



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: Partners In Planning Financial Services Ltd.

Heard: November 25, 2010, Regina, Saskatchewan
Reasons for Decision: December 10, 2010

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

Robert Hucal
Gary Zeeben
Richard Sydenham

Chair
Industry Representative
Industry Representative

Appearances:

Shelly Feld)	For the Mutual Fund Dealers Association of Canada
)	
Tim Pryor)	Vice-President Legal, Mackenzie Financial Corporation
)	
Carol Krienke)	Chief Compliance Officer, Partners in Planning Financial Services
)	
Lori Mattis)	Legal Counsel, Walton International Group Inc.
)	

1. On November 25, 2010, after hearing representations from Enforcement Counsel, we approved a Settlement Agreement (Appendix “A”) reached between the Mutual Fund Dealers Association of Canada (“MFDA”) and Partners in Planning Financial Services Ltd. (“the Respondent”). At the conclusion of the hearing, we signed an Order to that effect, with written reasons to follow. Put briefly, the Agreement provides that the Respondent pay a fine in the amount of \$20,000; that it retain an Independent Consultant (the “Monitor”) at the Respondent’s expense to assist in resolving the leverage related deficiencies identified in paragraphs 12 – 16 of the Settlement Agreement pursuant to the Terms of the Independent Monitor attached to the Settlement Agreement; and that it pay costs in the amount of \$2,500.

AGREED FACTS

Registration History

2. The Respondent is registered as a mutual fund dealer in all 10 Canadian provinces and in all three territories and as an exempt market dealer in the provinces of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick and Newfoundland and Labrador.

3. The Respondent has been a Member of the MFDA since December 7, 2001.

Corporate Structure

4. The Respondent’s head office is located in Regina, Saskatchewan (the “Head Office”). The Respondent has branch offices located throughout Canada.

The 2009 Compliance Examination

5. Commencing on November 16, 2009, MFDA Compliance Staff conducted a compliance examination (the “2009 Examination”) at the Head Office of the Respondent and at branch offices of the Respondent located in Calgary, Alberta; Guelph, Ontario; and Burnaby and Prince George, British Columbia, in order to assess the Respondent’s compliance with MFDA By-laws, Rules and Policies during the period February 1, 2006 to September 30, 2009.

6. The results of the 2009 Examination were summarized and delivered to the Respondent in a report dated April 5, 2010 (the “2010 Report”).

7. The 2010 Report identified compliance deficiencies, including the fact that the Respondent had established, implemented and maintained insufficient policies and procedures to supervise leveraged trades and to ensure the suitability of leveraging recommendations made by Approved Persons to clients.

Inadequate Policies and Procedures for Head Office Supervision of Leveraged Trades

8. The Respondent failed to establish policies and procedures requiring Head Office compliance staff to document evidence of any supervisory review of leveraging recommendations that was conducted, including records of suitability queries made, responses received and resolutions achieved as a result of supervisory inquiries.

9. The Respondent failed to establish policies and procedures requiring Head Office compliance staff to document evidence of any supervisory review of leveraging recommendations that was conducted, including records of suitability queries made, responses received and resolutions achieved as a result of supervisory inquiries.

10. The Respondent failed to detect and query leveraging recommendations in some files that may have appeared unsuitable in light of the client’s documented KYC information as recorded on the client’s New Client Application Form, loan application or other documentation contained in the Respondent’s client files.

Inadequate Supervision of Leverage Trades at the Branches

11. During the 2009 Examination, MFDA Compliance Staff determined that the Respondent failed to establish, implement and maintain adequate policies and procedures to ensure that Branch Managers or other supervisory staff in the Branches assessed the suitability of leveraging strategies having regard to relevant criteria such as the risk tolerance, age, investment knowledge and investment objectives of the client to whom a leveraging strategy was recommended.

