Re Shogilev

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Norman Shogilev

2024 CIRO 24

Canadian Investment Regulatory Organization
Hearing Panel (Ontario District)

Heard: February 5, 2024, in Toronto, Ontario by videoconference
Decision: February 5, 2024
Reasons for Decision: February 14, 2024

Hearing Panel:
Martin Sclisizzi, Chair
Paul C. Bourque, K.C., Industry Representative
Casimir S. Litwin, Industry Representative

Appearances:
Molly McCarthy, Enforcement Counsel
Justin Papazian, Counsel for the Respondent
Norman Shogilev, Respondent

REASONS FOR DECISION ON ACCEPTANCE OF SETTLEMENT

OVERVIEW

¶ 1 This is a settlement hearing pursuant to Mutual Fund Dealer Rules 7.3 and 7.4 to determine whether to accept or reject the terms of a Settlement Agreement entered into by staff of the Canadian Investment Organization of Canada ("CIRO") and the respondent, Norman Shogilev (the "Respondent") on November 29, 2023 (the "Settlement Agreement"), pursuant to which staff of CIRO ("Staff") and the Respondent agreed to settle discipline proceedings against the Respondent.

¶ 2 The Settlement Agreement, a copy of which is attached as Schedule "A" to this decision, concerns the following contraventions of the Mutual Fund Dealer Rules:

(a) Between March 2019 and May 2020, the Respondent failed to update a client's residential address when the he knew or ought to have known that the client was no longer a resident of Canada, and processed transactions in the non-resident client's accounts, contrary to the policies and procedures of the Dealer Member and Mutual Fund Dealer Rules 2.2.1, 2.2.4, 2.1.1 and 1.1.2 (as it relates to 2,5.1) (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2 and 2.5.1).

(b) Between about August 5, 2021, and August 17, 2021, the Respondent failed to report to the Dealer Member that he had received a complaint from a client and offered compensation directly to the client to settle the complaint, without the prior written consent of the Dealer Member, contrary to the Dealer Member's policies and procedures and Mutual Fund Dealer Rules

2.1.4, 2.1.1, 1.4(b), 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rules 2.1.4, 2.1.1.1, 1.4(b), 1.1.2 and 2.5.1) and Mutual Fund Dealer Rules 300 and 600.

(c) On or about August 18, 2021, and August 23, 2021, the Respondent processed redemptions in the accounts of a client without obtaining client instructions with respect to all essential elements of the trades, thereby engaging in discretionary trading, contrary to the Dealer Members's policies and procedures and Mutual Fund Dealer Rules 2.1.1, 2.3.1(b), and 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rules 2.1.1, 2.3.1(b), 1.1.2 and 2.5.1).

¶ 3 Subject to acceptance of the Settlement Agreement by the Hearing Panel, the Respondent admits the aforesaid contraventions of the Mutual Fund Dealer Rules.

¶ 4 The Settlement Agreement provides the following sanctions:

(a) Payment of a fine in the amount of $25,000.

(b) Payment of costs in the amount of $5,000.

(c) The Respondent to successfully complete an ethics or other industry course acceptable to CIRO Staff within 12 months of the date of acceptance of the Settlement Agreement by the Hearing Panel.

¶ 5 The Settlement Agreement further provides that the Respondent shall in the future comply with Mutual Fund Dealer Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b), 300 and 600 (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b) and MFDA Policy No. 3 and 6.

¶ 6 After considering the material filed, the submissions of counsel, previous decisions of Hearing Panels in similar circumstances, the factors which should be considered in determining whether or not to accept a proposed settlement agreement and the CIRO Sanction Guidelines, at the conclusion of the hearing the Panel concluded that the sanctions provided in the Settlement Agreement are within the range of appropriateness and that it would be in the public interest to approve the Settlement Agreement. We advised the parties and counsel that the Settlement Agreement is approved and accepted by the Panel with reasons to follow. These are our reasons.

BACKGROUND

¶ 7 The Respondent has been registered in the securities industry since July 27, 1995. Since January 23, 2013, the Respondent ("Approved Person") has been registered in Ontario as a dealer representative with Investors Group Financial Services Inc. (the "Dealer Member"). At all material times, he conducted business in the Burlington, Ontario area. The Respondent has not previously been the subject of disciplinary proceedings by MFDA or CIRO.

