



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: Michael Christopher McKale

Heard: December 10, 2013 in Toronto, Ontario
Reasons for Decision: January 16, 2014

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Linda J. Anderson	Industry Representative
Glenda Towle	Industry Representative

Appearances:

David Halasz)	Senior Enforcement Counsel, Mutual Fund
)	Dealers Association of Canada
)	
Michael Christopher McKale)	Respondent, Self-represented
(via teleconference))	
)	

INTRODUCTION

Notice of Settlement Hearing

1. By Notice of Settlement Hearing dated November 21, 2013, 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 section 24.4 of By-law No. 1 of the MFDA, the panel should accept a settlement agreement, dated November 19, 2013, entered into by the staff of the MFDA (“Staff”) and the respondent, Michael Christopher McKale (the “Respondent”).

In Camera

2. At the outset of the proceedings, we considered a joint motion by Staff and the Respondent to move the proceedings *in camera*. We granted that motion.

The Allegation

3. The Respondent admits that between June 2006 and July, 2012, the respondent obtained and maintained 39 pre-signed forms for eight clients and used pre-signed forms to process transactions in client accounts, thereby:

- a) engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1(c); and
- b) failing to comply with the Member's policies and procedures, contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1.

Approval of the Settlement Agreement

4. We heard submissions from Staff and the Respondent concerning the facts of this matter and as to why this particular settlement agreement should be accepted by the panel. After deliberation, we unanimously concluded that it was appropriate to accept the settlement agreement.

FACTS

5. The Respondent, who has been registered in the mutual fund industry since July 1994, has been registered as a mutual fund salesperson with FundEX Investments Inc., a member of the MFDA, since July 26, 2005 and has no previous disciplinary history.

6. The Respondent admitted that he obtained and maintained 39 blank or partially completed pre-signed forms for 8 different clients which consisted of order entry, KYC and transfer entry forms covering the period from 2006 to 2012. He used the forms to process transactions, thereby contravening MFDA Rule 2.1.1(c) regarding conduct unbecoming of an approved person and failure to follow the member's policies and procedures, contrary to MFDA Rules 1.1.2 and 2.5.1 and MFDA Rule 2.1.1.

REASONS FOR APPROVAL

7. The Respondent agreed to pay a fine in the amount of \$5,000, to pay costs in the amount of \$2,500 and to comply with MFDA Rules 1.1.2, 2.1.1, and 2.5.1, being the rules that were contravened by his conduct.

8. The proposed penalties are appropriate for a number of reasons. The Respondent cooperated with Staff in the situation; he admitted his wrongdoing; he accepted responsibility; Staff was not aware of any client complaints relating to the Respondent's use of blank and partially completed pre-signed forms or unauthorized trading activity; no evidence of client harm; and no past disciplinary history with the MFDA.

9. The penalty is consistent with the penalty guidelines of the MFDA.

10. As well, the penalty is consistent with a number of cases where the facts are similar.

11. We determined that there was a violation, that the settlement agreement was reasonable, and that the proposed penalty was within the scale of normality and in the public interest. Therefore, we accepted and approved the settlement agreement.

12. After accepting the settlement agreement we rescinded the *in camera* order and signed the order as prepared and presented by enforcement counsel. We advised enforcement counsel and the Respondent that we would prepare brief reasons for our approval of the settlement agreement which are set forth herein.

DATED this 16th day of January, 2014.

“Paul M. Moore”

Paul M. Moore, Q.C.,
Chair

“Linda J. Anderson”

Linda J. Anderson,
Industry Representative

“Glenda Towle”

Glenda Towle,
Industry Representative

DM 366125 v2