



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: Jerry Bo Song

Heard: August 25, 2022 by electronic hearing in Vancouver, British Columbia

Decision: August 25, 2022

Reasons for Decision: September 22, 2022

REASONS FOR DECISION

Hearing Panel of the Pacific Regional Council:

Susan E. Ross
Darlene Barker
Darryl Gossen

Chair
Industry Representative
Industry Representative

Appearances:

Zaid Sayeed)	Enforcement Counsel for the Mutual Fund
)	Dealers Association of Canada
)	
Jerry Bo Song)	Respondent
)	
)	

1. At the conclusion of an electronic hearing, the Hearing Panel accepted a settlement agreement dated May 30, 2022 (the “Settlement Agreement”), between staff of the Mutual Fund Dealers Association of Canada (the “MFDA”) and registered dealing representative Jerry Bo Song (the “Respondent”). Under the Settlement Agreement, the Respondent agreed to:

- a) be suspended from acting as a branch manager or in any other supervisory capacity for a four-month period;
- b) successfully complete a branch manager’s course acceptable to staff of the MFDA before acting as a branch manager or in any other supervisory capacity in the future;
- c) pay a \$9,000 fine; and
- d) pay costs of \$5,000.

2. The terms of settlement were reached in respect of the Respondent’s admission that between October 2017 and November 2019, acting in his capacity as a branch manager, he reviewed and approved the use of 24 altered and pre-signed forms, contrary to MFDA Rules 2.1.1 and 2.5.5(f).

3. The Settlement Agreement is attached as Schedule “1” to these Reasons for Decision.

4. The Respondent has been registered in the securities industry since 2009. In September 2017, he became registered as a dealing representative and was designated as a branch manager with Queen Financial Group Inc. (the “Member”) in Richmond, British Columbia.

5. In 2019 and 2020, an MFDA compliance examination and investigation identified pre-signed and altered accounts forms prepared by two Approved Persons whom the Respondent was responsible for supervising as branch manager.

6. The Respondent had queried the Approved Persons about missing information on 11 account forms and then signed and approved the incomplete forms. He did not verify information that the Approved Persons later added to the forms without having the client initial the additions. The Respondent had also approved 13 account forms on which information had been altered without having the client initial the alterations.

7. There is no evidence that the Respondent received any financial benefits beyond fees and commissions he would ordinarily have been entitled to if the resulting transactions had been

carried out in the proper manner. There were also no client losses, complaints, or lack of authorization for the transactions and the Respondent has no prior disciplinary record.

8. The Respondent cooperated fully with the MFDA investigation. He admitted the contraventions and, in the settlement hearing, expressed responsibility and remorse for his misconduct.

9. The Hearing Panel's authority is to either accept or reject the Settlement Agreement. In doing so, we consider whether the proposed penalty falls within a reasonable range of appropriateness having regard to the Respondent's misconduct and the MFDA's primary regulatory objective of protecting the investing public.

10. Key considerations for determining the reasonableness of a settlement are:

- a) the seriousness of the Respondent's conduct;
- b) the Respondent's past conduct, including prior sanctions;
- c) the Respondent's experience and level of activity in the capital markets;
- d) whether the Respondent recognizes the seriousness of the improper activity;
- e) the harm suffered by investors as a result of the Respondent's activities;
- f) the benefits received by the Respondent as a result of the improper activity;
- g) the risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
- h) the damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
- i) the need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
- j) the need to alert others to the consequences of inappropriate activities for those who are permitted to participate in the capital markets; and
- k) previous decisions made in similar circumstances.

Headley (Re), 2006 LNCMFDA 3, at pages 16-17

11. It is well-established that obtaining or using pre-signed account forms (forms that were incomplete when they were signed) or altering information on account forms without having the client initial the alterations are contraventions of the standards of conduct in MFDA Rule 2.1.1.

These practices adversely affect the integrity and reliability of account documents, lead to destruction of the audit trail, negatively impact member complaint handling, and have the potential to enable unauthorized trading, fraud, and misappropriation.

12. A branch manager who reviews and approves account forms that have been pre-signed, or altered without the client initialing the alterations, contravenes both Rule 2.1.1 and the branch manager's responsibility under Rule 2.5.5(f) to supervise activities at their branch. We agree with Enforcement Counsel that this is serious misconduct.

13. Contraventions involving pre-signed or altered account forms are a long-standing and persistent form of misconduct in the industry. The MFDA has issued warnings against the use of pre-signed and altered forms since 2007. Hearing Panels have expressed concern about whether the sanctions being imposed have been sufficient to combat this problem. They have also observed that the danger of low fines being tantamount to a licensing fee for registrants to engage in this misconduct as a matter of convenience is an acknowledged consideration in the MFDA Sanction Guidelines.

MFDA Notice #MSN-0066 dated October 31, 2007 (updated March 4, 2013, and January 26, 2017) and MFDA Bulletin #0661-E dated October 2, 2015

Gilchrist (Re), [2017] Hearing Panel of the Pacific Regional Council, MFDA File No. 2016100, Hearing Panel Decision dated May 29, 2017, at para. 16

Myers (Re), [2021] Hearing Panel of the Central Regional Council, MFDA File No. 202145, Hearing Panel Decision dated January 10, 2022, at para. 29

MFDA Sanction Guidelines dated November 5, 2018, at page 6

14. Enforcement Counsel referred us to cases demonstrating a range of sanctions for contraventions by branch managers involving pre-signed or altered account forms. Two recent settlement decisions indicate that the proposed \$9,000 fine and four-month branch manager suspension are in the mid-range for this type of misconduct. In *Bast*, where the misconduct was more egregious, there was a \$12,500 fine accompanied by a three-month branch manager suspension. In *Arnold*, where the misconduct was comparable to this case, there was a \$5,000 fine accompanied by a six-month branch manager suspension. Both *Bast* and *Arnold* also required the completion of a branch manager's course.

