



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

File No. 200714

**IN THE MATTER OF A SETTLEMENT HEARING
PURSUANT TO SECTIONS 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: John A. Moro

HEARING PANEL:	The Hon. Edward Saunders, Chair John Armstrong Christopher Marrese
HEARD:	19 November 2007
REPRESENTATION:	Jason Bennett for the MFDA David Thompson for the Respondent

DECISION

By Notice of Settlement Hearing dated October 24, 2007, a Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (“MFDA”) was convened on November 19, 2007 to consider whether, pursuant to Section 24.4 of By-law No. 1 of the MFDA, the Panel should accept a settlement agreement entered into by the staff of the MFDA and the Respondent.

The Respondent did not attend the hearing. He was represented by counsel who attended by telephone (Rule of Procedure 5.1 (1)).

At the request of counsel, it was ordered that the hearing take place in the absence of the public (Rule of Procedure 1.8 (2)). The purpose of the hearing was to determine whether the settlement agreement (Exhibit 4) should be accepted or rejected. If the settlement agreement

were to be rejected, its contents would, in general, remain confidential. On the other hand, if the agreement were to be accepted, the contents would then be made public. In these circumstances, the Panel was of the view that the hearing should be held in camera. Indeed, it is difficult to think of a circumstance where a settlement hearing ought not to be held in camera.

The panel then heard submissions on the terms of the settlement agreement and discussed with counsel some of the issues that were of concern.

After deliberating, the Panel unanimously decided to accept the settlement as being within a reasonable range taking into account the settlement process and the fact that the parties had agreed to the terms of the agreement.

The Panel was concerned that following an agreement by the Respondent with the MFDA in May 2005 to ensure that all forms requiring the signature of a client were in fact personally signed by the relevant client, a compliance examination in August and September 2006 revealed that the Respondent continued to possess pre-signed blank forms and had carried out trades in client accounts using those forms. The settlement agreement did not expressly contain a statement as to future compliance as required by Section 24.4.2 of By-law No. 1 of the MFDA. Paragraph 22 of the settlement agreement did contain an acknowledgment by the Respondent of the importance of keeping proper records and maintaining evidence of client instructions. In our view, it would have been better if the settlement agreement had contained an explicit statement of future compliance.

The Panel was also concerned that the proposed order did not provide for close supervision of the Respondent. It is a reasonable implication that the Respondent will receive some supervision from the Member (IPC Investment Corporation) but there is no evidence as to the extent of the supervision that will likely take place.

On the other hand, the Panel recognizes that there was no complaint about the conduct of the Respondent and no evidence that a client lost money as a result of his conduct. The Respondent has cooperated with the MFDA in its investigation and has agreed to pay a fine and costs. The absence of an explicit statement of future compliance and of an order for close supervision while defects in the settlement are not, in our view, of sufficient magnitude to take the settlement out of the range of reasonableness in all the circumstances.

As requested, an order will go declaring that the settlement agreement is accepted, as a consequence of which, the following penalties will be imposed upon the Respondent:

- a) Pursuant to s. 24.1.1 of MFDA By-law No. 1, the Respondent shall surrender his registration as Branch Manager within 5 business days of November 19, 2007 and shall be prohibited from acting in a supervisory capacity with a Member of the MFDA for a period of two (2) years from November 19, 2007;
- b) Pursuant to s. 24.1.1 of MFDA By-law No. 1, the Respondent shall rewrite the appropriate proficiency examination prior to becoming re-registered in any supervisory capacity with a Member of the MFDA;
- c) Pursuant to s. 24.1.1 of MFDA By-law No. 1, the Respondent shall pay a fine in the amount of \$5,000; and
- d) Pursuant to s. 24.1.1 of MFDA By-law No. 1, the Respondent shall pay \$2,500 in respect of the costs of the investigation and settlement of this matter.

DATED at Toronto this 22nd day of November, 2007

Per: “Edward Saunders”
The Hon. Edward Saunders, Chair

Per: “John Armstrong”
John Armstrong, Panel Member

Per: “Christopher Marrese”
Christopher Marrese, Panel Member