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: Progressive Financial Strategy Capital Group Corp.

Heard: December 9, 2021 by electronic hearing in Toronto, Ontario
Decision: December 9, 2021
Reasons for Decision: February 8, 2022

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Frederick W. Chenoweth	Chair
Linda J. Anderson	Industry Representative
Katarzyna Samayoa	Industry Representative

Appearances:

Alan Melamud	)	Enforcement Counsel for the Mutual Fund Dealers Association of Canada
Progressive Financial Strategy Capital Group Corp.	)	Respondent
Harpal Dharna	)	President of the Respondent

I. BACKGROUND

1. By Notice of Settlement Hearing dated the 19th day of November, 2021 (the "Notice of Settlement Hearing") a Hearing Panel of the Central Regional Counsel of the Mutual Fund Dealers Association of Canada (the "MFDA") was convened to consider whether, pursuant to s. 24.4 of By-law No. 1 of the MFDA, the Panel should accept the Settlement Agreement (the "Settlement Agreement") entered into by the Staff of the MFDA ("Staff") and the Respondent.

2. At the outset of the proceedings, the Panel considered a joint motion by Staff and the Respondent to move the proceedings in camera. The Panel granted the motion. The Panel then considered the provisions of the Settlement Agreement, aided by submissions as to the applicable law, which should guide the Panel in determining whether or not to accept or reject the Settlement Agreement. The Panel unanimously accepted the Settlement Agreement and issued an Order accordingly. These are the Panel's reasons for doing so.

II. THE CONTRAVENTIONS

3. In the Settlement Agreement, the Respondent admits that: During the periods: (i) January 9, 2018 to September 27, 2018; (ii) February 13, 2019 to April 1, 2019; and (iii) May 23, 2019 to September 3, 2019, the Respondent:

a) without notifying the MFDA and receiving written approval prior to completing the transactions, transferred monies to, or made payments on behalf of, the Respondent's parent company, which would have or would reasonably be expected to have the effect of causing the Respondent's risk adjusted capital to fall to a level below zero;

b) failed to maintain its required minimum capital of $50,000 and its risk adjusted capital at a level above zero; and

c) failed to immediately notify the MFDA when its risk adjusted capital had fallen to a level below zero,

contrary to MFDA Rules 3.1.1, 3.1.2, 3.4.2(c), and 2.1.1.

III. THE FACTS

4. In the Settlement Agreement, Staff and the Respondent agreed to the existence of a series of facts, which are set out in Part IV of the said Agreement. The Settlement Agreement is attached as Appendix "A" to these Reasons.

5. As set out in the Settlement Agreement, the Respondent was registered as a mutual fund dealer in Ontario and has been a member of the MFDA since November 15, 2002. At all material times, the Respondent was a wholly owned subsidiary of Progressive Financial Strategy (Canada) Inc., the parent company. At all material times, the Respondent and the parent company's bank accounts were controlled by the president of the Respondent.

IV. DISCUSSION

6. The Panel was aware that prior to accepting a Settlement Agreement, a Hearing Panel must be satisfied that:

a) The facts admitted by the Respondent constitute misconduct in contravention of the By-law, MFDA Rules or policies, or provincial securities legislation; and

b) The penalties contemplated in the Settlement Agreement fall within a reasonable range of appropriateness, bearing in mind the nature and extent of the misconduct and all the circumstances.

7. The Panel accepted that the role of a Hearing Panel at a settlement hearing is fundamentally different than its role at a contested hearing. As stated by the MFDA Hearing Panel in *Sterling Mutuals Inc. (Re),* citing the I.D.A. Ontario District Council in *Milewski (Re)*:

> We also note that while in a contested hearing the Panel attempts to determine the correct penalty, in a settlement hearing the Panel "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." [Emphasis added].
>
> *Sterling Mutual Inc. (Re),* MFDA File No. 200820, Hearing Panel of the Central Regional Council, Decision and Reasons dated August 21, 2008 at para. 37.
>
> *Milewski (Re),* [1999] I.D.A.C.D. No. 17 at p. 12, Ontario District Council Decision dated July 28, 1999.

