



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: Gary William Ward

Heard: December 14, 2017 in Toronto, Ontario

Decision: December 14, 2017

Reasons for Decision: February 7, 2018

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Joan Smart

Chair

Rob Christianson

Industry Representative

Robert J. Wright, CM, QC

Industry Representative

Appearances:

Sarah Glickman

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Counsel for the Mutual Fund Dealers
Association of Canada

Brett Stephenson

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Counsel for the Respondent

Gary William Ward

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Respondent, in person

I. Background

1. Proceedings were commenced against Gary William Ward (“Respondent”) by Notice of Settlement Hearing, dated August 2, 2017. The settlement hearing was held under Section 24.4 of By-law No. 1 of the Mutual Fund Dealers Association of Canada (“MFDA”) on December 14, 2017 in respect of a settlement agreement, dated July 31, 2017 (“Settlement Agreement”), entered into between Staff of the MFDA (“Staff”) and the Respondent.

2. The Hearing Panel accepted the proposed Settlement Agreement at the conclusion of the hearing. These are our Reasons for Decision.

II. Respondent’s Admission of Violation

3. The Respondent admitted that between 2006 and March 2014, he obtained, possessed, and in some instances used to process transactions, 22 pre-signed account forms in respect of 8 clients, contrary to MFDA Rule 2.1.1.

III. Terms of Settlement

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

- a) the Respondent shall pay a fine in the amount of \$6,500 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; and
- c) the Respondent shall in the future comply with MFDA Rule 2.1.1.

IV. Agreed Facts

Registration History

5. Since 1991, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative).

6. Since 2006, the Respondent has been registered with Investia Financial Services Inc. (“Investia”), a Member of the MFDA.

Pre-Signed Account Forms

7. At all material times, Investia prohibited its Approved Persons, including the Respondent, from obtaining pre-signed account forms.

8. Between 2006 and March 2014, the Respondent obtained, possessed, and in some instances used to process transactions, 22 pre-signed account forms in respect of 8 clients.

9. The pre-signed account forms included systematic instruction forms, transfer authorization forms and know-your-client forms.

Investia’s Investigation

10. In or around January 2016, during the course of a branch review, Investia’s compliance department identified the pre-signed account forms that are the subject of this Settlement Agreement.

11. As part of its investigation, Investia reviewed all client files serviced by the Respondent.

12. On January 22, 2016, Investia sent letters to all clients serviced by the Respondent in order to determine whether the clients had concerns with any transactions processed in their accounts. No clients raised any concerns.

13. Between January and May, 2016, Investia placed the Respondent under close supervision.

V. Considerations

14. In deciding whether to accept the Settlement Agreement, the Panel considered whether it was reasonable and proportionate, having regard to the Respondent's conduct; whether it would serve as a specific and general deterrent; and whether it fell within a reasonable range of appropriateness, having regard to MFDA guidance and other similar cases.

15. The use of pre-signed account forms is a serious breach of MFDA Rule 2.1.1, which requires that the Approved Person deal fairly, honestly and in good faith with clients; observe high standards of ethics and conduct in the transaction of business; and refrain from any business conduct or practice which is unbecoming or detrimental to the public interest.

16. We note that the MFDA had previously warned the industry against the use of pre-signed forms, notably by way of Staff Notice MSN-0066, dated October 31, 2007 and updated on March 4, 2013.

17. In deciding to accept the Settlement Agreement the Panel took into consideration several mitigating factors concerning the Respondent, including that there was no evidence of financial harm to the clients; there was no evidence that the Respondent received any financial benefit from engaging in the misconduct other than the usual commissions or fees from the transactions; and the Respondent has accepted responsibility for his misconduct.

18. The proposed penalty is consistent with the MFDA Penalty Guidelines, which suggest a minimum fine of \$5,000 for a violation of MFDA Rule 2.1.1, and is also consistent with other similar cases.

VI. Conclusion

19. We concluded that the agreed penalty was reasonable and proportionate, having regard to the Respondent's conduct, would serve as a specific and general deterrent and fell within a reasonable range of appropriateness, having regard to precedents and MFDA guidance. Accordingly, we concluded that it would be in the public interest to accept the Settlement Agreement and we did so.

DATED this 7th day of February, 2018.

“Joan Smart”

Joan Smart
Chair

“Rob Christianson”

Rob Christianson
Industry Representative

“Robert J. Wright”

Robert J. Wright, CM, QC
Industry Representative

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