



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: Ryan Todd Small

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. The Mutual Fund Dealers Association of Canada (the “MFDA”) will announce that it proposes to hold a hearing (the “Settlement Hearing”) to consider whether, pursuant to section 24.4 of MFDA 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 Ryan Todd Small (the “Respondent”).

2. Staff and the Respondent consent and agree to the terms of this Settlement Agreement.

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

II. CONTRAVENTIONS

4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

a) between June 2017 and December 2020, the Respondent engaged in unapproved outside activities when:

- i. he solicited clients and other individuals to invest in an investment which he had a direct interest in and which was not approved for sale by the Member; and
- ii. he incorporated a company and acted as a director for the company, without the knowledge or approval of the Member,

contrary to the Member's policies and procedures and MFDA Rules 1.3.2, 2.1.1 and 1.1.2 (as it relates to MFDA Rule 2.5.1); and

b) between October 2020 and December 2020, the Respondent solicited clients and other individuals to invest in an investment which was not approved for sale by the Member, thereby engaging in securities related business that was not carried on for the account of the Member or through the facilities of the Member, contrary to MFDA Rules 1.1.1, 2.1.4, 2.1.1 and 1.1.2 (as it relates to Rule 2.5.1).¹

III. TERMS OF SETTLEMENT

5. Staff and the Respondent agree and consent to the following terms of settlement:

- a) the Respondent's authority to conduct securities related business while in the employ of or associated with a Member of the MFDA shall be prohibited for a period of 5 years commencing from the date of acceptance of this Settlement Agreement by a Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- b) the Respondent shall pay a fine in the amount of \$20,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;

¹ On June 30, 2021, amendments to MFDA Rule 2.1.4 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to the Rule, the contravention of MFDA Rule 2.1.4 that is addressed in this proceeding is of the version of MFDA Rule 2.1.4 that was in effect between February 27, 2006 and June 30, 2021.

- d) the Respondent shall in the future comply with MFDA Rules 1.1.1, 1.3.2, 2.1.1, 2.1.4 and 1.1.2 (as it relates to MFDA Rule 2.5.1); and
- e) the Respondent shall attend in person or by teleconference on the date set for the Settlement Hearing.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in this Settlement Agreement herein and consent to the making of an Order in the form attached as Schedule “A”.

IV. AGREED FACTS

Registration History

- 7. From September 2002 to December 2, 2020, the Respondent was registered in the securities industry.
- 8. Between April 5, 2011 and December 2, 2020, the Respondent was registered in Ontario as a dealing representative with Royal Mutual Funds Inc. (the “Member”), a Member of the MFDA.
- 9. On December 2, 2020, the Respondent resigned from the Member and he is not currently registered in the securities industry in any capacity.
- 10. At all material times, the Respondent conducted business in the Mississauga, Ontario area.

Outside Activities, Securities Related Business Carried on Outside of the Member and Conflict of Interest

- 11. At all material times, the Member’s policies and procedures prohibited Approved Persons from engaging in securities related business outside of the Member.
- 12. At all material times, the Member’s policies and procedures provided:

“An outside activity is any organized activity carried on by a licensed representative that is outside of their employment with RMFI. In addition to updating your personal information with the regulators, it is important to disclose outside activities to ensure that we are managing any potential or perceived conflicts of interest, and ensure that neither the licensed representatives nor RMFI engage in activities that may result in an actual conflict of interest which cannot be managed.

In order to determine whether an outside activity creates a conflict of interest, every licensed representative is required to declare to RMFI, any outside activity that they intend to engage in.”

13. At all material times, the Member’s policies and procedures also provided:

“You must notify your BCO or BCO-FP and obtain approval if you hold or intend to hold the position of corporate director, officer, governor or trustee of a company or organization unrelated to RBC. Generally, acting as a director of a family company or a charitable or not—for-profit organization will not create a conflict of interest and will be approved by RBC. Note that external directorship information must be disclosed to and approved by the applicable regulatory body.”

14. Furthermore, at all material times, Approved Persons registered with the Member were subject to a Code of Conduct which required all conflicts of interest and potential conflicts of interest to be disclosed.

15. In order to approve the participation of Approved Persons in outside activities, the Member required its Approved Persons to complete outside activity forms attesting, among other things, that:

- a) they would not use their employment with the Member to promote the interests of the outside activity; and
- b) they would notify their branch compliance officer or supervisor of any conflicts that may arise from the outside activity, the termination of the outside activity, and any changes in the nature of the outside activity, as disclosed on the outside activity form.

16. The Respondent acknowledges that at all material times, he was aware of his obligation to seek approval from the Member of his intention to engage in outside activities and to disclose to the Member any conflicts of interest or potential conflicts of interest.

17. As described in further detail below, the Respondent:

- a) incorporated a company, TVR Developments Inc. (“TVR”), and acted as a director for the company without the knowledge or approval of the Member; and

- b) solicited investments from clients and other individuals in the purchase and development of the Brant and Leighland Property (defined below), which was an investment that was not approved for sale by the Member and which amounted to a conflict of interest that the Respondent did not disclose to the Member.