¶ 8 The agreed facts are contained in the Settlement Agreement and particulars of the Respondent's contraventions of Mutual Fund Dealer Rules are contained in paragraphs 10 to 42 of the Settlement Agreement and therefore we do not propose to repeat the facts in detail. However, to put our decision in context we will summarize the material facts and the key elements of the Respondent's contraventions of the Mutual Fund Dealer Rules.

Processing Trades for Client Not Resident in Canada

¶ 9 At all material times, the Dealer Member's policies and procedures permitted existing clients who relocated to the United States to maintain their accounts with the Dealer Member but prohibited new deposits into any investment product sponsored by the Dealer Member and prohibited the transfer of existing assets to a different investment.

¶ 10 The Respondent processed the opening of a tax-free savings account ("TFSA") for Client A in 2013 and was the Approved Person for servicing the account. He facilitated contributions to Client A's TSFA in 2015, 2017 and 2019. Throughout this period, Client A resided in Singapore or in the United States. When the 2019 TFSA contribution was made, Client A was a resident of the United States. Prior to processing the 2019, the Respondent knew or ought to have known that Client A was not a resident of Canada. The Respondent failed to

take steps to confirm or update Client A's residency status or update the client's residential address. Moreover, the Respondent failed to confirm Client A's TFSA's contribution room prior to facilitating the 2019 contribution.

¶ 11 The Respondent knew or ought to have known that Client A would be subject to Canada Revenue Agency ("CRA") penalties for TFSA contributions made while Client A was a non-resident and for over-contributions to the TFSA. In 2021, CRA issued a TFSA Notice of Assessment to Client A reflecting penalties owed by the client for the 2019 TFSA contribution and the over-contribution. The Dealer Member compensated Client A for the penalties the client paid to CRA.

Rebalancing of Accounts

¶ 12 Contrary to the Dealer Member's policies and procedures prohibiting the transfer of existing assets of a non-resident to a different investment, between March 2019 and June 2020, while Client A was a resident of the United States, the Respondent processed several transactions rebalancing (switches or sell/purchase trades) the investments in Client A's TFSA, non-registered account, Locked-In Retirement Account and Registered Savings Plan Account.

¶ 13 There is no evidence of any financial harm arising from these rebalancing transactions.

Failure to Report Complaint and Offering Compensation Directly to Client

¶ 14 The Dealer Member's policies and procedures require Approved Persons to report to its compliance department any client complaint alleging misconduct or inappropriate sales practices within two business days of receipt of the complaint.

¶ 15 On or about August 5, 2021, Client A complained to the Respondent that the Respondent was responsible for the client's prohibited TFSA contribution while the client was a non-resident, resulting in the CRA penalties. The respondent failed to report the complaint to the Dealer Member within two business days or at all.

¶ 16 Instead, the Respondent offered to pay a substantial part of the penalties Client A had incurred because of the prohibited TFSA contribution. On August 17, 2021, without the Dealer Member's knowledge or consent, the Respondent provided a cheque for $10,000 to the client, along with a note stating the cheque represented "a rebate of the majority of advisory fees that [Client A] had paid over the past years". The client declined to deposit the cheque.

¶ 17 On August 30, 2021, Client A complained to the Dealer Member. The Dealer Member reimbursed Client A for the penalties the client had paid to CRA.

Prohibited Discretionary Trading

¶ 18 The Dealer Member prohibited Approved Persons from executing any discretionary transactions or trades in any client accounts.

¶ 19 On August 10, 2021, Client A instructed the Respondent to redeem $25,000 from the client's non-registered account to pay the penalty assessed by CRA. On August 18, 2021, the Respondent redeemed $25,000 from the account without obtaining instructions from the client regarding which mutual funds to redeem. On August 19, 2021, Client A instructed the Respondent to redeem $160,000 for a downpayment on a property the client intended to purchase. Similarly, the Respondent processed redemptions from various accounts without obtaining instructions on which mutual funds to redeem. The Respondent exercised discretion to determine which mutual funds to redeem and the accounts from which to process the redemptions. Moreover, the Respondent failed to inform the client that as a result of the redemptions deferred sales charges of $544 would be incurred by the client. The Dealer Member has reimbursed the client for these deferred sales charges.

Additional Facts

¶ 20 The Member Dealer became aware of the aforesaid conduct by the Respondent on August 30, 2021, when the client complained to the Dealer Member. Client A's accounts were assigned to another Approved Person to service on September 7, 2021. On December 2, 2021, the Dealer Member issued a warning letter to the Respondent with respect to his misconduct.

¶ 21 As mentioned above, the Respondent has not previously been the subject of any disciplinary proceedings by the MFDA or CIRO.

