



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: Jessica Ann Miller

Heard: November 26, 2021 by electronic hearing in Toronto, Ontario

Decision: November 26, 2021

Reasons for Decision: January 20, 2022

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, QC
Guenther W. K. Kleberg
Edward Jackson

Chair
Industry Representative
Industry Representative

Appearances:

Brendan Forbes)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Ashley Thomassen)	Counsel for Respondent
)	
)	
Jessica Ann Miller)	Respondent
)	
)	

Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated September 20, 2021 (“Settlement Agreement”) between the staff of the MFDA (“Staff”) and Jessica Ann Miller (“Respondent”) at an electronic settlement hearing held in accordance with MFDA rules for an electronic hearing.
2. A copy of the Settlement Agreement is attached to these Reasons as Schedule “1”. The agreed facts are set out in section III of the Settlement Agreement.

Contraventions

3. The Respondent admitted that:
 - a) On December 16, 2013, the Respondent photocopied the signature page from an account form that had been signed by a client and re-used the signature page to complete 2 additional forms, contrary to MFDA Rule 2.1.1;
 - b) between September 2013 and January 2019, the Respondent obtained, possessed and used to process transactions, 22 pre-signed account forms in respect of 18 clients, contrary to MFDA Rule 2.1.1; and
 - c) between October 2013 and June 2015, the Respondent altered and used to process transactions, 3 account forms in respect of 3 clients, by altering the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1.

Agreed penalties

4. Under the terms of the Settlement Agreement, the Respondent:
 - a) will pay a fine of \$9,000; and
 - b) will pay costs of \$5,000.

Considerations

5. The Hearing Panel determined that it had to be satisfied regarding three considerations before it could accept the Settlement Agreement. First, the agreed penalties had to be within an acceptable range taking into account similar cases. Secondly, the agreed penalties had to be fair and reasonable (i.e. proportional to the seriousness of the contravention taking into consideration relevant circumstances) and should appear to be so to members of the public and industry. Thirdly,

the agreed penalties should serve as a deterrent to the Respondent and to industry. To be satisfied on these three considerations required an understanding of the particular facts of the case, the circumstances of the Respondent, and the impact on the Respondent of the agreed penalties.

Misconduct

6. The Hearing Panel determined that the alleged misconduct was in contravention of MFDA Rule 2.1.1.

Other considerations in determining acceptability of agreed penalties

7. The Respondent has paid \$14,000 to the Member to cover costs associated with the imposition of enhanced and close supervision by the Member.

8. There was no evidence that the Respondent received any financial benefit from the conduct set out above beyond the commissions or fees she would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

9. There was no evidence of client complaints, client loss or lack of client authorization.

10. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

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

Costs

12. The costs award is reasonable.

Conclusion

13. The agreed penalties are within the recommendations of the MFDA Sanction Guidelines and the reasonable range of appropriateness with regard to MFDA decisions submitted to us by Staff and Respondent's counsel, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

14. We concluded that the Settlement Agreement was in the public interest and, consequently, we accepted it.

DATED this 20th day of January, 2022.

“Paul M. Moore”

Paul M. Moore, QC
Chair

“Guenther Kleberg”

Guenther W. K. Kleberg
Industry Representative

“Edward Jackson”

Edward Jackson
Industry Representative



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Re: Jessica Ann Miller

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Jessica Ann Miller (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) on December 16, 2013, the Respondent photocopied the signature page from an account form that had been signed by a client and re-used the signature page to complete 2 additional forms, contrary to MFDA Rule 2.1.1;

- b) between September 2013 and January 2019, the Respondent obtained, possessed, and used to process transactions, 22 pre-signed account forms in respect of 18 clients, contrary to MFDA Rule 2.1.1; and
 - c) between October 2013 and June 2015, the Respondent altered and used to process transactions, 3 account forms in respect of 3 clients, by altering the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1.
5. Staff and the Respondent agree and consent to the following terms of settlement:
- a) the Respondent shall pay a fine in the amount of \$9,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
 - b) the Respondent shall pay costs in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, 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.
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 January 2008, the Respondent has been registered in Ontario as a dealing representative with Sun Life Investment Services (Canada) Inc. (the “Member”), a Member of the MFDA.
8. Since May 2014, the Respondent has been registered with the Member in New Brunswick and, since November 2018, the Respondent has been registered with the Member in Saskatchewan.
9. At all material times, the Respondent conducted business in the Scarborough, Ontario area.
10. At all material times, Sageev Satchithanatham (“Satchithanatham”), another Approved Person, assisted the Respondent to service client accounts of the Member. In all cases, the Respondent was the primary Approved Person responsible for servicing such client accounts. A

related disciplinary proceeding has been commenced against Satchithanatham (MFDA File No. 202154).