12. The Respondent's branch offices had also failed to adequately implement some of the Respondent's established supervisory procedures for the assessment of suitability of leveraged trades and leveraging recommendations, in that the review of leveraged trading by Branch Managers or other supervisory staff in the Branches:

- (a) sometimes failed to ensure that clients had provided completed documentation ("Leveraging Documentation") that the Respondent's policies and procedures require clients to submit in cases when clients borrow money to finance the purchase of investments through an Approved Person of the Respondent;
- (b) sometimes failed to maintain evidence that Leveraging Documentation prepared by an Approved Person for a client of the Respondent was reviewed by the Branch Manager prior to the implementation of a leveraging strategy as required according to the Respondent's policies and procedures; and
- (c) sometimes failed to maintain evidence of any steps taken to query proposed trades or follow-up with Approved Persons in circumstances where leveraging thresholds established by the Respondent's policies and procedures were exceeded according to the Leveraging Documentation prepared for clients of the respondent.

Trades Processed Without Adequate Supervisory Scrutiny

13. As a result of the Respondent's failure to establish, implement and maintain adequate policies and procedures for the supervision of leveraging by individuals responsible for supervision at the Respondent's head office and branch offices as described above, leveraged trade recommendations which may have been unsuitable were processed by the respondent without first being subject to adequate supervisory scrutiny.

Current Practices

14. Since the 2010 Report was received by the Respondent, the Respondent has established adequate changes to its policies and procedures, including its policies and procedures with respect to the supervision of leveraged trades and leveraging recommendations, in compliance with MFDA By-Laws, Rules and Policies. During the Hearing, we were advised by the

Respondent that new training programs had been established for all employees of the Respondent, similar to the programs in place for IGM Financial subsidiaries, of which the Respondent recently became one.

Contraventions

15. The Respondent admits the following violations of MFDA Rules and Policies:

- (a) That prior to April 2010, it failed to establish, implement and maintain adequate 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, 2.5.1 and 2.10 and MFDA Policy No. 2.
- (b) That prior to April 2010, it failed to maintain sufficient records of the supervision of leveraged trading and leveraging recommendations conducted by its Approved Persons, including records of trades reviewed, inquiries made, responses received and resolutions achieved, contrary to MFDA Rule 2.2.1, 2.2(b), 2.5.3(b) and 2.5.4 and MFDA Policy No. 2.

Discussion

16. It is generally agreed that the Hearing Panel should not interfere with a negotiated settlement so long as the penalties agreed upon are within a reasonable range of appropriateness given the circumstances.

17. The appropriateness depends on a number of factors and the Hearing Panel has taken into account the following circumstances when determining whether the proposed settlement should be accepted

- i) The seriousness of the allegations proved against the Respondent and whether the proposed settlement will prevent the type of conduct from occurring in the future;
- ii) The Respondent's past conduct, including prior sanctions and whether or not the Respondent recognizes the seriousness of the improper activity;
- iii) Whether or not the Settlement Agreement would be in the public interest and whether the penalties imposed will protect investors, and in that regard, the risk to investors

- and capital markets, were the Respondent to continue conducting its business;
- iv) Whether the Settlement Agreement is reasonable having regard to the conduct of the Respondent;
- v) Whether the Settlement Agreement addresses the issue of both specific and general deterrents;
- vi) Whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets, the MFDA and the regulatory process;
- vii) Previous decisions made in similar circumstances.

18. The Respondent has co-operated with MFDA staff and immediately incorporated changes to its policies and procedures to address the compliance deficiencies; it admitted violation as soon as pointed out; it demonstrated remorse and incorporated policy changes to effectively comply with its obligation to properly supervise and maintain adequate records of supervision of leveraged trades and representation to clients in that regard. A lengthy and costly investigation and hearing was avoided.

19. We have reviewed and noted the decisions set out at the foot hereof.

20. We are conscious of the fact that the fine levied is less than the minimum suggested in the Penalty Guidelines, but when the costs associated with the retention of a Monitor are taken into account, the total cost to the Respondent will be substantial (we were told the amount is in excess of \$100,000) and exceed that minimum amount. We are satisfied that the public interest is served by the Settlement Agreement terms and therefore accept the Agreement.