8. The Panel also considered the principle that a Hearing Panel will not reject a settlement agreement unless the proposed penalty clearly falls outside the reasonable range of appropriateness. Settlements are necessary to assist the MFDA to fulfill its regulatory objective of protecting the public. Settlements advance this regulatory objective by proscribing activities that are harmful to the public, while enabling the parties to reach a flexible remedy tailored to address the interests of both the regulator and a respondent.

> *British Columbia (Securities Commission) v. Seifert*, [2006] B.C.J. No. 225 at paras. 48-49 (S.C.), aff'd, [2007] B.C.J. No. 2186 at para. 31 (C.A) ["*British Columbia (Securities Commission)*"].

9. The Respondent admits that during the following periods: (i) January 9, 2018 to September 27, 2018; (ii) February 13, 2019 to April 1, 2019; and (iii) May 23, 2019 to September 3, 2019, it transferred monies to, or made payments on behalf of, the Respondent's parent company (the "Impugned Transactions"), causing its minimum capital to fall below $50,000 and its risk adjusted capital ("RAC") to fall to a level below zero.

10. The cash that the Respondent held, which was the subject of the Impugned Transactions, was the Respondent's principal asset and it was necessary for the Respondent to hold securely in order to comply with its obligation to maintain the minimum financial requirements set by the MFDA. The Respondent did not notify the MFDA prior to engaging in the Impugned Transactions, which would or would reasonably be expected to cause the Respondent to become capital deficient. The Respondent further did not immediately notify the MFDA after engaging in the Impugned Transactions when its RAC had fallen to a level below zero.

11. Pursuant to MFDA Rule 3.1.1, every Member shall have and maintain at all times RAC greater than zero, and minimum capital in the amounts referred to in the Rule for the Level in which the Member is designated, as calculated in accordance with Form 1. The Respondent is a Level 2 Dealer, and accordingly was required to maintain minimum capital of $50,000 and RAC greater than zero at all times.

> MFDA Rule 3.1.1.

12. The purpose of RAC is set out in "The Form 1 Reference Manual" (the "**Reference Manual**"), which states the following:

> **In order to monitor the financial viability of mutual fund dealers, the MFDA has adopted a risk adjusted capital calculation, also known as the "capital formula".** RAC is derived

> from the Member's working capital and is the primary means of financial reporting to the MFDA. RAC is a measure of the Member's liquidity and its ability to withstand any adverse fluctuations in operations. **In addition to a minimum amount of capital required by MFDA rules, certain provisions or "cushions" are taken into consideration in order to assess the Member's capacity to manage its obligations and protect its clients.** The capital formula seeks to assess the Member's ability to continue as a going concern
>
> [Emphasis added.]
>
> The Form 1 Reference Manual, March 2014, p. 7.

13. The Reference Manual further explains that pursuant to MFDA Rule 3.1.1, "it is the responsibility of all Members to continuously monitor and evaluate its capital to ensure RAC is positive at all times."

> The Form 1 Reference Manual, March 2014, p. 7.

14. In addition to MFDA Rule 3.1.1, the MFDA Rules also provide for additional safeguards to immediately ensure the MFDA's involvement when there is a risk of a RAC deficiency, so that clients can be safeguarded. Two such rules are engaged in this case:

a) MFDA Rule 3.4.2(c), which requires that a Member not enter into any transaction or take any action that would or would be reasonably expected to cause the Member to become capital deficient, without first providing written notification to the MFDA of its intention to do so and obtaining written approval from the MFDA; and

b) MFDA Rule 3.1.2, which requires that a Member immediately notify the MFDA when, to its knowledge, its RAC falls to a level below zero.

> MFDA Rules 3.1.2, 3.4.2(c).

15. Accordingly, by engaging in the Impugned Transactions without notifying and obtaining approval from the MFDA, and further failing to inform the MFDA after the Respondent had engaged in the Impugned Transactions and its RAC had fallen to a level below zero, the Respondent contravened MFDA Rules 3.1.1, 3.1.2, and 3.4.2(c).