¶ 22 The fine agreed to in the Settlement Agreement is greater than the compensation received by the Respondent for the transaction described above.

ANALYSIS

¶ 23 A panel considering whether to accept a settlement is in a different position than a panel determining an appropriate sanction in a contested hearing. A hearing panel can only decide whether to accept or reject the proposed settlement. It is well established that a settlement hearing panel is not tasked with deciding whether it would have imposed the same sanctions as those agreed through negotiations by the parties, nor is the panel to modify or alter the sanctions. Rather the settlement hearing panel's task is to decide whether the proposed sanctions fall within a reasonable range of appropriateness.[1] The Hearing Panel should not interfere lightly in the negotiated settlement if the proposed sanctions are within a reasonable range of appropriateness having regard to the Respondent's conduct.[2] In our view the proposed sanctions clearly fall within a reasonable range of appropriateness.

¶ 24 The respondent's misconduct arose from transactions relating to one client. The Respondent's failure to update the client's address, failure to report the client's complaint and attempt to settle the complaint with the client without the Dealer Member's prior authorization or knowledge, and engaging in discretionary trading are serious breaches of the Mutual Fund Dealer Rules. The Respondent has acknowledged that his conduct constitutes a serious breach of the MFDA Rules. By entering into the Settlement Agreement, the Respondent has accepted responsibility for his misconduct and has saved CIRO the time, resources, and expense of a contested disciplinary hearing.

¶ 25 We note that there is no evidence that the Respondent received any financial benefit from engaging in the misconduct beyond any commissions and fees that he would ordinarily be entitled to receive had the misconduct not occurred.

¶ 26 We also note that the Respondent, in his long career in the securities industry, has not previously been subject to any MFDA or CIRO disciplinary proceedings.

¶ 27 In considering whether to accept the Settlement Agreement, we considered the factors referred to in Jacobson[3], namely, whether the Settlement Agreement is in the public interest and the sanctions will protect investors; whether the Settlement Agreement is reasonable and proportionate, having regard to the Respondent's conduct; whether the Settlement Agreement addresses both specific and general deterrence; whether the Settlement Agreement will prevent repetition of the type of misconduct described in the Settlement Agreement; and whether the Settlement Agreement will foster confidence in the integrity of the Canadian capital markets and in the integrity of CIRO and confidence in the regulatory process. We are satisfied that the Settlement Agreement satisfies all these factors.

¶ 28 In our view the proposed sanctions are reasonable and proportionate in the circumstances. The proposed sanctions are consistent with previous decisions made in similar circumstances. The proposed sanctions will, in our view, achieve specific and general deterrence and convey the message to Approved Persons that strict compliance with the MFDA Rules is mandatory.

CONCLUSION

¶ 29 Considering the aforesaid factors, the range of sanctions for similar contraventions in more or less

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[1] *Milewski* (*Re*), [1999] I.D.A.C.D. No. 17; *Sterling Mutuals Inc. (Re)*[2008] Hearing Panel, Central Regional Council, MFDA File No. 200820; Reasons for Decision dated September 3, 2008

[2] *Jacobson (Re),* [2007] Hearing Panel of the Prairie Regional Council, MFDA File No. 200712, Reasons for Decision dated July 13, 2007, para. 68 ("*Jacobson"*)

[3] *Supra*, para. 70

similar circumstances and the public interest, we have determined that the agreed sanctions are reasonable, proportionate and appropriate in the circumstances. Accordingly, the Panel accepted the Settlement Agreement.

¶ 30 We will therefore issue an order substantially in the form of the draft order attached to the Settlement Agreement.

Dated at Toronto, Ontario this 14 day of February 2024.

"Martin Sclisizzi"

Martin Sclisizzi, Chair

"Paul C. Bourque"

Paul C. Bourque, K.C., Industry Representative

"Casimir S. Litwin"

Casimir S. Litwin, Industry Representative

Settlement Agreement

File No. 2023

IN THE MATTER OF:

The Mutual Fund Dealer Rules[i]

and

Norman Shogilev

SETTLEMENT AGREEMENT

I. INTRODUCTION

¶ 1 The Canadian Investment Regulatory Organization, a consolidation of IIROC and the MFDA ("CIRO") will announce that it proposes to hold a hearing (the "Settlement Hearing") to consider whether, pursuant to Mutual Fund Dealer Rule 7.4.4.3, a hearing panel of the Ontario District Hearing Committee (the "Hearing Panel") of CIRO should accept the settlement agreement (the "Settlement Agreement") entered into between Staff of CIRO ("Staff") and Norman Shogilev (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 Mutual Fund Dealer Rules:[4]