DATED this 10th day of December, 2010.

“Robert Hucal”

Robert Hucal,
Chair

“Gary Zeeben”

Gary Zeeben,
Industry Representative

“Richard Sydenham”

Richard Sydenham,
Industry Representative



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: Partners In Planning Financial Services Ltd.

Settlement Agreement

INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Prairie 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, Partners In Planning Financial Services Ltd. (the "Respondent").

JOINT SETTLEMENT RECOMMENDATION

2. Staff conducted an investigation of the Respondent's activities. The investigation disclosed that the Respondent had engaged in 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.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees

to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondent agree that the terms of this 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.

ACKNOWLEDGEMENT

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is approved by the MFDA.

AGREED FACTS

Registration History

6. The Respondent is registered as a mutual fund dealer in all 10 Canadian provinces and in all 3 territories and as an exempt market dealer in the provinces of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick and Newfoundland and Labrador.

7. The Respondent has been a Member of the MFDA since December 7, 2001.

Corporate Structure

8. The Respondent’s head office is located in Regina, Saskatchewan (the “Head Office”). The Respondent has branch offices located throughout Canada.

The 2009 Compliance Examination

9. Commencing on November 16, 2009, MFDA Compliance Staff conducted a compliance examination (the “2009 Examination”) at the Head Office of the Respondent and at branch

offices of the Respondent located in Calgary, Alberta, Guelph, Ontario, Burnaby, British Columbia and in Prince George, British Columbia in order to assess the Respondent's compliance with MFDA By-laws, Rules and Policies during the period February 1, 2006 to September 30, 2009

10. The results of the 2009 Examination were summarized and delivered to the Respondent in a report dated April 5, 2010 (the "2010 Report").

11. The 2010 Report identified compliance deficiencies, including the fact that the Respondent had established, implemented and maintained insufficient policies and procedures to supervise leveraged trades and to ensure the suitability of leveraging recommendations made by Approved Persons to clients.

Inadequate Policies and Procedures For Head Office Supervision of Leveraged Trades

12. The Respondent failed to establish, implement or maintain adequate policies and procedures for the supervision of leveraging by compliance staff at Head Office. In particular, the Respondent failed to establish policies and procedures requiring Head Office compliance staff to document evidence of any supervisory review of leveraging recommendations that was conducted including records of suitability queries made, responses received and resolutions achieved as a result of supervisory inquiries.

13. The Respondent failed to detect and query leveraging recommendations in some files that may have appeared unsuitable in light of the client's documented KYC information as recorded on the client's New Client Application Form, loan application or other documentation contained in the Respondent's client files.

Inadequate Supervision of Leverage Trades at the Branches

14. During the 2009 Examination, MFDA Compliance Staff determined that the Respondent failed to establish, implement and maintain adequate policies and procedures to ensure that Branch Managers or other supervisory staff in the Branches assessed the suitability of leveraging strategies having regard to relevant criteria such as the risk tolerance, age, investment knowledge and investment objectives of the client to whom a leveraging strategy was recommended.

15. The Respondent's branch offices had also failed to adequately implement some of the Respondent's established supervisory procedures for the assessment of suitability of leveraged trades and leveraging recommendations in that the review of leveraged trading by Branch Managers or other supervisory staff in the Branches:

- (a) sometimes failed to ensure that clients had provided completed documentation ("Leveraging Documentation") that the Respondent's policies and procedures require clients to submit in cases when clients borrow money to finance the purchase of investments through an Approved Person of the Respondent;
- (b) sometimes failed to maintain evidence that Leveraging Documentation prepared by an Approved Person for a client of the Respondent was reviewed by the Branch Manager prior to the implementation of a leveraging strategy as required according to the Respondent's policies and procedures; and
- (c) sometimes failed to maintain evidence of any steps taken to query proposed trades or follow-up with Approved Persons in circumstances where leveraging thresholds established by the Respondent's policies and procedures were exceeded according to the Leveraging Documentation prepared for clients of the Respondent.

