



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: Claude Armand Vaillancourt

Heard: December 15, 2016 in Toronto, Ontario

Decision: December 15, 2016

Reasons for Decision: March 16, 2017

**REASONS FOR DECISION FOR ACCEPTANCE OF
SETTLEMENT AGREEMENT**

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.

Brigitte Geisler

Kenneth Mann

Chair

Industry Representative

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers
Association of Canada

Keir Turner

Counsel for the Respondent

Settlement Agreement

1. The Hearing Panel accepted the settlement agreement dated September 2, 2016 (the “Settlement Agreement”) between the staff of the MFDA and Claude Armand Vaillancourt (the “Respondent”). A copy of the Settlement Agreement is attached to these reasons as Schedule “1”. The agreed facts are set out in section III of the agreement.

Contraventions

2. The Respondent admitted that:
- a) between January 2009 and February 2015, the Respondent obtained, possessed, and used to process trades, 76 pre-signed account forms in respect of 14 clients; and
 - b) between January 2009 and February 2015, the Respondent, acting in the capacity as alternative branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f) and 2.1.1.

Agreed penalties

3. The agreed penalties were that
- i) the respondent will pay a fine of \$11,500, in installments;
 - ii) he shall be prohibited from conducting securities related business in the capacity of a branch manager or any other supervisory capacity for one year;
 - iii) he shall successfully complete the branch managers course of the Canadian Securities Institute before seeking re-designation as a branch manager; and
 - iv) he shall pay costs of \$2,500.

4. In addition, on June 3, 2015, the respondent's Member placed him under close supervision for at least 12 months.

Considerations

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

Other factors considered in assessing the appropriateness of the agreed penalties

6. There was no evidence of client harm or lack of client authorization.

7. There was no evidence that the Respondent received any financial benefit from engaging in the misconduct, other than the commissions and fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

8. The Respondent has been registered in the mutual fund industry since November 1995.

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

10. By entering into the Settlement Agreement, the Respondent has accepted responsibility for his misconduct and avoided the necessity of the MFDA incurring the time and expense of conducting full a disciplinary hearing.

Penalty guidelines

11. Where an Approved Person fails to adhere to the standard of conduct, the MFDA Penalty Guidelines recommend one or all of the following: a minimum fine of \$5,000; writing or re-writing an appropriate industry course; suspension; and/or a permanent prohibition in egregious cases.

12. Where an Approved Person who acts in a supervisory capacity fails to meet his responsibilities under Rule 2.5.5(f), the guidelines recommend one or all of the following: a minimum fine of \$10,000; writing or re-writing an appropriate industry course; conditions on registration, suspension; a permanent prohibition in egregious cases.

13. The agreed fine of \$11,500 is in line with the suggested minimum fine for a supervisory rule violation as set out in the guidelines. The guidelines also contemplate a suspension and the re-writing of an appropriate course in the case of both the Rule 2.1.1 and 2.5.5 violations. The collective penalty is appropriate given the number of pre-signed account forms in question and the fact that the Respondent was designated as an alternate branch manager during the material period.

Previous decisions

14. The agreed penalties are within the reasonable range of appropriateness with regard to other decisions made by MFDA hearing panels in similar circumstances.

Deterrence

15. The agreed penalties and costs are significant and send a message to the Respondent and others in the capital markets about the seriousness of the misconduct at issue.

Fair and reasonable

16. Whether agreed penalties are fair and reasonable will depend to a large degree on the particular facts and circumstances of a matter. Where agreed penalties are within an acceptable range based on precedents, and they serve as a specific and general deterrent, and the parties are represented by counsel and have the means to undergo a contested hearing but have reached a settlement, it is unlikely that a panel would ever determine that the results were not fair and reasonable. We determined that they were fair and reasonable.

Costs

17. Costs of \$2,500 are reasonable in the circumstances.

Conclusion

18. We concluded that the agreed penalties were within an acceptable range based on precedents, would serve as a specific and general deterrent, and were fair and reasonable. We concluded, therefore, that the Settlement Agreement was in the public interest and, consequently, we accepted it.

DATED this 16th day of March, 2017.

“Paul M. Moore”

Paul M. Moore, Q.C.
Chair

“Brigitte Geisler”

Brigitte Geisler
Industry Representative

“Kenneth Mann”

Kenneth Mann
Industry Representative



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**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: Claude Armand Vaillancourt

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, Claude Armand Vaillancourt, 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 of By-law No. 1.

