Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

IN THE MATTER OF

THE MUTUAL FUND DEALER RULES

Re: Christian Perrault

Heard: January 19, 2023 by electronic hearing in Toronto, Ontario
Decision January 19, 2023
Reasons for Decision: February 13, 2023

REASONS FOR DECISION

Hearing Panel of the Ontario District Hearing Committee:

Paul M. Moore, K.C.	Chair
Linda J. Anderson	Industry Representative
Jeff Page	Industry Representative

Appearances:

Molly McCarthy	)	Enforcement Counsel for the New Self-Regulatory Organization of Canada (Mutual Fund Division)
Rafal Szymanski	)	Counsel for Respondent
Christian Perrault	)	Respondent

I. INTRODUCTION

1. Effective January 1, 2023 the Mutual Fund Dealers Association of Canada ("MFDA") and the Investment Industry Regulatory Organization of Canada consolidated to form the New Self-Regulatory Organization of Canada ("New SRO").

2. On November 30, 2022, the MFDA issued a Notice of Settlement Hearing commencing a disciplinary proceeding in respect of Christian Perrault (the "Respondent").

3. Pursuant to Rule 1A(5) of the Mutual Fund Dealer Rules of the New SRO, any enforcement proceeding commenced by the MFDA prior to January 1, 2023, shall proceed in accordance with the by-laws, decisions, directions, policies, regulations, rules, rulings and practice and procedure of the MFDA in effect and applicable to such a proceeding at the time it was commenced.

II. SETTLEMENT AGREEMENT

4. We accepted the settlement agreement dated November 22, 2022 ("Settlement Agreement") between the staff of the New SRO ("Staff") and Christian Perrault ("Respondent") at an electronic settlement hearing held in accordance with New SRO rules for an electronic hearing.

5. A copy of the Settlement Agreement is attached to these Reasons as Schedule "1". The agreed facts are set out in Part III of the Settlement Agreement. Some capitalized terms used in these reasons are defined in the Settlement Agreement.

III. CONTRAVENTIONS

6. The Respondent admits that:

a) between January 19, 2015 and February 24, 2021, the Respondent altered and used to process transactions, 30 account forms in respect of 22 clients, by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and

b) between August 3, 2016 and October 31, 2016, the Respondent obtained, possessed and used to process transactions, 2 pre-signed account forms in respect of 2 clients, contrary to MFDA Rule 2.1.1.

IV. SANCTIONS

7. The Settlement Agreement provides that:

a) the Respondent shall pay a fine of $22,000; and

b) the Respondent shall pay costs of $2,500.

V. CONSIDERATIONS

8. We determined that we had to be satisfied regarding three considerations before we could accept the Settlement Agreement. First, the sanctions had to be within an acceptable range taking into account similar cases. Secondly, the sanctions 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 sanctions 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.

VI. MISCONDUCT

9. The Respondent's conduct was in violation of the standard of conduct required by MFDA Rule 2.1.1. This rule requires that Members and Approved Persons deal fairly, honestly, and in good faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from engaging in any business conduct or practice which is unbecoming or detrimental to the public interest. A multitude of MFDA disciplinary cases have found conduct similar to that of the Respondent in our case to be a contravention of MFDA Rule 2.1.1.

VII. OTHER CONSIDERATIONS

10. There was no evidence that the Respondent received any financial 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.

11. There was no evidence of client complaints, client loss or lack of client authorization for the underlying transactions.

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

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

VIII. CONCLUSIONS

14. The sanctions 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, made by MFDA Hearing Panels in similar circumstances. They are fair and reasonable and will serve as a specific and general deterrent.

15. The costs award is reasonable.

DATED this 13th day of February, 2023.

"Paul M. Moore"
Paul M. Moore, K.C.
Chair

"Linda J. Anderson"
Linda J. Anderson
Industry Representative

"Jeff Page"
Jeff Page
Industry Representative

Schedule "1"

Settlement Agreement

File No. 202254

Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

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: Christian Perrault

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association ("Staff") and the Respondent, Christian Perrault (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 By-law No. 1.