Trades Processed Without Adequate Supervisory Scrutiny

16. As a result of the Member's failure to establish, implement and maintain adequate policies and procedures for the supervision of leveraging by individuals responsible for supervision at the Member's head office and branch offices as described above in paragraphs 12-15, leveraged trade recommendations which may have been unsuitable were processed by the Respondent without first being subject to adequate supervisory scrutiny.

Current Practices

17. Since the 2010 Report was received by the Respondent, the Respondent has established adequate changes to its policies and procedures, including its policies and procedures with respect to the supervision of leveraged trades and leveraging recommendations, in compliance with MFDA By-Laws, Rules and Policies.

CONTRAVENTIONS

18. The Respondent admits that prior to April 2010, it failed to establish, implement and maintain adequate 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, 2.5.1 and 2.10 and MFDA Policy No. 2.

19. The Respondent admits that prior to April 2010, it failed to maintain sufficient records of the supervision of leveraged trading and leveraging recommendations conducted by its Approved Persons, including records of trades reviewed, inquiries made, responses received and resolutions achieved, contrary to MFDA Rules 2.2.1, 2.5.2(b), 2.5.3(b) and 2.5.4 and MFDA Policy No. 2.

TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement:

- (a) the Respondent shall pay a fine in the amount of \$20,000.00 upon the acceptance of this Settlement Agreement;
- (b) the Respondent agrees to the appointment of an Independent Consultant (the “Monitor”) at the Respondent’s expense to assist in resolving the leverage related deficiencies identified in paragraphs 12-16 of the Settlement Agreement, pursuant to the *Terms of the Independent Monitor*, attached to this Settlement Agreement as Schedule “B”;
- (c) the Respondent acknowledges that the obligations of the Respondent for expenses of the Monitor shall continue notwithstanding any change in the direct or indirect ownership of the Respondent;
- (d) the Respondent shall pay the costs of this proceeding in the amount of \$2,500.00 upon the acceptance of this settlement;
- (e) 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 and 2.10 and MFDA Policy No. 2; and
- (f) a senior officer of the Respondent will attend the settlement hearing in person.

STAFF COMMITMENT

21. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent or any of its officers or directors in respect of the contraventions described in Part V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part V, whether known or unknown at the time of settlement. Furthermore, nothing in this settlement precludes Staff from investigating or initiating proceedings in respect of any contraventions of the Respondent's complaint handling obligations, including with respect to complaints concerning unsuitable leveraging recommendations or practices that arose prior to the date of this Settlement Agreement (whether or not Staff has been informed of such complaints prior to the date of the Settlement Agreement)¹ or which may arise following acceptance of this Settlement Agreement or contraventions relating to any other aspect of its supervision of the conduct of its Approved Persons or former Approved Persons.

22. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations, including, in particular, the Respondent's complaint handling obligations with respect to past or future complaints received by the Respondent that relate to leveraged trades that were facilitated by Approved Persons of the Respondent.

PROCEDURE FOR APPROVAL OF SETTLEMENT

23. Acceptance of this Settlement Agreement shall be sought at a hearing of the Prairie Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

24. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent also agree that if this Settlement Agreement is

¹ Staff has advised the Respondent in writing of the complaints concerning the subject matter of this Settlement Agreement, if any, received prior to the date of this Settlement Agreement that the Respondent has handled in accordance with its complaint handling obligations under MFDA Rule 2.11 and MFDA Policy No. 3.

accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive its 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.

25. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then 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.

26. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, 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 it.

