



**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: Corey William McPherson**

Heard: July 23, 2013 in Victoria, British Columbia  
Reasons for Decision: October 1, 2013

**REASONS FOR DECISION**

Hearing Panel of the Pacific Regional Council:

Jean P. Whittow, Q.C.

David Webb

Sharon Moskalyk

Chair

Industry Representative

Industry Representative

Appearances:

Faye Emmanuel

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For the Mutual Fund Dealers Association of  
Canada

Corey William McPherson

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On his own behalf

1. The Panel was convened on July 23, 2013 to hear submissions on a Settlement Agreement reached between the staff of the Mutual Fund Dealers Association of Canada (“MFDA”) and the Respondent, Corey William McPherson (the “Respondent”). The Panel was required to determine whether the Settlement Agreement should be accepted or rejected.

2. In the Settlement Agreement, the Respondent admits that he falsified the signature of the client, RS, on a Transaction and Account Maintenance Form (“Account Form”) required by the Member and that this conduct is contrary to MFDA Rule 2.1.1(b), and agrees to the following penalty:

(a) to pay a fine in amount of \$1,500 pursuant to s. 24.1.1 of MFDA By-law No. 1; and

(b) to pay costs in the amount of \$1,000, pursuant to s. 24.2 of MFDA By-law No. 1.

3. The Settlement Agreement is Appendix “A” to these Reasons for Decision. The relevant facts are set out in Section IV and V of the Settlement Agreement.

4. In summary, the Respondent was registered as a mutual fund salesperson with TD Investment Services Inc. (“TDIS”). He previously had a relationship with RS and had performed several prior banking transactions. On July 9, 2011, RS and the Respondent met. At that time, RS signed all the documents required to process a transfer of funds from another financial institution to TDIS and the purchase of a mutual fund in his TDIS account, except the Account Form. The Account Form indicated that approximately \$11,000 was to be transferred. The Account Form was required by TDIS’s back office to ensure that once monies were received, they would be invested in the mutual fund RS had selected.

5. The next day, a TDIS supervisor noted that RS had not signed the Account Form and told the Respondent. A few hours later the Respondent returned the Account Form, purportedly signed by RS. On questioning by the supervisor, the Respondent immediately admitted that he had falsified RS’s signature on the Account Form. The Respondent resigned from TDIS on July 15, 2011 and is no longer in the industry.

6. The Settlement Agreement reflects that the Respondent believed that the Account Form

was time-sensitive and that he signed RS's name for the client's convenience. RS was unaware that the Respondent had done so at the time, but later confirmed that the Account Form accurately reflected his instructions.

7. Although not set out in the Settlement Agreement, the Respondent advised the Panel that the client's infant children were in hospital at the time, that he thought he was being helpful and that the client could come in at a later date to correctly sign the Account Form. The Respondent explained that he realized the implications of signing the client's name on the Account Form only afterward, when he spoke with his manager about it.

8. The Respondent received no benefit and RS suffered no loss as a result of the Respondent's conduct. There is no evidence that any transaction was made on the basis of the Account Form.

9. In determining whether the Settlement Agreement should be accepted, the Panel considered the following factors:

(a) whether acceptance of the Settlement Agreement would be in the public interest and whether the penalties imposed will protect investors;

(b) whether the Settlement Agreement is reasonable and proportionate, having regard to the Respondent's conduct as described in the Settlement Agreement;

(c) whether the Settlement Agreement addresses both specific and general deterrence;

(d) whether the proposed settlement will prevent the type of conduct set out in the Settlement Agreement from occurring again in the future; and

(e) whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets, the MFDA and in the regulatory process itself.

*Rodney Jacobson (Re)*, [2007] MFDA Prairie Regional Council, File No. 200712

10. The Panel also noted the well-established principle that a negotiated settlement should not be interfered with as long as the penalties agreed upon are within the reasonable range of appropriateness given the conduct of the Respondent (*Milewski (Re)*, [1999] I.D.A.C.D. No. 17; *Jacqueline Wise (Re)*, [2012] MFDA Central Regional Council, File No. 201213; *Rodney Jacobson (Re)*, *supra*; *British Columbia Securities Commission v. Seifert*, 2007 BCCA 484; *Evangeline Securities Limited (Re)*, [2008] MFDA Atlantic Regional Council, File No. 200816).