16. In addition, by engaging in transactions that caused the Respondent's financial position to fall below the minimum financial requirements set by the MFDA and failing to inform the MFDA as required, the Respondent also contravened the standard of conduct set out in MFDA Rule 2.1.1.

As set out in MFDA Rule 2.1.1(c), a Member must not engage in any business conduct or practice which is unbecoming or detrimental to the public interest.

MFDA Rule 2.1.1.

PDQ Financial Services Inc., 2013 LNCMFDA 100.

17. Accordingly, based on the admissions of both parties and the facts set out in the Settlement Agreement, the Panel concluded that the facts admitted by the Respondent constitute misconduct in contravention of MFDA By-law, rules, or policies or provincial securities legislation.

V. PENALTY

18. The Panel was aware that Hearing Panels have frequently considered the following factors when evaluating whether the sanction proposed should be accepted:

a) the seriousness of the conventions admitted to by the Respondent or proved against the Respondent;
b) the Respondent's past conduct, including prior sanctions;
c) the Respondent's experience and level of activity in the capital markets;
d) whether the Respondent recognizes the seriousness of the improper activity;
e) the harm suffered by investors as a result of the Respondent's activities;
f) the benefits received by the Respondent as a result of the improper activity;
g) the risk to investors and the capital markets in the jurisdiction, were the Respondent to continue to operate in capital markets in the jurisdiction;
h) the damage caused to the integrity of the capital markets in the jurisdiction by the Respondent's improper activities;
i) the need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;
j) the need to alert others to the consequences of inappropriate activities to those who are permitted to participate in the capital markets; and
k) previous decisions made in similar circumstances.

Sterling Mutuals Inc. (Re), supra at para. 14.

19. The Panel may also have reference to the MFDA's Sanction Guidelines (the "Sanction Guidelines"). The Sanction Guidelines are not mandatory or binding on the Panel, but provide a

summary of the key factors upon which discretion can be exercised consistently and fairly. Many of the same factors that are listed above, which have been considered in previous decisions of MFDA Hearing Panels, are also reflected and described in the Sanction Guidelines.

> Mutual Fund Dealers Association of Canada Sanction Guidelines, dated November 15, 2018. [**Sanction Guidelines**]

20. The Panel took into consideration the above factors in reaching its decision with respect to the appropriateness of the penalty. Of particular relevance to this case, were the following factors:

i. The Respondent's failure to maintain a RAC greater than zero is serious misconduct. As stated by the Hearing Panel in *Global Maxfin Investments Inc. (Re)*, the requirement that Members maintain a RAC greater than zero is necessary "[t]o protect the financial integrity of individual MFDA firms, their clients, the MFDA and the securities markets".

> *Global Maxfin Investments Inc. (Re)*, 2015 LNCMFDA 65 at para. 10.

ii. When a Member's financial viability is threatened, its clients are put at significant risk, and accordingly it is critical that Members maintain a positive RAC at all times.

iii. In addition, after repeatedly transferring its cash out, the Respondent at no time advised the MFDA either before or after engaging in the Impugned Transactions, as required by MFDA Rules 3.4.2(c) and 3.1.2.

iv. The Respondent has not previously been the subject of a MFDA disciplinary proceeding.

v. The Panel was satisfied that the Respondent had accepted responsibility for its misconduct. The Respondent entered into this Settlement Agreement which substantially reduced the length and complexity of the disciplinary proceeding that might have otherwise been necessary.

vi. Each party to the Settlement Agreement, agreed that the misconduct stemmed from a misunderstanding by the Respondent of the MFDA's financial requirements. The Respondent now recognizes its error, and has maintained the required amount of minimum capital and its RAC above zero since September 3, 2019.

vii. There is no evidence that any client suffered any harm as a result of the Respondent's misconduct.

viii. There is no evidence that the Respondent received any benefit as a result of the misconduct.

