



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: Monarch Wealth Corporation

Heard: January 20, 2012 in Toronto, Ontario
Reasons for Decision: February 6, 2012

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Terrance A. Sweeney
Hugh McNabney
Susan Schulze

Chair
Industry Representative
Industry Representative

Appearances:

David Halasz)	For the Mutual Fund Dealers Association of
)	Canada
)	
Robert Brush)	Counsel for the Respondent
)	
David Hunter)	CEO of the Respondent
)	
Lorraine Bate Boerop)	Chief Compliance Officer of the Respondent
)	

1. This Panel was convened to hear submissions as to a Settlement Agreement¹ between the Respondent and Staff of the MFDA dated December 12, 2011.

2. At the opening of the Hearing we granted a joint submission by Staff and Respondent's Counsel to move the proceedings *in camera*. We then considered, in detail, the provisions of the Settlement Agreement itself. We heard submissions as to why this Settlement Agreement should be approved as being within the range of appropriateness. We then retired and, after due deliberation, we concluded that it was appropriate to accept the Settlement Agreement.

CONTRAVENTIONS

3. The Respondent admits that between July 1, 2006 to December 31, 2008, it had established, implemented and maintained insufficient policies and procedures to supervise leveraged trades and ensure the suitability of leveraging recommendations made by Approved Persons to clients, contrary to MFDA Rules 2.2.1, 2.5, and 2.10 and MFDA Policy No. 2.

4. The Respondent admits that between July 1, 2006 to December 31, 2008, it did not maintain sufficient records of the supervision of leveraged trading that was conducted by its Approved Persons, including records of trades reviewed, inquiries made, responses received and resolutions achieved, contrary to MFDA Rules 2.2.1 and 2.5 and MFDA Policy No. 2.

5. The Respondent admits that it did not maintain its RAC level above zero following the transfer of funds from its opening bank account to a bank account operated by its parent company on: (1) June 1, 2009; (2) January 15, 2010; (3) February 1, 2010; and (4) March 1, 2010, contrary to MFDA Rule 3.1.1.

6. The Respondent admits that between January 2009 and March 2010 it did not immediately notify the MFDA that its RAC level became less than zero on four occasions, contrary to MFDA Rule 3.1.2.

¹ Exhibit 2

7. The Respondent agrees to the following terms of settlement:
 - a) the Respondent shall pay a fine in the amount of \$60,000 upon the acceptance of this Settlement Agreement, pursuant to s. 24.1.2(b) of MFDA By-Law No. 1;
 - b) the Respondent shall pay the costs of this proceeding in the amount of \$2,500 upon the acceptance of this settlement, pursuant to s. 24.2 of MFDA By-Law No. 1;
 - c) in accordance with s. 24.4.2 of the By-law, the Respondent agrees that in the future, the Respondent shall comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including, MFDA Rules 2.2.1, 2.5, 2.10, 3.1.1, 3.1.2, and MFDA Policy No. 2; and
 - d) a senior officer of the Respondent will attend the settlement hearing in person.

8. We reviewed the MFDA Penalty Guidelines and the various decisions provided to us by Enforcement Counsel who told us that:
 - a) there was no evidence that the Respondent was trying to manipulate its risk adjusted capital;
 - b) the Respondent has had no previous disciplinary history;
 - c) although the fine is not separated for each count in the Settlement Agreement, we were advised by Enforcement Counsel that the combined sum was arrived at by applying approximately 50 percent to the charges for lack of proper supervision policies and procedures and 50 percent to the charges relating to not maintaining adequate Risk Adjusted Capital (RAC); and
 - d) the fine, if the Settlement Agreement were to be accepted, would not cause the Respondent to be capital deficient; in fact the Respondent had already set aside adequate funds in trust pending acceptance of the Settlement Agreement.

9. The Respondent submitted a Leverage Action Review plan which is satisfactory to Staff.

10. There will be an MFDA audit of the Respondent in March 2012.

11. By entering into the Settlement Agreement the Respondent has acknowledged its

wrongdoing and has saved MFDA the expense of a full hearing.

12. We considered the remarks of the Hearing Panel in *Milewski*², at page 9:

... a District Council considering a settlement agreement will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness. Put another way, the District Council will reflect the public interest benefits of the settlement process in its consideration of specific settlements.

13. For all of these reasons, we accepted the Settlement Agreement and signed the Order presented to us at the hearing.

14. We agreed to provide brief reasons for our decision after the hearing. These are our reasons.

DATED this 6th day of February, 2012.

“Terrance A. Sweeney”

Terrance A. Sweeney,
Chair

“Hugh McNabney”

Hugh McNabney,
Industry Representative

“Susan Schulze”

Susan Schulze,
Industry Representative

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² [1999] I.D.A.C.D. No. 17 (decided on July 18, 1999)