



**Mutual Fund Dealers Association of Canada**

Association canadienne des courtiers de fonds mutuels  
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**File #200610**

**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: JOSEPH ZOLLO**  
DISCIPLINARY HEARING

Heard: MARCH 20, 2007

Hearing Panel of the Central Regional Council:

The Hon. John B. Webber, Q.C. Chair  
Sandy Grant, Panel Member  
Christopher Marrese, Panel Member

Appearances:

Robert J. DeFrate	)	For the Mutual Fund Dealers Association of Canada
Wayne Egan, Esq.	)	Counsel for the Respondent, J. Zollo
Michael Dolphin, Esq.	)	Counsel for the Respondent, J. Zollo

## DECISION AND REASONS

By Notice of Settlement Hearing dated the 23<sup>rd</sup> day of February 2007, a hearing panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (MFDA) was convened to consider whether pursuant to Section 24.4 of By-Law #1 of the MFDA, the Panel should accept a Settlement Agreement entered into by the staff of the MFDA and the Respondent, Joseph Zollo.

At the outset of the proceedings, we considered a joint Motion by Staff and the Respondent to move the proceedings “in camera”. We granted that motion. We then considered the provisions of the Settlement Agreement aided by submissions as to the applicable law which should guide this panel in determining whether to accept or reject the Settlement Agreement. We heard submissions as to why this particular Settlement Agreement met the appropriate criteria. After deliberation we unanimously concluded that it was appropriate to accept the Settlement Agreement.

As a Panel, we are obviously concerned with the type of conduct which is reflected in the Settlement Agreement. We believe, however, that the Settlement Agreement fairly addresses the concerns that we have.

In determining whether the Settlement Agreement should be accepted, we have considered a number of factors. These include the following:

1. We have considered the public interest and whether the penalty imposed will protect investors.
2. We have considered whether the Settlement Agreement is reasonable and proportionate, having regard to the conduct of the Respondent as set out in the Settlement Agreement.
3. We have considered whether the Settlement Agreement addresses the issues of both specific and general deterrence.

4. We have considered whether the proposed settlement will prevent the type of conduct which is set out in the Settlement Agreement, from occurring again in the future.
5. We have considered whether the Settlement Agreement will foster confidence in the integrity of the Canadian Capital Markets.
6. We have considered whether the Settlement Agreement will foster confidence in the integrity of the Mutual Fund Dealers Association of Canada.
7. Finally, we have considered whether the Settlement Agreement will foster confidence in the regulatory process itself.

We believe that each and every one of these factors is dealt with in an appropriate fashion by the Settlement Agreement.

We were advised by counsel for the MFDA that there were a number of mitigating factors which are as follows:

1. The Respondent co-operated with the investigators and the settlement of the issues.
2. The admissions made by the Respondent reduced cost and time involved and led to certainty as to the procedures to be followed.
3. The Respondent agreed to voluntarily cease trading in October 2004 until the investors had been satisfied.
4. As the Respondent satisfied the investors, it was not necessary for a Receiver or Trustee to be appointed to oversee the distribution of funds invested by the investors.

5. All administration and performance fees were repaid to the investors which we understand to be in lieu of or equivalent to the disgorgement of these fees.

The Panel was not invited to impose a sanction of a fine or costs which normally are the subject of submissions in cases of this nature. We inquired as to the reasons for the non-imposition of a fine and costs. The response led to three conclusions. First, we are satisfied that this issue was carefully canvassed by the parties. Second, we consider the repayment of all funds advanced by the 49 clients including interest as a very important act by the Respondent. Third, we have considered the numerous mitigating factors listed above.

We are satisfied that the absence of a fine and payment of costs is acceptable.

For all these reasons, we have accepted the Settlement Agreement and have signed the Order as requested which implements the settlement as found in paragraph 52 of the Settlement Agreement.

DATED at Toronto, this 16th day of April, 2007.

“John B. Webber”

The Hon. John B. Webber, Q.C., Chair

“Sandy Grant”

Sandy Grant, Panel Member

“Christopher Marrese”

Christopher Marrese, Panel Member