(a) Between March 2019 and May 2020, the Respondent failed to update a client's residential address when the Respondent knew or ought to have known that the client was no longer a resident of Canada, and processed transactions in the non-resident client's accounts, contrary to the policies and procedures of the Dealer Member and Mutual Fund Dealer Rules 2.2.1, 2.2.4[5] 2.1.1 and 1.1.2[6] (as it relates to 2.5.1) (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, and 2.5.1);

(b) Between about August 5, 2021 and August 17, 2021, the Respondent failed to report to the Dealer Member that the Respondent received a complaint from a client and offered compensation directly to the client to settle the complaint, without the prior written consent of the Dealer Member, contrary to the Dealer Member's policies and procedures and Mutual Fund Dealer Rules 2.1.4, 2.1.1, 1.4(b), 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rules 2.1.4, 2.1.1, 1.4(b), 1.1.2 and 2.5.1) and Mutual Fund Dealer Rule 300 and 600 (formerly MFDA Policy No. 3 and 6); and

(c) On or about August 18, 2021 and August 23, 2021, the Respondent processed redemptions in the accounts of a client without obtaining client instructions with respect to all essential elements of the trades, thereby engaging in discretionary trading, contrary to the Dealer Member's policies and procedures and Mutual Fund Dealer Rules 2.1.1, 2.3.1(b), and 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rule 2.1.1, 2.3.1(b), 1.1.2 and 2.5.1).

III. TERMS OF SETTLEMENT

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

(a) The Respondent shall pay a fine in the amount of $25,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b);

(b) The Respondent shall pay costs in the amount of $5,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.2;

(c) The Respondent shall successfully complete an ethics or other industry course acceptable to CIRO Staff within 12 months of the date of acceptance of the Settlement Agreement by the Hearing Panel, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);

(d) the Respondent shall in the future comply with 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b), 300 and 600 (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b) and MFDA Policy No. 3 and 6); and

(e) the Respondent shall attend by videoconference 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

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[4] Staff alleges that, at the time of the misconduct, the Respondent contravened MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b) and MFDA Policy No. 3 and 6, which are now incorporated into Mutual Fund Dealer Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b), 300 and 600, respectively, referred to in this proceeding.

[5] On December 31, 2021, amendments to MFDA Rule 2.2.4 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to that Rule, the version of MFDA Rule 2.2.4 that was in effect between December 3, 2011 and December 31, 2021 is applicable to this proceeding.

[6] On July 7, 2022, amendments to MFDA Rule 1.1.2 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to that Rule, the version of MFDA Rule 1.1.2 that was in effect between on March 9, 2022 is applicable to this proceeding.

¶ 7 Since July 27, 1995, the Respondent has been registered in the securities industry.

¶ 8 Since January 23, 2013, the Respondent has been registered in Ontario as a dealing representative with Investors Group Financial Services Inc., (the "Dealer Member"), a Dealer Member of CIRO (formerly a Member of the MFDA).

¶ 9 At all material times, the Respondent conducted business in the Burlington, Ontario area.

Processing Trades for a Client Who Does Not Reside in Canada

Dealer Member's Policies and Procedures

¶ 10 At all material times, the Dealer Member's policies and procedures with respect to clients who are U.S. residents included the following:

(a) existing clients who have relocated to the U.S. are permitted to maintain their accounts with the Dealer Member;

(b) the transfer of existing assets to a different investment is prohibited; and

(c) new deposits into any investment product sponsored by the Dealer Member are prohibited.

¶ 11 The Dealer Member's policies and procedures also required Approved Persons to:

(d) learn essential facts relative to every client and for every recommendation made or transaction accepted; and

(e) assess KYC information when there is a material change in the client's circumstances.

Tax Free Savings Account Contributions

¶ 12 On or about October 15, 2013, client XX, who at the time was a resident of Ontario, opened a tax-free savings account (the "TFSA") at the Dealer Member. The Respondent processed the opening of the TFSA, and was the Approved Person responsible for servicing the account.

¶ 13 The Respondent facilitated contributions to Client XX's TFSA (collectively, the "TFSA Contributions") as follows:

(a) $21,000 on June 24, 2015;

(b) $5,500 on February 16, 2017; and

(c) $11,500 on March 8, 2019 (the "2019 TFSA Contribution").