ix. The proposed sanction serves the purpose of specific and general deterrence. The $10,000 fine is sufficiently large to deter the Respondent from again contravening the MFDA's financial requirements, while taking into account the size of the Respondent and the nature of the misconduct. It was common ground at the Hearing, that the Respondent was not a significantly sized organization, nor did the Respondent have substantial funds under management.

x. The Panel was satisfied that the principals of both general deterrence of others in the industry and the specific deterrence to the Respondent were satisfied by the proposed sanctions.

xi. The sanctions also make clear that even in the absence of financial harm to clients, the failure by Members to maintain the financial requirements and notify the MFDA when required will not be tolerated.

21. The Panel considered the submissions of Staff in this matter and also the limited submissions made on behalf of the Respondent. The Panel also considered previous decisions made in similar cases, of which the Panel was made aware and the MFDA Sanction Guidelines to which the Panel was directed. After full consideration of the matter of penalty, the Panel concluded that the sanctions agreed to in the Settlement Agreement fell within a reasonable range of appropriateness, bearing in mind the nature and extent of the misconduct and all of the surrounding circumstances.

VI. RESULT

22. For all the above reasons, the Panel concluded that the Settlement Agreement was reasonable and proportionate and that the Settlement Agreement should be accepted. Accordingly, the following penalties were imposed upon the Respondent:

i. The Respondent shall pay a fine of $10,000, pursuant to section 24.1.2 of MFDA By-law No. 1.

ii. The Respondent shall pay costs of $5,000, pursuant to section 24.2 of MFDA By-law No. 1.

iii. The Respondent shall pay the fine and costs as follows:

a) $5,000 (costs) on the date of this Order;

b) $5,000 (fine) on or before March 31, 2022; and

c) $5,000 (fine) on or before June 30, 2022;

iv. The Respondent shall provide monthly bank statements with its Form 1s for a period of 1 year following acceptance of the Settlement Agreement, pursuant to section 24.1.2(f) of MFDA By-law No. 1;

v. The Respondent shall in the future comply with MFDA Rules 3.1.1, 3.1.2, 3.4.2(c), and 2.1.1; and

vi. 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 8th day of February, 2022.

"Frederick W. Chenoweth"
Frederick W. Chenoweth
Chair

"Linda J. Anderson"
Linda J. Anderson
Industry Representative

"Katarzyna Samayoa"
Katarzyna Samayoa
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: Progressive Financial Strategy Capital Group Corp.

SETTLEMENT AGREEMENT

I. 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 Central 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, Progressive Financial Strategy Capital Group Corp. (the "Respondent").

II. 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.

III. ACKNOWLEDGMENT

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 accepted by the Hearing Panel.

IV. AGREED FACTS

Registration History

6. The Respondent is registered as a mutual fund dealer in Ontario and has been a Member of the MFDA since November 15, 2002.

7. At all material times, the Respondent was the wholly owned subsidiary of Progressive Financial Strategy (Canada) Inc. (the "Parent Company").

8. At all material times, the Respondent and the Parent Company's bank accounts were controlled by the President of the Respondent.

Overview

9. This case concerns the Respondent undertaking transactions that caused its capital and risk adjusted capital ("RAC") to fall below the minimum financial regulatory requirements of the MFDA.

MFDA Financial Regulatory Requirements

10. Pursuant to MFDA Rule 3.1.1, every Member shall have and maintain at all times RAC greater than zero, and minimum capital in the amounts referred to in the Rule for the Level in which the Member is designated, as calculated in accordance with Form 1.

a) A Member's RAC is derived from the Member's allowable working capital[1] and is the primary means of financial reporting to the MFDA. RAC is a measure of the Member's liquidity and its ability to withstand any adverse fluctuations in operations.

b) A Member's minimum capital represents a basic amount of capital, which a Member must maintain for the risk of operating a mutual fund dealer.

c) A Form 1 is a financial report submitted by Members to the MFDA, which provides a snapshot of a Member's compliance with financial regulatory obligations. MFDA Rule 3.5.1 requires that Members submit an unaudited Form 1 on a monthly basis and an audited Form 1 on an annual basis.