18. There is no evidence that any clients or other individuals invested monies into the development of the Brant and Leighland Property.

TVR Developments Inc.

19. On June 13, 2017, the Respondent incorporated TVR. At all material times, the Respondent owned TVR jointly with his spouse and he was the sole director and officer of the company.

20. On February 27, 2020, the Respondent submitted an outside activity form to the Member wherein he applied for approval of TVR as an outside activity (the “TVR Outside Activity Form”).

21. Among other things, the Respondent stated in the TVR Outside Activity Form that TVR was:

- a) “a family owned corporation”; and
- b) was “purchas[ing] vacant land to eventually build a 15-unit rental apartment building in Burlington, Ontario” (the “TVR Property”).

22. In the TVR Outside Activity Form, the Member required the Respondent to provide the same attestations described above at paragraph 15 in respect of TVR.

23. On March 9, 2020, TVR acquired the TVR Property.

24. On March 12, 2020, the Member approved TVR Outside Activity Form based on the information provided by the Respondent.

25. Between June 13, 2017 and February 27, 2020, by incorporating TVR and acting as a director and officer of TVR, the Respondent engaged in an outside activity which was not disclosed to, or approved by the Member, contrary to the Member’s policies and procedures and MFDA Rules.

26. The Respondent did not disclose to the Member that he was registered as a director or officer of TVR at any time, contrary to the Member's policies and procedures and MFDA Rules.

Brant and Leighland Property

27. Prior to October 2020, the Respondent entered into a contract with the owner of three separate parcels of vacant land located near Brant Street and Leighland Road in Burlington, Ontario (the "Brant and Leighland Property") wherein the Respondent purchased the right to acquire the Brant and Leighland Property at a future date for an agreed upon price.

28. The Respondent intended to invest his own monies and to solicit additional monies from other individuals in order to finance the purchase and development of the Brant and Leighland Property, including the construction of residential buildings on it.

29. The purchase of the Brant and Leighland Property and the proposed development of it was different from the TVR Property and its development described above at paragraphs 19 to 26.

30. The Respondent did not inform the Member about the purchase of the Brant and Leighland Property or his plans to finance a real estate development in respect of it, and never obtained the Member's approval to engage in such conduct.

31. In or around October 2020, the Respondent prepared and provided potential investors with a PowerPoint presentation (the "PowerPoint Presentation") to introduce the investment opportunity to, and to solicit investors to invest monies in, the purchase and development of the Brant and Leighland Property.

32. The terms, features and returns for the Brant and Leighland Property, as contained in the PowerPoint Presentation, included:

- a) the purchase and development of the Brant and Leighland Property would be funded by investors contributing a \$5,000,000 investment in return for 50% equity interest in the Brant and Leighland Property;
- b) the Brant and Leighland Property development strategy would include the purchase of 3 parcels of vacant land in order to complete a high density residential development which would be used for residential housing;

- c) in order to obtain returns on investment, the developers of the Brant and Leighland Property intended to: (i) partner with the Canada Mortgage Housing Corporation to create rental properties, (ii) re-designate the project as a condominium project to sell individual units in the property; or (iii) sell a site plan approval to a larger builder to complete the investment;
- d) the annual returns on investment from the strategies employed in paragraph 14(c) would vary. Strategy (i) would yield annual returns on investment of 12.6% to 17.4%. Strategy (iii) would yield annual returns on investment up to 22%. Strategy (ii) did not list precise anticipated returns;
- e) ideal investors in the Brant and Leighland Property included those interested in:
 - i. diversifying their investment outside of equity and fixed income markets;
 - ii. consistent monthly cash flows;
 - iii. secure income streams from real-estate hedging risk related to vacancies;
 - iv. acquiring an interest in a large multi-unit apartment building;
 - v. not being involved in day to day property management and requirements of being a landlord;
 - vi. professional property management of the rental building post construction;
 - vii. the possibility of taking advantage of capital cost allowances and other tax planning strategies to defer rental income; and
 - viii. possible liquidity and redeployment of initial investment; and
- f) the timeline for the development of the Brant and Leighland Property was estimated to be approximately 6 years.

33. The PowerPoint Presentation provided the Respondent's contact information and advertised his experience in real estate investment and as a financial planner.
34. Between October 2020 and December 2020, the Respondent solicited investments in the development of the Brant and Leighland Property by providing the PowerPoint Presentation to at least 10 clients and 59 other individuals.
35. By providing the PowerPoint Presentation to clients and other individuals, the Respondent:
- a) introduced potential investors to the opportunity to invest monies in the development of the Brant and Leighland Property;
 - b) provided potential investors with promotional materials that described the Brant and Leighland Property as well as the investment into the development of the Brant and Leighland Property;
 - c) provided potential investors with the terms and features, including purported rates of return, of the investment into the development of the Brant and Leighland Property;
 - d) provided potential investors with an assessment of the merits of the investment into the development of the Brant and Leighland Property; and
 - e) recommended the potential investors invest in the development of the Brant and Leighland Property.
36. The Respondent did not ultimately purchase or develop the Brant and Leighland Property and the investment opportunity was abandoned by the Respondent.
37. There is no evidence that any clients or other individuals ultimately invested monies into the development of the Brant and Leighland Property.
38. The Respondent did not inform the Member about:
- a) the Brant and Leighland Property or his plans to finance a real estate development in respect of it;

- b) his solicitation of clients and other individuals to invest in the development of the Brant and Leighland Property; or
- c) the conflict or potential conflict of interest created by soliciting investors to invest in the development of the Brant and Leighland Property.