¶ 14 Throughout the period that client XX made the TFSA Contributions, client XX resided in Singapore or the U.S.

¶ 15 At the time the Respondent processed the 2019 TFSA Contribution, client XX was a resident of the U.S. Pursuant to the Dealer Member's policies and procedures, accepting any new deposits into any investment product sponsored by the Dealer Member was prohibited.

¶ 16 Prior to processing the 2019 TFSA Contribution, the Respondent knew or ought to have known that client XX was not a resident of Canada.

¶ 17 The Respondent did not take steps to confirm or update client XX's residency status or update the client XX's residential address.

¶ 18 The Respondent proceeded to process the 2019 TFSA Contribution when he knew or ought to have known that the transaction was contrary to the Dealer Member's policies and procedures, and that client XX would be subject to Canada Revenue Agency ("CRA") penalties for TFSA contributions made while client XX was a non-resident.

¶ 19 As a result of the Respondent's actions, the Dealer Member did not have an accurate record of the client's residential address, and consequently, the Dealer Member was not able to supervise the investment services that the Respondent was permitted to provide to a non-resident client. The Dealer Member was also

not able to consider the implications of the client's change in residency would have on the tax treatment applicable to the client's investment holdings with the Dealer Member.

¶ 20 In addition, the Respondent did not take steps to confirm client XX's TFSA contribution room prior to facilitating the 2019 TFSA Contribution, which resulted in client XX exceeding the contribution amount permitted in the TFSA.

¶ 21 On July 20, 2021, the CRA issued a TFSA Notice of Assessment reflecting approximately $24,533 in penalties owed by client XX. A portion of these penalties pertained to the 2019 TFSA contribution and the over-contribution to the TFSA.

¶ 22 The Dealer Member compensated client XX for the penalties that the client paid to the CRA.

Rebalancing of Accounts

¶ 23 In addition, while client XX was a non-resident of Canada, the Respondent rebalanced (switches or sell/purchase trades) the investments in client XX's TFSA, non-registered account, Locked-In Retirement Account (the "LIRA"), and Registered Savings Plan Account (the "RSP") at the Dealer Member on or about the following dates:

Non-Registered Account	TFSA	LIRA	RSP
March 6, 2019	March 6, 2019	March 6, 2019	March 6, 2019
March 24, 2020	January 24, 2020	January 24, 2020	January 24, 2020
April 20, 2020	February 28, 2020	January 24, 2020	February 28, 2020
May 14, 2020	April 20, 2020	April 20, 2020	April 20, 2020
	May 14, 2020	April 22, 2020	May 14, 2020
	June 15, 2020	May 14, 2020	June 15, 2020
	June 29, 2020	June 29, 2020	June 29, 2020

¶ 24 At the time when the Respondent processed the transactions set out in the above chart, client XX was a resident of the U.S.

¶ 25 Prior to processing these transactions, the Respondent knew or ought to have known that client XX was not a resident of Canada.

¶ 26 As set out above, the Dealer Member's policies and procedures prohibited the transfer of existing assets to a different investment. As a result, the rebalancing of client XX's accounts as set out in the chart above while client XX was a U.S. resident were prohibited by the policies and procedures of the Dealer Member.

¶ 27 There is no evidence of any financial harm arising from these rebalancing transactions.

The Respondent's Failure to Report a Complaint and Offering Compensation Directly to the Client

¶ 28 At all material times, the Dealer Member's policies and procedures required Approved Persons to report to its compliance department any verbal or written client complaint alleging misconduct or inappropriate sales practices within two business days of receipt of the complaint.

¶ 29 On or about August 3, 2021, client XX informed the Respondent of the CRA notice received by client XX described above at paragraph 21, and by no later than August 5, 2021, client XX complained to the Respondent that the Respondent was responsible for client XX's prohibited contribution to the TFSA while client XX was a non-resident.

¶ 30 The Respondent failed to report client XX's complaint to the Dealer Member within two business days or at all.

¶ 31 Instead, on August 8, 2021, the Respondent offered to pay a substantial part of any penalties that client XX had incurred as a consequence of the prohibited TFSA Contributions.

¶ 32 On August 17, 2021, without the knowledge or prior written consent of the Dealer Member, the

Respondent provided a $10,000 cheque to client XX, along with a note stating the cheque represented "a rebate of the majority of advisory fees that [client XX] had paid over the past years."

¶ 33 Client XX declined to deposit the $10,000 cheque.

