



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: Nelson Osedele

Heard: March 7, 2022 by electronic hearing in Toronto, Ontario

Decision: March 7, 2022

Reasons for Decision: April 11, 2022

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.
Melody Potter
Matthew Prew

Chair
Industry Representative
Industry Representative

Appearances:

Julie Grajales)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
)	
Zach Pringle)	Counsel for Respondent
)	
)	
Nelson Osedele)	Respondent
)	
)	

I. SETTLEMENT AGREEMENT

1. We accepted the settlement agreement dated February 8, 2022 (“Settlement Agreement”) between the staff of the MFDA (“Staff”) and Nelson Osedele (“Respondent”) at a settlement hearing held electronically by videoconference held in accordance with MFDA rules for electronic hearings.

2. A copy of the Settlement Agreement is attached to these Reasons as Schedule “1”. The agreed facts are set out in Part IV of the Settlement Agreement.

II. CONTRAVENTIONS

3. The Respondent admitted in the Settlement Agreement that on or about February 28, 2020, the Respondent:

- a) opened an account without communicating with the account holder;
- b) submitted an account application form that he knew was not signed by the account holder and which did not contain the account holder’s Know Your Client information; and
- c) processed a trade without the account holder’s authorization, contrary to MFDA Rules 2.1.1, 2.2.1, and 2.2.2.

III. AGREED PENALTY

4. Staff and the Respondent agree and consent to the following terms of settlement:

- a) the Respondent shall pay a fine in the amount of \$10,000, pursuant to s. 24.1.1(b) of MFDA By-law No.1;
- b) the Respondent shall pay costs in the amount of \$2,500, pursuant to s. 24.2 of MFDA By-law No.1;
- c) the payment by the Respondent of the fine and costs shall be made to and received by the MFDA in certified funds as follows:
 - i. \$2,500 upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii. \$3,300 on or before the last business day of the first month following the date of the Settlement Agreement;
 - iii. \$3,300 on or before the last business day of the second month following the date of the Settlement Agreement; and

- iv. \$3,400 on or before the last business day of the third month following the date of the Settlement Agreement;
- v. the Respondent shall in the future comply with MFDA Rules 2.1.1, 2.2.1, and 2.2.2.

IV. CONSIDERATIONS

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

V. MISCONDUCT

6. The Respondent's conduct was in violation of the MFDA Rules cited under "Contraventions" above.

VI. OTHER CONSIDERATIONS

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

8. There was no evidence of client loss attributable to the misconduct.

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

10. 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.

11. 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.

VII. COSTS

12. The costs award is reasonable.

VIII. CONCLUSION

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

DATED this 11th day of April, 2022.

“Paul M. Moore”

Paul M. Moore, Q.C.
Chair

“Melody Potter”

Melody Potter
Industry Representative

“Matthew Prew”

Matthew Prew
Industry Representative



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Re: Nelson Osedele

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. The Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing (the "Settlement Hearing") to consider whether, pursuant to section 24.4 of MFDA By-law No. 1, a hearing panel of the Central 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 the Respondent, Nelson Osedele (the "Respondent").

2. Staff and the Respondent consent and agree to the terms of this Settlement Agreement.

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

II. CONTRAVENTIONS

4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

On or about February 28, 2020, the Respondent:

- a) opened an account without communicating with the account holder;
 - b) submitted an account application form that he knew was not signed by the account holder and which did not contain the account holder's Know Your Client information; and
 - c) processed a trade without the account holder's authorization,
- contrary to MFDA Rules 2.1.1, 2.2.1, and 2.2.2.

III. TERMS OF SETTLEMENT

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 \$10,000, pursuant to s. 24.1.1(b) of MFDA By-law No.1;
- b) the Respondent shall pay costs in the amount of \$2,500, pursuant to s. 24.2 of MFDA By-law No.1;
- c) the payment by the Respondent of the fine and costs shall be made to and received by the MFDA in certified funds as follows:
 - i. \$2,500 upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii. \$3,300 on or before the last business day of the first month following the date of the Settlement Agreement;
 - iii. \$3,300 on or before the last business day of the second month following the date of the Settlement Agreement; and
 - iv. \$3,400 on or before the last business day of the third month following the date of the Settlement Agreement;
- d) the Respondent shall in the future comply with MFDA Rules 2.1.1, 2.2.1, and 2.2.2; and
- e) the Respondent will attend by videoconference 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 this Settlement Agreement herein and consent to the making of an Order in the form attached as Schedule "A".

IV. AGREED FACTS

Registration History

7. Between September 2009 to December 2012, and since December 2013, the Respondent has been registered in Ontario as a dealing representative with BMO Investments Inc. (the “Member”), a Member of the MFDA.