II. JOINT SETTLEMENT RECOMMENDATION

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 MFDA:

- a) between January 2009 and February 2015, the Respondent obtained, possessed, and used to process trades, 76 pre-signed account forms in respect of 14 clients; and
- b) between January 2009 and February 2015, the Respondent, acting in the capacity as alternate branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f)¹ and 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 \$11,500 pursuant to s. 24.1.1(b) of MFDA By-law No.1 (the “Fine”);
- b) the Fine shall be payable in 12 installments in the amount of \$958.33 each, which are due on or before the final business day of the 12 months that follow the date of the acceptance of the settlement agreement by the Hearing Panel;
- c) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No.1;
- d) the Respondent shall be prohibited from conducting securities related business in the capacity of branch manager or any other supervisory capacity for a period of 12 months for a Member of the MFDA pursuant to s. 24.1.1(e) of MFDA By-law No.1;
- e) the Respondent shall successfully complete the branch manager course offered by the Canadian Securities Institute before seeking re-designation as a branch manager, pursuant to s. 24.1.1(f) of MFDA By-law No.1;
- f) the Respondent shall in the future comply with MFDA Rules 2.5.5(f) and 2.1.1; and

¹ Rule 2.5.5(f) has been re-numbered and re-worded during the period of the Respondent’s conduct described in this Settlement Agreement. Prior to September 2013, the Respondent’s conduct was contrary to MFDA Rule 2.5.5(d), and prior to December 2010, the Respondent’s conduct was contrary to MFDA Rule 2.5.3(b).

g) the Respondent will attend in person, 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 Part III herein and consent to the making of an Order in the form attached as Schedule “A”.

III. AGREED FACTS

Registration History

7. Since November 1995, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with PFSL Investments Canada Inc. (“PFSL”), a member of the MFDA.

8. Between September 2006 and May 22, 2015, PFSL designated the Respondent as an Alternate Branch Manager.

9. At all material times, the Respondent conducted business in the Stoney Creek, Ontario area.

Pre-Signed Account Forms

10. Between January 2009 and February 2015, the Respondent obtained, possessed, and used to process trades, 76 pre-signed account forms in respect of 14 clients.

11. The pre-signed account forms consisted of redemption forms and Registered Education Savings Plan withdrawal forms.

Approval of Pre-Signed Account Forms

12. Between January 2009 and February 2015, the Respondent, acting in the capacity of alternate branch manager, reviewed and approved the use of 36 pre-signed account forms described above in paragraphs 10 and 11.

PFSL's Investigation

13. PFSL's compliance staff detected the conduct that is the subject of this Settlement Agreement as a result of a routine branch audit and subsequent follow-up investigation.

14. As part of its investigation, PFSL sent letters to all affected clients serviced by the Respondent and to 17 additional clients serviced by the Respondent in order to determine whether the Respondent had engaged in any unauthorized trading. No clients reported any concerns.

15. On June 3, 2015, PFSL placed the Respondent under close supervision for a period of at least 12 months.

Additional Factors

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

17. There is no evidence of any client harm or that the transactions were unauthorized.

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

19. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

20. 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.

21. 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.

22. 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.

23. 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 waives any rights to a full hearing, a review hearing 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) Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts and the 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. 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 By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of 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.

24. 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 the settlement negotiations.

25. 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.

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

DATED this 2nd day of September, 2016.

“Claude Armand Vaillancourt”

Claude Armand Vaillancourt

“KV”

Witness – Signature

KV

Witness – Print Name

“Shaun Devlin”

Shaun Devlin
Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President,
Member Regulation – Enforcement

Schedule “A”

Order

File No. 201643



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Re: Claude Armand Vaillancourt

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of [Respondent] (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 By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that.

- a) between January 2009 and February 2015, the Respondent obtained, possessed, and used to process trades, 76 pre-signed account forms in respect of 14 clients; and

- b) between January 2009 and February 2015, the Respondent, acting in the capacity as alternate branch manager, reviewed and approved the use of 36 pre-signed account forms, contrary to MFDA Rules 2.5.5(f)² and 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 \$11,500 pursuant to s. 24.1.1(b) of MFDA By-law No.1 (the “Fine”);
- 2) the Fine shall be payable in 12 installments in the amount of \$958.33 each, which are due on or before the final business day of the 12 months that follow the date of the acceptance of the settlement agreement by the Hearing Panel;
- 3) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
- 4) the Respondent shall be prohibited from conducting securities related business in the capacity of branch manager or any other supervisory capacity for a period of 12 months for a Member of the MFDA pursuant to s. 24.1.1(e) of MFDA By-law No.1;
- 5) the Respondent shall successfully complete the branch manager course offered by the Canadian Securities Institute before seeking re-designation as a branch manager, pursuant to s. 24.1.1(f) of MFDA By-law No.1; and

² Rule 2.5.5(f) has been re-numbered and re-worded during the period of the Respondent’s conduct described in this Settlement Agreement. Prior to September 2013, the Respondent’s conduct was contrary to MFDA Rule 2.5.5(d), and prior to December 2010, the Respondent’s conduct was contrary to MFDA Rule 2.5.3(b).

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]