The Respondent Transferred the Cash Held in its Bank Account

11. The Respondent is designated as a Level 2 Member of the MFDA for the purposes of determining its minimum capital. Accordingly, pursuant to MFDA Rule 3.1.1(a), the Respondent is required to maintain minimum capital of $50,000 and RAC greater than zero at all times.

12. At all material times, the cash held by the Respondent was its principal asset that it used to satisfy the minimum capital requirements of the MFDA. Prior to the events at issue, the Respondent held $65,000 in a bank account belonging to the Respondent. The Respondent's adjusted allowable working capital[2] was $62,228 and it had positive RAC of $2,228.

13. As detailed below, between January 9, 2018 and September 3, 2019, the Respondent transferred the cash held in its bank account to its Parent Company or otherwise spent the money on non-Member expenses, resulting in the Respondent's minimum capital falling below the $50,000 requirement set out at paragraph 12 and its RAC falling to a level below zero, contrary to MFDA Rule 3.1.1.

14. The Respondent further:

a) failed to notify the MFDA and receive written approval prior to transferring or spending the cash it held in its bank account, which would or would be expected to

[1] Allowable Working Capital is calculated by deducting Total Current Liabilities from Total Allowable Assets.
[2] Adjusted Allowable Working Capital is calculated by deducting the amount Due to Related Parties from Allowable Working Capital

have the effect of reducing the its RAC to a level below zero, as required by MFDA Rule 3.4.2(c); and

b) failed to notify the MFDA immediately when its RAC fell to a level below zero, as required by MFDA Rule 3.1.2.

The President of the Respondent Replenished the Cash in the Respondent's Bank Account

15. From time-to-time, the President of the Respondent replenished the Respondent's bank account to approximately $65,000.

The First Replenishment

16. The first replenishment took place on September 19 and 27, 2018, when the President of the Respondent transferred $6,000 from his personal bank account and $59,000 from the Parent Company's bank account, respectively, to the Respondent's bank account. The Respondent maintained the $65,000 in its bank account until February 13, 2019 for the purpose of maintaining its minimum capital and its RAC above zero until completion of its year-end audit for the year ended December 31, 2018.

17. On February 13, 2019, the Respondent transferred the $65,000 to the Parent Company.

18. On March 21, 2019, the Respondent's external auditor contacted Staff and reported that the Respondent had transferred the majority of its capital to its Parent Company in 2018. The auditor's principal concern was that these transfers not be considered an impermissible repayment of the subordinated loan from the Parent Company to the Respondent.[3] The auditor further reported to Staff that the $65,000 had been returned to the Respondent's bank account in September 2018 and remained there at the year-end audit date of December 31, 2018.

19. The Respondent's external auditor was not aware of the transfer of the $65,000 on February 13, 2019 from the Respondent to the Parent Company.

20. On March 27, 2019, the Respondent's external auditor confirmed to Staff that as at year-end (December 31, 2018) the Respondent's RAC was above zero.

21. On March 28, 2019, the Respondent's audited year-end Form 1 for 2018 was filed with the MFDA with an unqualified auditor's opinion. The Form 1 showed that as at December 31, 2018,

[3] The terms of the subordinated loan agreement between the Respondent and the Parent Company required that the Respondent obtain MFDA approval before making repayments towards the subordinated loan.

the Respondent's "cash on deposit with an acceptable institution" as $65,000, the adjusted allowable working capital as $62,230, and the RAC as $2,230.

The Second Replenishment

22. The second replenishment took place on April 1, 2019, when the President of the Respondent transferred $65,000 from his personal bank account to the Respondent's bank account. At around this same time, following the year-end audit, the Respondent's external auditor advised the President of the Respondent that the Respondent needed to maintain the $65,000 in its bank account, otherwise the monthly Form 1s submitted to the MFDA might not be accurate.[4] The $65,000 was maintained in the Respondent's bank account until May 23, 2019.