11. Counsel for the MFDA referred the Panel to the following list of factors to be considered when determining whether a penalty is appropriate, citing *Parkinson (Re)*, MFDA Ontario Regional Council, File No. 200501:

- (a) the seriousness of the allegations proved against the Respondent;
- (b) the Respondent's past conduct, including prior sanctions;
- (c) the Respondent's experience in the capital markets;
- (d) the level of the Respondent's activity in the capital markets;
- (e) whether the Respondent recognizes the seriousness of the improper activity;
- (f) the harm suffered by investors as a result of the Respondent's activities;
- (g) the benefits received by the Respondent as a result of the improper activity;
- (h) the need to deter others from engaging in similar improper activity;
- (i) the need to alert others to the consequences of inappropriate activities to those who are permitted to participate in capital markets; and
- (j) previous decisions made in similar circumstances.

12. Counsel also referred the Panel to the MFDA Penalty Guidelines. However, the Panel notes that the Penalty Guidelines are of less utility, as the definition of "forgery" in the Guidelines requires 'deprivation of property rights', which is not present in this case.

13. We turn then to a consideration of the factors set out above.

14. As to the nature of the misconduct, we note that MFDA Rule 2.1.1(b) requires Approved Persons to observe high standards of ethics and conduct in the transaction of business. The

Respondent's falsification of RS's signature contravenes these fundamental obligations.

15. The act of falsifying a client signature is always serious, because it is by nature a deception. It has potentially devastating consequences. It harms the trust and confidence between the client, the registrant and the member firm. There is no acceptable excuse and it is without any doubt contrary to the standards expected of the industry.

16. To paraphrase the Panel in *Lamontagne (Re)*, [2009] IIROC No. 6, Alberta District Council, Panel Decision dated January 27, 2009, and *Mason (Re)*, MFDA Atlantic Regional Council, File No. 201138, there is no such thing as a minor case of falsification of a client signature.

17. However, in the circumstances of this case, the Panel is satisfied that this is as minor an example of this type of misconduct as can be found, due to a number of mitigating factors, described below.

18. This case concerns a single incident. The Panel was advised that all other documents were correctly completed and signed.

19. The Respondent admitted to the Member that he had applied the client's signature to the Account Form as soon as he was asked.

20. The Respondent has cooperated in the MFDA's process. By entering the Settlement Agreement, the Respondent acknowledges his misconduct and avoids the necessity of a hearing on the merits.

21. There was no harm to the client, who confirmed his instructions as per the Account Form.

22. There was no benefit to the Respondent. Indeed, the Respondent has suffered harm as a result of his conduct in that he resigned his position with TDIS immediately following the incident.

23. The Respondent had been a registrant for about a year when this took place. He is a young man, and we understand had recently finished his education prior to his employment with TDIS.

24. The Panel accepts the Respondent's explanation that, at the time, he believed he was serving the best interests of the client by applying the client's signature on the completed Account Form instead of bringing the client in to the office a second time. The Panel also accepts that the Respondent now appreciates the significance of his conduct. The Respondent apologized at the hearing, and expressed what he has learned through the MFDA's process and how he would handle the situation differently in future.

25. In the view of the Panel, while the Respondent's conduct was a serious error in judgment, it is on the very modest end of the spectrum of misconduct.

26. Counsel for the MFDA referred the Panel to the following cases.

27. In *Re Wise, supra*, the Respondent falsified a client's signature on a transaction and account maintenance form for a tax free savings account. In that case, the Panel accepted a Settlement Agreement imposing a six-month suspension on the Respondent from conducting securities related business and costs of \$2,500. The Respondent had left the industry. This is the most modest disposition in the cases referred to this Panel. Neither the Settlement Agreement nor the Decision indicates the circumstances surrounding the application of the false signature.