FAILURE TO HONOUR SETTLEMENT AGREEMENT

27. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to comply with any of the terms of the Settlement Agreement, including the *Terms of the Independent Monitor*, Staff reserves the right to bring proceedings under the By-laws of the MFDA against the Respondent and any of its officers or directors based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement 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.

NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

28. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule "A" is not made 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 this Settlement Agreement or the settlement negotiations.

29. Whether or not, this Settlement Agreement is accepted by the Hearing Panel, the Respondent and the MFDA agree that they will not, in any proceeding, refer to or rely upon this Settlement Agreement, or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available, unless the proceeding concerns an allegation by the Respondent that there has been a contravention of Staff's Commitment as set out in paragraph 21 of this Settlement Agreement.

DISCLOSURE OF AGREEMENT

30. 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.

31. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

EXECUTION OF SETTLEMENT AGREEMENT

32. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

33. A facsimile copy of any signature shall be effective as an original signature.

Dated: November 11, 2010

“Adele Fruman” _____

Witness - Signature

“Robert Roy” _____

Partners In Planning Financial Services Ltd.
Robert Roy, President, Chief Executive Officer and
Ultimate Designated Person

Adele Fruman
Witness - Print name

“Shaun Devlin”
Staff of the MFDA
Per: Shaun Devlin
Vice-President, Enforcement

Schedule “A”

Order

File No. 201032



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: Partners In Planning Financial Services Ltd.

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 Partners In Planning Financial Services Ltd. (the “Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA (“Staff”) 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 on the basis of the agreed facts contained in Part IV of the Settlement Agreement and the contraventions admitted by the Respondent in Part V of the Settlement Agreement, the Hearing Panel is of the opinion that:

- (i) prior to April 2010, the Respondent failed to establish, implement and maintain adequate 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, 2.5.1; and

(ii) prior to April 2010, the Respondent failed to maintain sufficient records of the supervision of leveraged trading and leveraging recommendations conducted by its Approved Persons, including records of trades reviewed, inquiries made, responses received and resolutions achieved as a result of supervisory inquiries, contrary to MFDA Rules 2.2.1, 2.5.2(b), 2..5.3(b) and 2.5.4 and MFDA Policy No. 2;

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 \$20,000.00 upon the acceptance of this Settlement Agreement;
2. The Respondent shall retain an Independent Consultant (the “Monitor”) at the Respondent’s expense to assist in resolving the leverage related deficiencies identified in paragraphs 12-16 of the Settlement Agreement, pursuant to the *Terms of the Independent Monitor*, attached to the Settlement Agreement as Schedule “B”;
3. The obligations of the Respondent for expenses of the Monitor shall continue notwithstanding any change in the direct or indirect ownership of the Respondent; and
4. The Respondent shall pay the costs of this proceeding in the amount of \$2,500.00 upon the acceptance of this Settlement Agreement.

DATED this [day] day of [month], 201[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]



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: Partners In Planning Financial Services Ltd.

TERMS OF THE INDEPENDENT MONITOR

1. Partners In Planning Financial Services Ltd. (the "Member") acknowledges and agrees that the Member:
 - a. Has received a copy of the MFDA's Compliance Examination Report of the Member (the "Report") dated April 5, 2010 and shall resolve the following leverage related deficiencies (the "Deficiencies") as identified in paragraphs 12-16 of the Settlement Agreement;
 - b. Has retained an independent consultant (the "Monitor") at the Member's expense, to assist in resolving all of the Deficiencies on the following terms:
 - i. The Member has executed a retainer with the Monitor incorporating the requirements of the Duties and Standards of the Independent Monitor attached hereto as Schedule "C" (the "Duties and Standards") and provided a copy of the retainer to MFDA Staff ("Staff");
 - ii. The Member will fully co-operate with and provide full disclosure to the Monitor in a timely manner of all matters and information relevant to the activities of the Monitor hereunder and in accordance with the terms and conditions of the Duties and Standards; and
 - iii. Staff has approved the selection of the Monitor and the terms of the Member's retainer of the Monitor.
 - c. Shall resolve all of the Deficiencies in accordance with the terms and conditions of the Duties and Standards and on the following terms:
 - i. The Member shall cause the Monitor to develop, in collaboration with the Member, a written plan containing proposed actions (and timeframes for implementation of the actions) to remedy the leverage related Deficiencies