The Third Replenishment

23. The third replenishment took place on September 3, 2019, when the President of the Respondent transferred $65,000 from his personal bank account to the Respondent's bank account. The transfer occurred following the Respondent's receipt of a letter from Staff dated August 19, 2019, in which Staff requested an explanation from the Respondent for the transfers from its bank account. In addition, Staff advised that it appeared the Respondent had been capital deficient during certain periods.

24. Staff's inquiries arose after it reviewed the external auditor's working papers relating to the 2018 audit on or around August 7, 2019.

The Respondent Failed to Maintain its Minimum Capital and RAC Above Zero

25. Between January 9, 2018 and September 3, 2019, the Respondent engaged in transactions that dissipated the $65,000 held in its bank account. Specifically, the Respondent conducted the following transactions:

Date	Amount	Transferred to:	Balance Remaining[5]
Starting Balance			$65,000
January 9, 2018	$25,000	Parent Company	$40,000
January 9, 2018	$22,400	Used to pay Parent Company's credit card	$17,600

[4] The external auditor was not responsible for preparing or auditing the monthly Form 1s submitted by the Respondent to the MFDA.

[5] The Balance Remaining does not reflect the nominal amount of interest earned by the Respondent in its bank account.

Date	Amount	Transferred to:	Balance Remaining[5]
January 10, 2018	$5,000	Parent Company	$12,600
January 26, 2018	$12,600	Parent Company	$0.00
September 2018, Respondent's Bank Account Replenished			$65,000
February 13, 2019	$65,000	Parent Company	$0.00
April 1, 2019, Respondent's Bank Account Replenished			$65,000
May 23, 2019	$65,000	Parent Company	$0.00
September 3, 2019, Respondent's Bank Account Replenished			$65,000

26. Following each of the above noted transactions, the Respondent's working capital fell below the minimum $50,000 and its RAC fell to a level below zero. Accordingly, the Respondent was capital deficient during the following periods: (i) January 9, 2018 to September 27, 2018; (ii) February 13, 2019 to April 1, 2019; and (iii) May 23, 2019 to September 3, 2019.

The Respondent Failed to Obtain Approval from the MFDA to Process Transactions that Reduced its RAC Below Zero

27. As described above at paragraph 25, the Respondent conducted 6 transactions that caused its RAC to fall to a level below zero. At no time, did the Respondent notify the MFDA of its intention to conduct these transactions and obtain prior written approval as required by MFDA Rule 3.4.2(c).

The Respondent Failed to Immediately Notify the MFDA that its RAC was Below Zero

28. As at the periods identified in paragraph 26 above, the Respondent's RAC was at a level below zero. This triggered a continuing requirement pursuant to MFDA Rule 3.1.2 for the Respondent to immediately notify the MFDA, which the Respondent failed to do.

Additional Factors

29. The Respondent has not previously been the subject of a MFDA disciplinary proceeding.

30. Since September 3, 2019, the Respondent has maintained the $65,000 in its bank account, and accordingly the Respondent has maintained its minimum capital above $50,000 and its RAC above zero.

31. Since September 2019, the Respondent has also submitted bank statements with the Respondent's monthly Form 1s to support the amount reported as cash held by the Respondent.

32. The Respondent states that at the time of the misconduct, it genuinely believed that transferring the $65,000 to its Parent Company did not contravene the MFDA's financial requirements. The Parent Company had access to a line of credit, which the President of the Respondent believed could be used to return the $65,000 to the Respondent on demand with short notice. The Respondent now recognizes that it was mistaken and that its conduct contravened the MFDA Rules and caused the Respondent to become capital deficient.