II. JOINT SETTLEMENT RECOMMENDATIONS

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) between January 19, 2015 and February 24, 2021, the Respondent altered and used to process transactions, 30 account forms in respect of 22 clients, by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and

b) between August 3, 2016 and October 31, 2016, the Respondent obtained, possessed and used to process transactions, 2 pre-signed account forms in respect of 2 clients, 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 $22,000 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 $2,500 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 or 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".

III. AGREED FACTS

i. Registration History

7. Since July 2003, the Respondent has been registered in the securities industry.

8. The Respondent has been registered in Ontario and Quebec as a dealing representative with Investia Financial Services Inc. (the "Member"), a Member of the MFDA, since September 28, 2009.

9. At all material times, the Respondent conducted business in the Hammond, ON area.

ii. Altered Account forms

10. Between January 19, 2015 and February 24, 2021, the Respondent altered and used to process transactions, 30 account forms in respect of 22 clients, by altering information on the account forms without having the client initial the alterations.

11. The account forms that the Respondent altered include Know Your Client ("KYC") Update forms, Transfer Authorization Forms, Systematic Instruction Forms, New Client Application Forms, Order Information Forms and a Fund Application Form.

12. The information that the Respondent altered on the account forms included: risk tolerance; income information; fund details; account type, name and number; investment instructions; and transfer institution information.

iii. Pre-signed Account Forms

13. At all material times, the Member's policies and procedures prohibited its dealing representatives from using pre-signed account forms.

14. Between August 3, 2016 and October 31, 2016, the Respondent obtained, possessed and used to process transactions, 2 pre-signed account forms in respect of 2 clients.

15. The pre-signed account forms include a KYC Update Form and an Order Instruction Form.

iv. Member's Investigation

16. In July 2021, the Member completed a full file review of the client files maintained by the Respondent and discovered the account forms that are described above.

17. Between November 17, 2021 and February 17, 2022, the Member placed the Respondent on strict supervision.

18. As part of its investigation into the Respondent's conduct, the Member sent letters to all clients whose accounts the Respondent serviced, and provided the clients with three years of transaction history to determine that the trading activity was executed accurately and according to the clients' instructions. Clients that had deficient KYC information were also provided with a copy of their KYC information to determine that it was accurate. No clients responded to the Member's letters with any concerns.

19. On February 17, 2022, the Member issued the Respondent a Warning Letter for his use of the account forms described above.

v. Additional Factors

20. There is no evidence that the Respondent received any financial benefit from the misconduct described above beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out in the required manner.

21. There is no evidence of client loss, client complaints, or lack of authorization for the underlying transactions.

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

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

24. The Respondent states that he engaged in the conduct described within the settlement agreement for the purposes of client convenience, but he acknowledges that this is not an acceptable justification for obtaining pre-signed forms or using altered forms without obtaining client initials.

IV. ADDITIONAL TERMS OF SETTLEMENT

25. 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.

26. 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.

27. 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.

28. 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) 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 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, 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 section 24.1.1 of MFDA By-law No. 1 for the purpose of giving notice to the public thereof in accordance with section 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.

29. 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 settlement negotiations.

30. 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.

31. 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 22nd day of November, 2022.

"Christian Perrault"
Christian Perrault

"LT"
Witness – Signature

LT
Witness – Print name

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

Schedule "A"

Order

File No. 202254

Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

IN THE MATTER OF
THE MUTUAL FUND DEALER RULES

Re: Christian Perrault

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 Christian Perrault (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 based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that the Respondent:

a) between January 19, 2015 and February 24, 2021, the Respondent altered and used to process transactions, 30 account forms in respect of 22 clients, by altering information on the account forms without having the client initial the alterations, contrary to MFDA Rule 2.1.1; and

b) between August 3, 2016 and October 31, 2016, the Respondent obtained, possessed and used to process transactions, 2 pre-signed account forms in respect of 2 clients, 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 $22,000 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 $2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;

3. The Respondent shall in the future comply with MFDA Rule 2.1.1; and

4. 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]

DM 901734