(the “Leverage Action Plan”). The Leverage Action Plan shall meet the requirements of the Duties and Standards and be completed and delivered to Staff by no later than [A Date To Be Agreed Upon By The MFDA And The Monitor Following Approval Of The Settlement];

- ii. Staff reserves the right to add, delete or change any part of the Leverage Action Plan provided that the Member is given a reasonable opportunity to comment on any such addition, deletion or change. Any changes made by Staff become part of the Leverage Action Plan;
 - iii. The Member, with the assistance and participation of the Monitor, shall fully implement the actions identified in the Leverage Action Plan within the time frames set out therein. The Monitor must review and approve all such actions as being consistent with the Leverage Action Plan prior to their implementation. The Monitor may consult informally with the MFDA from time to time on any issues arising from the implementation of the Leverage Action Plan;
2. The Leverage Action Plan shall include Testing Procedures the Monitor will perform to review all leveraged transactions that occurred at the Member that were processed on behalf of clients of Approved Persons specified by the MFDA, as set out in Part F of the *Duties and Standards of the Independent Monitor*, including procedures to:
- a. Review the client files including the specific documents identified in Schedule 1, Part A, attached;
 - b. Assess whether the leveraged transactions would have been suitable under the approved new leveraging procedures dated September 30, 2010 and identify any inaccuracies or discrepancies in the client information taking into account the factors identified in Schedule 1, Part B, attached;
 - c. Where in the review of any transaction, there is a red-flag under the approved new leveraging procedure or an inaccuracy or discrepancy is identified in the client information, the Monitor will conduct further due diligence to assess the suitability of the leverage recommendation. In situations where the Monitor considers the transaction to be appropriate despite the presence of the red flag, the Monitor shall provide its full rationale to the MFDA as part of the Recommendation Report (as defined below);
3. The Report:
- a. The Monitor shall discuss with the MFDA the results of its activities under the Leverage Action Plan, including its assessments, test findings and proposed recommendations for addressing the deficiencies (the “Recommendation Report”).
 - b. Where in the review of any transaction, there is a red-flag under the approved new leveraging procedure, the Monitor will conduct further due diligence to assess the suitability of the leverage recommendation.
 - c. The Recommendation Report shall include a procedure for the Member to contact leveraged clients, which includes a script, a call log, and draft recommendations for rectifying any unsuitable leveraging or unsuitable leveraging practices;

- d. The MFDA reserves the right to add, delete or change any aspect of the proposed Recommendation Report format, provided that the Member will be given a reasonable opportunity to comment on any such addition, deletion or change;
- e. Once the Recommendation Report has been approved by the MFDA, the Member, in conjunction with the Monitor, shall perform the activities necessary to implement the Recommendation Report and provide the results to the MFDA in the format and within the time frame approved by the MFDA;
- f. Where the implementation of the Recommendation Report identifies any continuing Deficiencies, or where prior to the determination by the MFDA that the Deficiencies have been resolved, the MFDA becomes aware from other sources that there are continuing Deficiencies, the MFDA may in its sole discretion do either or both of the following:
 - i. Make recommendations to resolve the continuing Deficiencies identified in the implementation of the Recommendation Report and direct the Member to implement all such recommendations and have the Monitor conduct any additional testing within a reasonable time period to be determined by the MFDA;
 - ii. Pursue additional enforcement action pursuant to Section 24 of MFDA By-law No. 1 with regard to the Member's failure to resolve the Deficiencies.