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

V. CONTRAVENTIONS

34. The Respondent admits that during the following periods: (i) January 9, 2018 to September 27, 2018; (ii) February 13, 2019 to April 1, 2019; and (iii) May 23, 2019 to September 3, 2019, it:

a) without notifying the MFDA and receiving written approval prior to completing the transactions, transferred monies to, or made payments on behalf of, the Respondent's parent company, which would have or would reasonably be expected to have the effect of causing the Respondent's risk adjusted capital to fall to a level below zero;
b) failed to maintain the its required minimum capital of $50,000 and its risk adjusted capital at a level above zero; and
c) failed to immediately notify the MFDA when its risk adjusted capital had fallen to a level below zero,

35. contrary to MFDA Rules 3.1.1, 3.1.2, 3.4.2(c), and 2.1.1.

VI. TERMS OF SETTLEMENT

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

a) the Respondent shall pay a fine of $10,000, pursuant to section 24.1.2(b) of MFDA By-law No. 1;
b) the Respondent shall pay costs of $5,000, pursuant to section 24.2 of MFDA By-law No. 1;
c) the Respondent shall pay the fine and costs as follows:

i. $5,000 (costs) upon acceptance of the Settlement Agreement;

ii. $5,000 (fine) on or before the last business day of the third month following the date of the acceptance of the Settlement Agreement; and

iii. $5,000 (fine) on or before the last business day of the sixth month following the date of the acceptance of the Settlement Agreement;

d) the Respondent shall provide monthly bank statements with its Form 1s for a period of 1 year following acceptance of the Settlement Agreement, pursuant to section 24.1.2(f) of MFDA By-law No. 1;

e) the Respondent shall in the future comply with MFDA Rules 3.1.1, 3.1.2, 3.4.2(c) and 2.1.1; and

f) a senior officer of the Respondent will attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

37. 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 Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

38. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

39. 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 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 or appeal 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.

40. 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.

41. 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.

42. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under section 24.3 of the By-laws of the MFDA against the Respondent or 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 action 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.

IX. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

43. 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.

44. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it 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.

X. DISCLOSURE OF AGREEMENT

45. 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 the Respondent and Staff or as may be required by law.

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

XI. EXECUTION OF SETTLEMENT AGREEMENT

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

48. An electronic copy of any signature shall be effective as an original signature.

DATED this 9th day of November, 2021.

"Harpal Dharna"
Progressive Financial Strategy Capital Group Corp.
Per: Harpal Dharna, President

"Charles Toth"
Staff of the MFDA
Per: Charles Toth
Vice-President, Enforcement

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: Progressive Financial Strategy Capital Group Corp.

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 MFDA By-law No. 1 in respect of Progressive Financial Strategy Capital Group Corp. (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 MFDA By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that:

a) The Respondent admits that during the following periods: (i) January 9, 2018 to September 27, 2018; (ii) February 13, 2019 to April 1, 2019; and (iii) May 23, 2019 to September 3, 2019, it:

   i. without notifying the MFDA and receiving written approval prior to completing the transactions, transferred monies to, or made payments on behalf of, the Respondent's parent company, which would have or would

reasonably be expected to have the effect of causing the Respondent's risk adjusted capital to fall to a level below zero;

ii. failed to maintain the its required minimum capital of $50,000 and its risk adjusted capital at a level above zero; and

iii. failed to immediately notify the MFDA when its risk adjusted capital had fallen to a level below zero,

contrary to MFDA Rules 3.1.1, 3.1.2, 3.4.2(c), 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 of $10,000, pursuant to section 24.1.2 of MFDA By-law No. 1.

2. The Respondent shall pay costs of $5,000, pursuant to section 24.2 of MFDA By-law No. 1.

3. The Respondent shall pay the fine and costs as follows:

a) $5,000 (costs) on the date of this Order;

b) $5,000 (fine) on or before [DATE]; and

c) $5,000 (fine) on or before [DATE];

4. The Respondent shall provide monthly bank statements with its Form 1s for a period of 1 year following acceptance of the Settlement Agreement, pursuant to section 24.1.2(f) of MFDA By-law No. 1.

5. The Respondent shall in the future comply with MFDA Rules 3.1.1, 3.1.2, 3.4.2(c), and 2.1.1.

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]

DM 863565