenses associated with a full disciplinary hearing;
- d) There was no evidence of any lack of authorization, client loss or client complaints resulting from the Respondent's conduct as described within the Settlement Agreement;

- e) There was no evidence that the Respondent received any financial benefit from his misconduct beyond any commissions and fees that he would ordinarily be entitled to receive had the transaction been carried out in the proper manner;
- f) The proposed penalties will act as a general deterrent to reinforce the message that the use of pre-signed and altered forms will not be tolerated within the mutual fund industry. In addition, the proposed penalty will demonstrate to the industry that the repeated use of pre-signed forms will result in substantial penalties beyond those normally levied for similar contraventions; and
- g) The proposed penalties will also specifically deter the Respondent from engaging in similar activities by imposing a meaningful sanction which reflects the nature and frequency of his misconduct.

18. Staff proposed that costs in the amount of \$2,500 be imposed against the Respondent. In its Submissions, Staff made it clear to the Hearing Panel that the costs incurred more than justified the imposition of the above costs award. The Respondent, in the Settlement Agreement, consented to same.

## **V. RESULT**

19. For all the above reasons, the Hearing Panel concluded that the Settlement Agreement was reasonable and proportionate. Accordingly, the following penalties were imposed upon the Respondent:

- a) The Respondent shall pay a fine in the amount of \$15,000, pursuant to s. 24.1.1(b) of MFDA By-law No.1, in instalments as follows:
  - i. \$6,250 payable in certified funds on the date of this Order;
  - ii. \$8,750 payable in certified funds on August 7, 2020,
- b) The Respondent shall pay costs in the amount of \$2,500 in certified funds on the date of this Order, pursuant to s. 24.2 of MFDA By-law No. 1;
- c) The Respondent shall in the future comply with MFDA Rule 2.1.1; and
- d) 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 11<sup>th</sup> day of May, 2020.

“Frederick W Chenoweth”

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Frederick W Chenoweth  
Chair

“Edward Jackson”

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Edward Jackson  
Industry Representative

“Selwyn Kossuth”

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Selwyn Kossuth  
Industry Representative

## Appendix “A”

Settlement Agreement

File No. 202011



**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: Cho-Tak Albert Lok**

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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, Cho-Tak Albert Lok (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 January 2013 and January 2016, the Respondent altered and used to process transactions 11 account forms in respect of 10 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and
  - b) between January 2012 and May 2018, the Respondent obtained, possessed and, in some instances, used to process transactions, 8 pre-signed account forms in respect of 7 clients, contrary to MFDA Rule 2.1.1.
5. Staff and the Respondent agree and consent to the following terms of settlement:
- c) the Respondent shall pay a fine in the amount of \$15,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
  - d) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;
  - e) the Respondent shall in the future comply with MFDA Rule 2.1.1; 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. Since March 2002, the Respondent has been registered in the securities industry in Ontario.
8. Since January 2012, the Respondent has been registered as a dealing representative (formerly known as a mutual fund salesperson)<sup>1</sup> with Investia Financial Services Inc. (the “Member”), a Member of the MFDA.

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<sup>1</sup> In September 2009, the registration category mutual fund salesperson was changed to “dealing representative” when National Instrument 31-103 came into force.

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

### **Altered Account Forms**

10. At all material times, the Member's policies and procedures required any changes to client documentation to be initialed by the client at the time of the change. The Member's policies and procedures also prohibited the use of liquid paper to correct material changes on any documentation.

11. Between January 2013 and January 2016, the Respondent altered 11 account forms in respect of 10 clients by altering information on the account forms without having the client initial the alterations.

12. The altered account forms included: 3 Order Instruction Forms, 2 RESP Payment Forms, 2 Systematic Instruction Forms, 1 Transfer Authorization Form, 1 Investment Account Application Form, 1 TFSA Application Form and 1 Fund Transfer Fee Disclosure Form.

13. The alterations made by the Respondent consist of changes to: fund codes, fund company names, redemption amounts, account numbers, account types, dates of birth and special instructions.

### **Pre-Signed Account Forms**

14. At all material times, the Member's policies and procedures prohibited Approved Persons from holding blank or incomplete forms that have been signed by a client.

15. Between January 2012 and May 2018, while the Respondent was an Approved Person with the Member, he obtained, possessed, and in some instances, used to process transactions, 8 pre-signed account forms in respect of 7 clients.

16. The pre-signed account forms included: 3 Know-Your-Client ("KYC") Update Forms, 2 Systematic Instruction Forms, 1 TFSA Application Form, 1 Pre-Authorized Debit Form and 1 Order Instruction Form.

### **The Member's Investigation**

17. In November 2018, the Member conducted an audit of the client files maintained by the Respondent and identified the pre-signed and altered forms that are the subject of this Settlement Agreement.

18. In June 2018, as a result of the Member's findings during its branch audit, the Member placed the Respondent under strict supervision for 3 months.

19. In June 2018, the Member sent letters to clients whose accounts the Respondent serviced, along with three years of portfolio statements. The Member asked the clients to review the portfolio statements to ensure that they were accurate and to notify the Member of any inconsistencies. The Member did not receive any responses indicating any concerns from clients.

### **Prior Use of Pre-Signed Forms**

20. In or about August 2007, while the Respondent was registered with the MFDA Member, Info Financial Consulting Group Inc. ("Info Financial"), the Respondent used pre-signed account forms. At that time, Info Financial explained to the Respondent the severity of using pre-signed forms, and the Respondent was placed under close supervision for, among other things, using the pre-signed forms.

21. All of the account forms that are subject of the Settlement Agreement were obtained or possessed by the Respondent in the period after the Member placed the Respondent under close supervision in August 2007.

### **Additional Factors**

22. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond any commissions and fees that he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

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

24. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources and expenses associated with conducting a full hearing of the allegations.

#### IV. ADDITIONAL TERMS OF SETTLEMENT

25. 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.

26. 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).

27. 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.

28. 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 facts and contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts or 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.

29. 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.

30. 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.

31. 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 3<sup>rd</sup> day of February, 2020.

“Cho-Tak Albert Lok”

\_\_\_\_\_  
Cho-Tak Albert Lok

“VS”

\_\_\_\_\_  
Witness – Signature

VS

\_\_\_\_\_  
Witness – Print Name

“Shaun Devlin”

\_\_\_\_\_  
Staff of the MFDA

Per: Shaun Devlin

Senior Vice-President, Member Regulation -  
Enforcement

**Schedule “A”**

**Order**

**File No. 202011**



**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: Cho-Tak Albert Lok**

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**ORDER**

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

- a) between January 2013 and January 2016, the Respondent altered and used to process transactions 11 account forms in respect of 10 clients by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and

- b) between January 2012 and May 2018, the Respondent obtained, possessed and, in some instances, used to process transactions, 8 pre-signed account forms in respect of 7 clients, 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 pay a fine in the amount of \$15,000 in certified funds, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$2,500 in certified funds, pursuant to s. 24.2 of MFDA By-law No. 1;
3. The Respondent shall in the future comply with MFDA Rule 2.1.1;
4. 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]