Bast (Re), [2019] Hearing Panel of the Central Regional Council, MFDA File No. 201956, Hearing Panel Decision dated October 22, 2019

Arnold (Re), [2021] Hearing Panel of the Central Regional Council, MFDA File No. 202134, Hearing Panel Decision dated November 10, 2021

15. Other relevant factors in weighing the reasonableness of the penalty are that the Respondent has accepted responsibility for his misconduct, has no prior disciplinary record, and has saved the MFDA the time, resources and expenses associated with a full disciplinary hearing. There is no evidence of client losses, complaints or lack of authorization, or extra fees or commissions to the Respondent from his misconduct. We accepted the Respondent's expression of remorse and assurance that he has learned a lesson.

16. The Hearing Panel concluded that the proposed sanctions are an appropriate reflection of the seriousness of this case and area of misconduct. Having regard to the relevant considerations including general and specific deterrence and protection of the integrity of the capital markets, we concluded that the settlement was within a reasonable range.

17. The Settlement Agreement was therefore accepted.

DATED this 22nd day of September, 2022.

“Susan E. Ross”

Susan E. Ross
Chair

“Darlene Barker”

Darlene Barker
Industry Representative

“Darryl Gossen”

Darryl Gossen
Industry Representative

Schedule “1”

Settlement Agreement

File No. 202220



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: Jerry Bo Song

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 Pacific 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, Jerry Bo Song (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:

Between approximately October 2017 and November 2019, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of a total of 24 altered and pre-signed forms, contrary to MFDA Rules 2.5.5(f) and 2.1.1.

III. TERMS OF SETTLEMENT

5. Staff and the Respondent agree and consent to the following terms of settlement:
 - a) The Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Member of the MFDA for a period of four months, effective from the date of the Order, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
 - b) 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;
 - c) 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;
 - d) The Respondent shall successfully complete the branch manager's course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of the MFDA prior to acting as a branch manager or in any supervisory capacity in the future, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
 - e) The Respondent shall in the future comply with MFDA Rule 2.5.5(f) and 2.1.1; and
 - f) The Respondent shall 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".

IV. AGREED FACTS

Registration History

7. Since September 2009, the Respondent has been registered in the securities industry.

8. Since September 22, 2017, the Respondent has been registered in British Columbia as a dealing representative with Queen Financial Group Inc. (the “Member”), a Member of the MFDA.

9. On September 22, 2017, the Member designated the Respondent as a branch manager.

10. At all material times, the Respondent conducted business in the Richmond, British Columbia area.

Approval of Pre-Signed Forms

11. Between approximately October 2017 and November 2019, two Approved Persons who the Respondent had the responsibility to supervise as branch manager submitted to the Respondent for approval 11 incomplete New Account Application Forms that had been signed by the clients.

12. The forms described above were missing information including: intended use, purpose of funds, dollar amount, employment information, and banking information.

13. The Respondent queried the Approved Persons in respect of the missing information on the account forms. The Respondent signed and approved as branch manager the incomplete account forms that had been signed by the client. Subsequently, the Approved Persons added the information that was missing from the account forms without having the client initial the additions to the forms.

14. The Respondent approved the account forms and they were submitted to the Member for processing without the Respondent verifying that the information that was subsequently added to the forms by the Approved Persons had been authorized by the clients.

Approval of Altered Account Forms

15. Between approximately October 2017 and November 2019, an Approved Person who the Respondent had the responsibility to supervise as branch manager submitted to the Respondent for approval 13 account forms where information had been altered on the forms without having the client initial the alterations.

16. The Respondent, acting in his capacity as branch manager, approved the use of the altered account forms and they were submitted to the Member for processing.

17. The altered account forms described above included Switch/Systemic Instruction and Know Your Client Forms.

18. The altered forms described above contained alterations to information including: transaction amount, net worth, investment objective, risk tolerance, fund code and name, and client's signature date.

The Member's Investigation

19. During a 2019 Compliance Examination of the Member, the MFDA identified some of the account forms described above.

20. In or about May 2020, the Member commenced an investigation into pre-signed and altered forms described above. As part of its investigation, the Member wrote the affected clients to determine if they had knowledge of and authorized the transactions. No clients reported any concerns to the Member.

Additional Factors

21. There is no evidence of client loss, client complaints, or lack of authorization.

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

23. There is 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.

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

V. 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. 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 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 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 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.

30. 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.

31. 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.

32. 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 30th day of May, 2022.

“Jerry Bo Song”

Jerry Bo Song

“SJ”

Witness – Signature

SJ

Witness – Print name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement



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**IN THE MATTER OF A SETTLEMENT HEARING
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Re: Jerry Bo Song

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 Jerry Bo Song (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, between approximately October 2017 and November 2019, the Respondent, acting in his capacity as branch manager, reviewed and approved the use of a total of 24 altered and pre-signed forms, contrary to MFDA Rules 2.5.5(f) and 2.1.1; and

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent shall be suspended from acting as a branch manager or in any supervisory capacity for a Member of the MFDA for a period of four months, effective from the date of the Order, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
2. 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;
3. 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;
4. The Respondent shall successfully complete the branch manager's course offered by the Investment Funds Institute of Canada, the Investment Dealer Supervisors Course offered by the Canadian Securities Institute, or another industry course that is acceptable to Staff of the MFDA prior to acting as a branch manager or in any supervisory capacity in the future, pursuant to section 24.1.1(f) of MFDA By-law No. 1;
5. The Respondent shall in the future comply with MFDA Rule 2.5.5(f) and 2.1.1; and
6. 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]