39. The Respondent never provided the Member with the PowerPoint Presentation, and the Member never approved the sale of the investment in the Brant and Leighland Property to clients by its Approved Persons.

40. The Respondent's solicitation of the investment in the Brant and Leighland Property was not carried on for the account or through the facilities of the Member.

41. The Respondent's solicitation of clients to invest in the Brant and Leighland Property amounted to a conflict of interest which the Respondent did not disclose to the Member or clients, or ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client.

42. The Respondent's role in facilitating the development of the Brant and Leighland Property and his role in soliciting investments in the development of the Brant and Leighland Property amounted to an outside activity which the Respondent did not disclose to the Member, or obtain approval from it to engage in this conduct.

43. In particular, the Respondent failed to disclose the outside activity to the Member and therefore avoided the attestations required when completing an outside activity form with the Member, as described in paragraphs 15 and 21 of this settlement agreement. The Respondent was aware of his obligations to report outside activities to the Member and the limitations on his ability to participate in outside activities at the time he solicited clients to invest in the development of the Brant and Leighland Property.

Additional Factors

44. There is no evidence that the Respondent ultimately received any financial benefit from engaging in the misconduct described above.

45. The Member and the MFDA have not received any client complaints related to the misconduct described above.

46. There is no evidence of financial loss to clients or other individuals resulting from the Respondent's solicitation of investment in the Brant and Leighland Property or in respect of TVR.

47. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

48. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources and expenses associated with conducting a contested hearing of the allegations.

V. ADDITIONAL TERMS OF SETTLEMENT

49. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the MFDA Rules of Procedure.

50. The Settlement Agreement is subject to acceptance by the Hearing Panel. At or following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. 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.

51. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

52. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted at the settlement hearing, subject to rule 15.3 of the MFDA Rules of Procedure;

- b) the Respondent agrees to waive any 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;
- c) except for any proceedings commenced to address an alleged failure to comply with this Settlement Agreement, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts and contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in this Settlement Agreement, 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;
- d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to section 24.1.1 of MFDA By-law No. 1 for the purpose of giving notice to the public thereof in accordance with section 24.5 of MFDA By-law No. 1; and
- e) 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 the Respondent.

53. 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 based on, but not limited to, the facts set out in this 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.

54. If, for any reason, this Settlement Agreement is not accepted 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 MFDA By-law No. 1, unaffected by the Settlement Agreement or the settlement negotiations.

55. 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. The terms of the Settlement Agreement, including the attached Schedule “A”, will be released to the public if and when the Settlement Agreement is accepted by the Hearing Panel.

56. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile or electronic copy of any signature shall be as effective as an original signature.

DATED this 5th day of December, 2022.

“Ryan Todd Small”

Ryan Todd Small

Witness – Signature

Witness – Print name

“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: Ryan Todd Small

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada (the "MFDA") provided notice to the public of a Settlement Hearing in respect of Ryan Todd Small (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 based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that:

- f) between June 2017 and December 2020, the Respondent engaged in unapproved outside activities when:
 - i) he solicited clients and other individuals to invest in an investment which he had a direct interest in and which was not approved for sale by the Member; and
 - ii) he incorporated a company and acted as a director for the company, without the knowledge or approval of the Member,

contrary to the Member's policies and procedures and MFDA Rules 1.3.2, 2.1.1 and 1.1.2 (as it relates to Rule 2.5.1); and

- g) between October 2020 and December 2020, the Respondent solicited clients and other individuals to invest in an investment which was not approved for sale by the Member, thereby engaging in securities related business that was not carried on for the account of the Member or through the facilities of the Member, contrary to MFDA Rules 1.1.1, 2.1.4, 2.1.1 and 1.1.2 (as it relates to Rule 2.5.1).

IT IS HEREBY ORDERED THAT the Settlement Agreement is accepted, as a consequence of which:

1. The Respondent's authority to conduct securities related business while in the employ of or associated with a Member of the MFDA shall be prohibited for a period of 5 years commencing from the date of acceptance of this Settlement Agreement by a Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No. 1;

57. The Respondent shall pay a fine in the amount of \$20,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;

58. The Respondent shall pay costs in the amount of \$5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;

59. The Respondent shall in the future comply with MFDA Rules 1.1.1, 1.3.2, 2.1.1, 2.1.4 and 1.1.2 (as it relates to Rule 2.5.1); and

60. 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], 2022.

Name,
Chair

Name,
Industry Representative

Name,
Industry Representative

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