



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: Duane Roy

Heard: March 6, 2013 in Toronto, Ontario
Reasons for Decision: March 24, 2014

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Linda J. Anderson	Industry Representative
Brian Nowak	Industry Representative

Appearances:

Maria L. Abate)	Enforcement Counsel, Mutual Fund Dealers
)	Association of Canada
)	
Duane Roy)	Respondent, in person
)	
)	

Allegations

1. The Settlement Agreement concerns allegations that the Respondent, between 2007 and 2012, maintained and used to complete transactions, 57 account forms involving 21 clients where the account forms were blank or only partially complete at the time the Respondent arranged for the clients to sign them, or the Respondent falsified the clients' signatures on the account forms, contrary to MFDA Rule 2.1.1.

Decision

2. The panel agreed that the conduct in question constituted a contravention of MFDA Rule 2.1.1 and accepted and approved the Settlement Agreement as being in the public interest.

Terms of Settlement

3. The Respondent agreed to the following terms of settlement:

- a) a fine of \$5,000;
- b) costs of \$2,500; and
- c) the Respondent will attend the settlement hearing.

Facts

4. The Respondent was registered in Ontario as a mutual fund salesperson from January 12 2001 to January 16, 2007 with FundEX Investments Inc. and from February 15, 2007 to July 16, 2012 with Ten Star Financial Inc., a Member of the MFDA. On July 16, 2012 his Member terminated him as a result of the events in question.

5. The Respondent's Member contacted clients affected by the Respondent's conduct to determine if the Respondent had engaged in any unauthorized transactions. None of the clients complained with respect to the events.

Considerations Relevant to Sanctions

6. The MFDA Penalty Guidelines recommend a minimum fine of \$5,000 for a case like this one.
7. There was no fraud or unauthorized trading on the part of the Respondent. The clients were aware of the transactions which were completed on their behalf.
8. The Respondent has not been previously disciplined.
9. The Respondent is no longer registered in the securities industry in any capacity and has indicated that he will likely not return to mutual fund sales.
10. The MFDA is not aware of any instance of client harm as a result of the Respondent's conduct.
11. The Respondent has cooperated with the MFDA in its investigation.
12. Generally, a lesser penalty is warranted where there is clear evidence that the client requested or acquiesced in the use of pre-signed forms.
13. While the Respondent purported to sign the client's name in some of the instances, he did not do so with the intention of depriving the client of property or rights. Although this was wrong, it was not with fraudulent or dishonest intent.

Procedure

14. The Respondent was not represented by counsel.
15. At the commencement of the hearing, on motion by Staff, supported by the Respondent, the hearing went in camera until we announced that we had accepted and approved the Settlement Agreement.

Shortened References

16. In these reasons:

- a) “Respondent” refers to Duane Roy.
- b) “Settlement Agreement” refers to the settlement agreement dated December 5, 2013 between the MFDA and the Respondent.
- c) “MFDA” refers to the Mutual Fund Dealers Association of Canada.

DATED this 24th day of March, 2014.

“Paul M. Moore”

Paul M. Moore, Q.C.,
Chair

“Linda J. Anderson”

Linda J. Anderson,
Industry Representative

“Brian Nowak”

Brian Nowak,
Industry Representative