Re-Used Account Forms

11. On December 16, 2013, the Respondent photocopied the signature page from an account form that had previously been signed by a client and re-used the signature page to complete 2 additional Pre-Authorized Chequing (“PAC”)/Automatic Withdrawal (“AWD”) Forms in respect of 1 client.

12. The Respondent then submitted the account forms to the Member for processing.

Pre-Signed Account Forms

13. At all material times, the Member’s policies and procedures prohibited the use of pre-signed forms.

14. Between September 2013 and January 2019, the Respondent obtained, possessed and used to process transactions, 22 pre-signed forms in respect of 18 clients.

15. The pre-signed account forms consisted of: 11 PAC/AWD Forms, 5 Know-Your-Client (“KYC”) Forms, 2 Mutual Fund Application Forms, 1 Appointment of Beneficiary Form, 1 Education Savings Plan Application Form, 1 Tax Free Savings Account (“TFSA”) Application Form, and 1 Identity Verification, Third Party Determination and Politically Exposed Foreign Persons Form.

Altered Account Forms

16. Between October 2013 and June 2015, the Respondent altered and used to process transactions, 3 account forms in respect of 3 clients by altering information on the account forms without having the clients initial the alterations.

17. The altered account forms included: 2 PAC/AWD Forms and 1 KYC Form.

18. The alterations made by the Respondent consist of changes to: client net worth, investment amount, PAC amount, PAC frequency and investment fees.

The Member's Investigation

19. On June 19 2019, MFDA Staff conducted a sales compliance review of the Respondent's branch office and identified some of the deficient forms which are described above in this Settlement Agreement.

20. On June 24, 2019, the Member conducted a review of 100% of the Respondent's client files and identified the remaining deficient forms which are the subject of this Settlement Agreement.

21. On June 25, 2019, based upon the findings from the Member's review of the client files, the Member placed the Respondent under close supervision which required compliance staff of the Member to audit all documents completed by or on behalf of clients which the Respondent had a role in servicing (but not necessarily prior to processing those documents).

22. On July 29, 2019, the Member placed the Respondent under enhanced supervision which required compliance staff of the Member to review account forms submitted by the Respondent prior to the processing of such account forms by the Member.

23. Commencing on or about August 9, 2019, the Member contacted all clients to determine whether the Respondent had engaged in any unauthorized activity in the accounts of clients and to confirm the accuracy of the KYC information on file for clients whose accounts were serviced in part by the Respondent. No clients expressed any concerns with respect to the handling of their accounts or the accuracy of their KYC information.

24. On December 4, 2019, the Member discontinued its enhanced supervision of the Respondent and placed the Respondent under close supervision again. The Member also issued the Respondent a warning letter in respect of her conduct.

25. The Member did not detect any additional misconduct during the period when the Respondent was subject to enhanced and close supervision.

Additional Factors

26. There is no evidence of client losses arising from the use of the forms described above and no clients have alleged that the transactions, directions or updates resulting from the processing the forms were unauthorized.

27. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond any commissions and fees that she would ordinarily be entitled to receive had the documents described in this Settlement Agreement been completed, signed or initialed in the proper manner.
28. The Respondent has paid charges totaling \$14,000 to the Member to cover costs associated with the imposition of enhanced and close supervision by the Member.
29. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
30. 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

31. 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.
32. 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.
33. 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.
34. 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 agrees to waive any rights to a full hearing, a review hearing or appeal 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 and 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.

35. 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.

36. 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.

37. 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 20th day of September, 2021.

“Jessica Ann Miller”

Jessica Ann Miller

“ER”

Witness – Signature

ER

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement



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Re: Jessica Ann Miller

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of MFDA By-law No. 1 in respect of Jessica Ann Miller (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 MFDA By-law No. 1;

AND WHEREAS on the basis of the facts and contraventions that the Respondent has admitted in the Settlement Agreement, the Hearing Panel is of the opinion that:

- a) on December 16, 2013, the Respondent photocopied the signature page from an account form that had been signed by a client and re-used the signature page to complete 2 additional forms, contrary to MFDA Rule 2.1.1;
- b) between September 2013 and January 2019, the Respondent obtained, possessed, and used to process transactions, 22 pre-signed account forms in respect of 18 clients, contrary to MFDA Rule 2.1.1; and

- c) between October 2013 and June 2015, the Respondent altered and used to process transactions, 3 account forms in respect of 3 clients, by altering the account forms without having the client initial the alterations, 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 \$9,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1; and
3. 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]

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