28. In *Re Griffiths*, [2009] MFDA Prairie Regional Council, File No. 200916, the Respondent falsified client signatures on account opening documentation for three clients over four months. In addition, he provided false and misleading responses to the Member when they were investigating his conduct before he later admitted to the misconduct. The Panel accepted a settlement of a \$1,000 fine and a two-year suspension. In our view *Re Griffiths* is a far more serious case.

29. In *Re Peters*, [2012], MFDA Central Regional Council, File No. 201120, the Respondent had prepared a know-your-client form without client instructions and the falsified the client's

signature on it. The Respondent also admitted that he had interfered in the Member's investigation by providing false and misleading responses. The Panel approved a settlement of a two-year suspension and costs of \$1,000.

30. The Panel is satisfied that there is no need for specific deterrence of the Respondent and that the penalty will deter others by reinforcing that falsification of a client's signature in any circumstance is misconduct and will attract sanction.

31. Taking into account the considerations set out above, the Panel is satisfied that the penalty is in keeping with the purpose of the MFDA, that is, to protect the public by ensuring high standards of conduct by its Members and registrants. Accordingly, the Panel approved the Settlement Agreement.

**DATED** this 1<sup>st</sup> day of October, 2013.

“Jean P. Whittow”

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Jean P. Whittow, Q.C.,  
Chair

“David Webb”

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David Webb,  
Industry Representative

“Sharon Moskalyk”

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Sharon Moskalyk,  
Industry Representative



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**Re: Corey William McPherson**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Pacific Regional Council (the "Hearing Panel") of the MFDA should accept the settlement agreement (the "Settlement Agreement") entered into between Staff of the MFDA ("Staff") and Corey William McPherson (the "Respondent").

**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 X) 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**

6. The Respondent was registered in British Columbia as a mutual fund salesperson with TD Investment Services Inc. (“TDIS”) from February 22, 2010 to July 15, 2011, at which time the Respondent resigned.

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

#### **Falsification of Client Signature**

8. At all material times, RS was a client of TDIS and the Respondent was the mutual fund salesperson responsible for servicing RS’s account.

9. The Respondent had a pre-existing relationship with client RS as the Respondent had previously assisted client RS with several personal banking transactions.

10. On July 9, 2011, the Respondent met with client RS regarding his mutual fund account and a transfer of monies from another financial institution to TDIS. During this meeting, client RS executed all of the documents required to process a transfer from another financial institution to TDIS and the purchase of a mutual fund in his account at TDIS, except a 'Transaction and Account Maintenance Form' ("Account Maintenance Form"), which the Respondent failed or omitted to ensure that client RS executed.

11. The Account Maintenance Form indicated the name, address and account number for client RS together with a message regarding the transaction to be undertaken on behalf of the client. In this case, the message field of the Account Maintenance Form indicated that approximately \$11,000 was to be transferred from another institution to TDIS and invested in the TD Comfort Growth Portfolio Fund. The Account Maintenance Form was required by TDIS back office to ensure that once the transferred monies were received from the other financial institution, the monies were invested in the mutual fund(s) selected by client RS.

12. On July 12, 2011, CP, who was acting in a supervisory capacity and reviewing transactions at the branch level to ensure compliance, noticed that client RS has not signed the Account Maintenance Form.

13. CP noted the non-compliance issue in the deficiency binder used to track deficiencies. The non-compliant file was then returned to the Respondent in order to have the deficiency remedied.

14. On July 12, 2011, the Respondent met with CP and questioned why client RS's file was considered non-compliant. CP explained the issue regarding the missing signature and the Respondent acknowledged that client RS had not signed the Account Maintenance Form.

15. The Respondent returned client RS's file to CP within a few hours of the discussion between CP and the Respondent with the Account Maintenance Form purportedly signed by

client RS.

16. On July 12, 2011, CP questioned the Respondent regarding the signature on client RS's Account Maintenance Form and in particular, if client RS attended at the branch to sign the Account Maintenance Form. The Respondent indicated that client RS had not attended at the branch.