8. At all material times, the Respondent conducted business in the Whitby, Ontario area.

Opened an Account, Completed Know-Your Client Information, and Processed a Trade Without Communicating with the Client

9. At all material times, the Member’s policies and procedures required its Approved Persons to obtain accurate and complete Know Your Client (“KYC”) information from each client, learn the essential facts relative to each client, and ensure that each recommendation made for a client’s account is suitable for the client and in keeping with the client’s investment objectives.

10. On February 28, 2020, the Respondent met with client MF to discuss making a Registered Retirement Savings Plan contribution. The Respondent recommended that client MF purchase a dividend fund. Client MF agreed to open an account after his discussion with the Respondent.

11. During the meeting, the Respondent collected the Know-Your-Client (“KYC”) information from client MF to open an account. After the Respondent collected the KYC information client MF advised the Respondent that he was opening the account on behalf of his spouse, client SP, and that he (client MF) would be the contributor to a Spousal RSP account (the “Account”).

12. The Respondent then informed client MF that, since the Account would be in client SP’s name, client SP was required to attend at the branch to sign the account application form.

13. Client MF asked the Respondent if he could sign the form on client SP’s behalf instead, or take the form home for SP to sign and return the signed form to the Respondent at a later date.

14. The Respondent provided client MF with an electronic tablet, and client MF proceeded to sign client SP’s name in order to open the Account.

15. The Respondent opened the Account in client SP’s name without communicating with SP, and accepted the account application knowing that the account holder, SP, had not signed the application.

16. The Respondent submitted for processing to the Member an Account Application Retirement Savings Plan form to open the Account. This form contained KYC information he obtained from client MF. The Respondent did not communicate with client SP in order to obtain her KYC information for the purpose of opening the Account.

17. Based on the instructions of client MF, the Respondent then processed a \$6,300 purchase of a mutual fund in the Account without communicating with client SP.

18. On March 13, 2020, client MF complained to the Member in relation to the \$6,300 trade outlined in paragraph 17 above after he became aware that the value of the investment decreased to \$5,700.

19. The Member reversed the purchase in the Account described above at paragraph 17. Client SP subsequently opened a new Spousal RRSP account, and the Member reprocessed the transaction in the new account in the amount of \$6,300. The Member thereby compensated client SP for the decrease in the value in the account described above at paragraph 18.

Additional Factors

20. The Respondent did not receive any financial benefit from the conduct set out above.

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

22. 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.

V. ADDITIONAL TERMS OF SETTLEMENT

23. 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.

24. The Settlement Agreement is subject to acceptance by the Hearing Panel. 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.

25. 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.

26. 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 at the settlement hearing, subject to rule 15.3 of the MFDA Rules of Procedure;
- 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) except for any proceedings commenced to address an alleged failure to comply with this Settlement Agreement, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in this Settlement Agreement, 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;
- d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to s. 24.1.2 of MFDA By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of MFDA 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.

27. 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 this 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.

28. 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 MFDA By-law No. 1, unaffected by the Settlement Agreement or the settlement negotiations.

29. 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. The terms of the Settlement Agreement, including the attached Schedule “A”, will be released to the public if and when the Settlement Agreement is accepted by the Hearing Panel.

30. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile or electronic copy of any signature shall be as effective as an original signature.

DATED this 8th day of February, 2022.

“Nelson Osedele”

Nelson Osedele

Witness – Signature

Witness – Print Name

“Charles Toth”

Staff of the MFDA
Per: Charles Toth
Vice-President, Enforcement



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Re: Nelson Osedele

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the "MFDA") provided notice to the public of a Settlement Hearing in respect of Nelson Osedele (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 the Hearing Panel is of the opinion that, on or about February 28, 2020, the Respondent:

- a) opened an account without communicating with the account holder;
- b) submitted an account application form that he knew was not signed by the account holder and which did not contain the account holder's Know Your Client information; and
- c) processed a trade without the account holder's authorization,

contrary to MFDA Rules 2.1.1, 2.2.1, and 2.2.2.

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 \$10,000, 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, pursuant to s. 24.2 of MFDA By-law No.1.
3. The payment by the Respondent of the fine and costs shall be made to and received by the MFDA in certified funds as follows:
 - a) \$2,500 upon acceptance of the Settlement Agreement by the Hearing Panel;
 - b) \$3,300 on or before April 29, 2022;
 - c) \$3,300 on or before May 31, 2022; and
 - d) \$3,400 on or before June 30, 2022.
4. The Respondent shall in the future comply with MFDA Rules 2.1.1, 2.2.1, and 2.2.2.
5. 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]