



Now New Self-Regulatory Organization of Canada, a consolidation of IIROC and the MFDA

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ
and
Bernard Kevin Phanthavong**

ORDER

(ARISING FROM A SETTLEMENT HEARING ON MARCH 27, 2023)

WHEREAS on February 1, 2023, the New Self-Regulatory Organization of Canada (the “Corporation”) issued a Notice of Settlement Hearing pursuant to Mutual Fund Dealer Rule 7.4.4 that was published on March 8, 2023 in respect of a disciplinary proceeding commenced against Bernard Kevin Phanthavong (the “Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the Corporation (“Staff”) dated February 1, 2023 (the “Settlement Agreement”), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to Mutual Fund Dealer Rules 7.3 and 7.4.1;

AND WHEREAS based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that: between February 2018 and June 2018, the Respondent altered client contact information on the Dealer Member’s system without the knowledge or authorization of the client, which had the effect of interfering with the Member’s

supervision of the Respondent and impacted its ability to communicate with clients, contrary to Mutual Fund Dealer Rules 2.1.1 and 2.1.4(2).¹

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

1. The Respondent shall pay a fine of \$7,500 in certified funds on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);
2. The Respondent shall pay costs in the amount of \$5,000 in certified funds on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.2;
3. The Respondent is suspended from acting as a branch manager or in any supervisory capacity for a Dealer Member that is registered as a mutual fund dealer (formerly Members of the MFDA) for a period of two months commencing on the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
4. The Respondent shall successfully complete an industry course that is acceptable to Staff of the Corporation within 12 months of the date of this Order, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);
5. The Respondent shall in the future comply with Mutual Fund Dealer Rules 2.1.1 and 2.1.4(2); and
6. If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3 (formerly 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 Corporation's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of the Corporation 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 Mutual Fund Dealer Rules of Procedure.

¹ Mutual Fund Dealer Rules 2.1.4 and 2.1.1 that are referenced in the contravention generally correspond to the wording of former MFDA Rules 2.1.4 and 2.1.1, On June 30, 2021, amendments to former MFDA Rule 2.1.4 came into effect. As the conduct addressed in this proceeding predated the amendment to that Rule, the contravention addressed in this proceeding is of the version of former MFDA Rule 2.1.4 that was in effect between February 27, 2006 and June 30, 2021.

DATED this 27th day of March, 2023.

“Sherri Walsh”

Sherri Walsh
Chair

“Birju Shah”

Birju Shah
Industry Representative

“Sean Shore”

Sean Shore
Industry Representative

DM 904687

ⁱ On January 1, 2023, the Investment Industry Regulatory Organization of Canada (“IIROC”) and the Mutual Fund Dealers Association of Canada (the “MFDA”) were consolidated into a single self-regulatory organization recognized under applicable securities legislation. The New Self-Regulatory Organization of Canada (referred to herein as the “Corporation”) adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the “Interim Rules”). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules. Pursuant to Mutual Fund Dealer Rule 1A, MFDA By-law No. 1 continues to be applicable to this proceeding and pursuant to Mutual Fund Dealer Rule 1A and s.14.6 of By-Law No.1 of the Corporation, contraventions of former MFDA regulatory requirements may be enforced by the Corporation.