17. The Respondent admitted to CP and TDIS that he falsified client RS's signature on the Account Maintenance Form.

18. On July 15, 2011, the Respondent resigned from TDIS.

19. Client RS was not aware at the time that the Respondent had falsified client RS's signature on the Account Maintenance Form and submitted it for processing. However, TDIS subsequently confirmed with client RS during the course of its supervisory review that the Account Maintenance Form accurately reflected his instructions to the Respondent with respect to the purchase of mutual funds for his account.

### **TDIS's Policies and Procedures**

20. On or about May 20, 2011, the Respondent completed his 2011 Annual Attestation to the Code of Conduct and Ethics for employees of TDIS.

21. The Code of Conduct and Ethics for TDIS employees specifically addresses falsifying accounts, documents and records and provides that it will not be tolerated under any circumstances.

### **Mitigating Factors**

22. The Respondent has not previously been the subject of MFDA disciplinary proceedings and has cooperated with the MFDA Staff's investigation into his conduct.

23. The Respondent did not receive any financial benefit as a result of his conduct.

## **V. RESPONDENT'S REPRESENTATIONS**

24. The Respondent states that he believed that obtaining a signed Account Maintenance Form was time sensitive in order to process the transfer and subsequent purchase without delay.

25. The Respondent states that he falsified client RS's signature on the Account Maintenance Form for the client's convenience.

26. The Respondent acknowledges that he made an error in judgment in falsifying client RS's signature but it is his position that he had the best interests of his client in mind.

## **VI. CONTRAVENTIONS**

27. The Respondent admits that on or about July 9, 2011, he failed to observe high standards of ethics and conduct in the transaction of business by falsifying client RS's signature on a client account document which was required by the Member in order to facilitate the completion of the transfer of \$11,000 from another financial institution by ensuring the correct mutual fund was purchased with the transferred monies, contrary to MFDA Rule 2.1.1(b).

## **VII. TERMS OF SETTLEMENT**

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

- a) the Respondent shall pay a fine in amount of \$1,500 pursuant to section 24.1.1 of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$1,000.00, 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) the Respondent will attend in person, on the date set for the Settlement Hearing.

## **VIII. STAFF COMMITMENT**

29. 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 contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part X 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 VI 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 VI, 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**

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

31. 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 its 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.

32. 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.

33. 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**

34. 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**

35. 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.

36. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it 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**

37. 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.

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

**XIII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

Dated this 13<sup>th</sup> day of September, 2012.

[intentionally left blank]  
Witness – Signature

“Corey William McPherson”  
Corey William McPherson

[intentionally left blank]  
Witness – Print name

“Shaun Devlin”  
Staff of the MFDA  
Per: Shaun Devlin  
Vice-President, Enforcement



**Mutual Fund Dealers Association of Canada**  
Association canadienne des courtiers de fonds mutuels

**IN THE MATTER OF A SETTLEMENT HEARING  
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**ORDER**

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**WHEREAS** on June 3, 2013, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to sections 24.2 of By-law No. 1 in respect of Corey William McPherson (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated September 13, 2012 (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 on or about July 9, 2011, failed to observe high standards of ethics and conduct in the transaction of business by falsifying client RS's signature on a client account document required by the Member in order to facilitate the completion of the transfer of \$11,000 from another financial institution by ensuring the correct mutual fund was purchased with the transferred funds, contrary to MFDA Rule 2.1.1(b);

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

1. 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*;

2. The Respondent shall pay a fine in the amount of \$1,500.00, pursuant to section 24.1.1 of MFDA By-law No. 1;

3. The Respondent shall pay costs in the amount of \$1,000.00, pursuant to s. 24.2 of MFDA By-law No. 1;

4. The Respondent shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including MFDA Rule 2.1.1.

**DATED** this [day] day of [month], 20[ ].

Per: \_\_\_\_\_  
[Name of Public Representative], Chair

Per: \_\_\_\_\_  
[Name of Industry Representative]

Per: \_\_\_\_\_  
[Name of Industry Representative]