4. Additional Responsibilities:

- a. The Member shall provide a copy of these *Terms of the Independent Monitor* to all members of its Board of Directors and provide written confirmation of the same to the MFDA within four (4) weeks of the date of signing of these *Terms of the Independent Monitor*;
- b. The Member shall provide its Board of Directors with copies of the Leverage Action Plan and the Recommendation Report; and
- c. The MFDA shall in its sole discretion determine whether it is satisfied that the Deficiencies have been resolved and the Member shall not consider the MFDA satisfied until it has received express written confirmation from the MFDA that the MFDA is satisfied that the Deficiencies have been resolved.

5. Varying of the terms of the *Terms of the Independent Monitor*:

- a. To the extent that there are fixed timelines in these *Terms of the Independent Monitor* or the Leverage Action Plan, the MFDA may abridge or extend any time frame as may be reasonably be required and with the provision of reasonable notice to the Member;
- b. Other exceptions to the *Terms of the Independent Monitor* are permissible only with the prior express written consent of Staff.

I confirm that by my signature, I am authorized to bind the Member to these *Terms of the Independent Monitor*.

“Robert Roy”

Nov 1./10

“Adele Fruman”

Name: Robert Roy
Title: President & Chief Executive Officer
Partners In Planning Financial Services Ltd.

Date

Witness

Name: Adele Fruman

Mutual Fund Dealers Association of Canada

“Shaun Devlin”

Shaun Devlin
Vice-President, Enforcement

Nov 4./10

Date

**“Schedule 1”
Assessment of Leveraged Accounts**

Part A

The Monitor shall perform testing procedures to assess the Member’s leveraged accounts. These procedures shall include reviewing all leveraged client files (or scope otherwise determined by the MFDA). The client file must be reviewed in its entirety including specifically reviewing:

- the new account application form/ KYC form applicable at the time of the leveraging recommendation;
- all KYC updates both preceding and subsequent to the leveraging recommendation; and
- the loan application(s).

In addition, the following documents must be specifically reviewed if contained in the client file:

- documents supporting or pertaining to the client’s income (T-slips, notice of assessment, etc.)
- financial plan(s);
- documents supporting or pertaining to the client’s net worth including account statements, property tax assessments, appraisals, etc.
- client risk assessments or investor profile questionnaires;
- any marketing of the leveraged strategy or illustrations/ projections of investment returns or the future value of the account;
- notes of client meetings or discussions; and
- any other documents relevant to the review of the leverage strategy.

Part B

The objective of the client file review is to assess the suitability of the leveraging recommendation and identify any instances where the recommendation was not consistent with the leveraging policies and procedures that were implemented by the Member as of September 30, 2010. The reviewer shall specifically note any instances where:

- red flags regarding age, income, net worth, risk tolerance, time horizon or investment knowledge are triggered when compared against the KYC form applicable at the time of the leveraging recommendation;
- red flags are triggered when compared against the client’s current KYC information;
- the client’s occupation is “unemployed”, “retired” or “homemaker”;
- KYC amendments were processed shortly before or at the time of the leveraging recommendation that resulted in an increase to the client’s stated risk tolerance, time horizon, investment knowledge, income or net worth;
- client information on the NAAF/ KYC form is inconsistent with the information on the loan application;
- client financial information (income, net worth) as recorded on the KYC form or loan application is inconsistent with other client information or supporting documentation (e.g. client occupation, T4, financial plan);

- investor profiles/ questionnaires are inconsistent with the client's stated risk tolerance or other KYC information as stated on the NAAF/ KYC form;
- client liabilities were not fully disclosed, including situations where investment loans from one lender were not disclosed on an application to a separate lender;
- misleading information was provided to the client including failure to discuss the risks of the strategy or illustrations that only present positive returns without illustrating the effects of negative returns, or illustrations where the loan is self-sustaining using monthly distributions from the investments to pay the loan interest;
- there is an indication that the loan is currently in arrears or in default; and
- there is evidence of client complaints;

The reviewer must ensure that where the client has obtained multiple loans for the purpose of investing that the total amount of borrowing is considered in the suitability assessment including the calculation of the income and net worth tests applicable according to the Member's revised leveraging policies and procedures.



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: Partners In Planning Financial Services Ltd.

**DUTIES AND STANDARDS OF
THE INDEPENDENT MONITOR**

A. Defined Terms

1. Terms defined in the *Terms of the Independent Monitor* shall have the same meaning in these *Duties and Standards of the Independent Monitor*.

B. Duties of the Independent Monitor

1. The Monitor shall perform its duties with unimpaired professional judgment and objectivity, and shall be seen to be doing so by a reasonable observer.
2. The Monitor shall be retained and remunerated by Partners In Planning Financial Services Ltd. (the "Member").
3. The Monitor shall perform its services in accordance with these *Duties and Standards of the Independent Monitor*.
4. The Monitor:
 - i. Shall notify the MFDA of any disagreement, dispute or other limitation encountered with the Member that may result in the *Terms of the Independent Monitor* not being satisfied. This includes but is not limited to situations where there is a difference of opinion between the Monitor and the Member with regard to:
 1. The detailed nature of the Deficiencies;
 2. The actions necessary to remedy the Deficiencies;
 3. The procedures to be used to test the Member's implementation of the Leverage Action Plan.

- ii. May advise the Member of the results during the testing process;
- iii. Shall prepare the Recommendation Report in an independent manner without consultation with the Member as to the content of the report; and
- iv. Shall provide the Recommendation Report directly to Staff, with a copy to the Member.

C. QUALIFICATIONS OF THE INDEPENDENT MONITOR

1. The Monitor must exhibit and apply:
 - i. An understanding of MFDA requirements generally and MFDA leverage requirement specifically (i.e. By-laws, Rules, Policies, Notices and Bulletins);
 - ii. Familiarity with mutual fund dealer operations and compliance issues; and
 - iii. Familiarity with adequate Member compliance procedures (i.e. the Monitor should not be proposing procedures it develops at first instance without an understanding of procedures compliant Members have instituted to meet MFDA requirements).

D. Leverage Action Plan

1. The Leverage Action Plan must outline the actions that will remedy the Deficiencies and specific time frames for the completion of those actions.

E. Implementation of the Leverage Action Plan

1. The Monitor shall supervise the implementation of the Leverage Action Plan and provide necessary recommendations so that the plan is implemented to the satisfaction of the Monitor. The Monitor's supervision shall include review of the implementation of any components of the Leverage Action Plan.

F. Testing Procedures

1. The testing procedures determined by the Monitor shall:
 - i. Be sufficient to determine whether the Deficiencies have been resolved or remain unresolved;
 - ii. Specify the objective of the testing procedures, including citing which of the Deficiencies the testing will address; and
 - iii. Specify the sampling methodology, including the size of samples to be tested.
2. The Monitor shall prepare and maintain a file of its working papers regarding the testing, which shall be made available to Staff upon request. The file must contain sufficient information to enable an experienced individual, having no previous connection to the engagement, to re-perform the testing procedures and come to the same conclusions. The file must include appropriate documentation of the procedures performed and the evidence

obtained, including copies of documents reviewed or sufficiently detailed information to identify the specific documents reviewed.

G. Recommendation Report

1. When assessing and making its recommendations with regard to the Member's Leveraged Accounts, the Monitor shall:
 - i. Specify the measurements and criteria used in the assessment;
 - ii. Adhere to the criteria set out in Schedule 1.

ACKNOWLEDGEMENT

[INSERT MONITOR NAME], the Independent Monitor retained by the Member and approved by Staff to provide services to the Member in accordance with the *Terms of the Independent Monitor*, hereby acknowledges that the terms of its retainer with the member requires it to provide those services in accordance with the *Terms of the Independent Monitor* and these *Duties and Standards of the Independent Monitor*.

Date: _____

Name: _____

Title: _____