¶ 34 Client XX then instructed the Respondent to redeem investments from client XX's accounts at the Dealer Member and used the proceeds from those redemptions to pay the taxes and penalties that client XX owed to CRA.

¶ 35 On August 30, 2021, client XX complained to the Dealer Member and advised it of the CRA notice and the penalties that client XX had by then paid to the CRA and that the Respondent offered client XX the payment described above.

¶ 36 As described above, the Dealer Member reimbursed client XX for the penalties that client XX paid to the CRA.

Discretionary Trading

¶ 37 At all material times, the Dealer Member prohibited Approved Persons from executing any discretionary transactions or trades in any client accounts.

¶ 38 On August 10, 2021, client XX instructed the Respondent to redeem $25,000 from client XX's non-registered account in order to pay the penalty that had been assessed by the CRA as described above.

¶ 39 On August 18, 2021, the Respondent redeemed $25,000 from client XX's non-registered account without obtaining instructions from client XX regarding which mutual funds to redeem. The Respondent exercised the Respondent's discretion to determine which mutual funds to redeem on behalf of client XX.

¶ 40 In addition, on August 19, 2021, client XX asked the Respondent to redeem $160,000 in order to use the proceeds to pay a down payment on a property that client XX intended to purchase.

¶ 41 On August 23, 2021, the Respondent processed a redemption totaling $92,113 from client XX's non-registered account, and a total of $67,294 from client XX's TFSA.

¶ 42 The Respondent exercised discretion to determine which mutual funds to redeem on behalf of client XX and the accounts at the Dealer Member from which to process the redemptions. Prior to processing these redemption transactions, the Respondent failed to disclose to client XX that client XX would incur deferred sales charges as result of the redemptions totaling $544. The Dealer Member has reimbursed client XX for the deferred sales charges.

Dealer Member's Investigation

¶ 43 On August 30, 2021, Dealer Member became aware of the misconduct described above when client XX complained to the Dealer Member.

¶ 44 On September 7, 2021, client XX's accounts were assigned to another Approved Person to service.

¶ 45 On December 2, 2021, the Dealer Member issued a warning letter to the Respondent with respect to the conduct described above.

Additional Factors

¶ 46 The fine agreed to in this Settlement Agreement is greater than the compensation received by the Respondent for the transactions described above.

¶ 47 The Respondent has not previously been the subject of disciplinary proceedings by the MFDA or CIRO.

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

V. ADDITIONAL TERMS OF SETTLEMENT

¶ 49 This settlement is agreed upon in accordance with Mutual Fund Dealer Rule 7.4.4 and Rules 14 and 15 of the Mutual Fund Dealer 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. Settlement Hearings are typically held in the absence of the public pursuant to Mutual Fund Dealer Rule 7.3.5 and Rule 15.2(2) of the Mutual Fund Dealer 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 agreed, 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 Mutual Fund Dealer Rules of Procedure;

(b) the Respondent agrees to waive any rights to a full hearing, a review hearing or appeal, including before the Board of Directors of CIRO 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 Mutual Fund Dealer Rules against the Respondent in respect of the contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any 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 Mutual Fund Dealer Rule 7.4.1.1 for the purpose of giving notice to the public thereof in accordance with Mutual Fund Dealer Rule 7.4.5; 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 Mutual Fund Dealer Rule 7.4.3 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 Mutual Fund Dealer Rules 7.3 and 7.4, 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 29 day of November, 2023.

"Norman Shogilev"
Norman Shogilev

MR
Witness - Signature

"MR"
Witness - Print name

"Charles Toth"
Staff of CIRO
Per: Charles Toth
Canadian Investment Regulatory Organization, Vice-President, Enforcement (Mutual Fund Dealers)

Schedule "A'

Order

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Norman Shogilev

ORDER

WHEREAS on [date], the Canadian Investment Regulatory Organization ("CIRO") issued a Notice of Settlement Hearing pursuant to Mutual Fund Dealer Rule 7.4.4 in respect of a disciplinary proceeding against Norman Shogilev (the "Respondent");

AND WHEREAS based upon the admissions of the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that:

(a) Between March 2019 and May 2020, the Respondent failed to update a client's residential address when the Respondent knew or ought to have known the client was no longer a resident of Canada, and processed transactions in the non-resident client's accounts, contrary to the policies and procedures of the Dealer Member and Mutual Fund Dealer Rules 2.2.1, 2.2.4[7] 2.1.1 and 1.1.2[8] (as it relates to 2.5.1) (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, and 2.5.1);

(b) Between about August 5, 2021 and August 17, 2021, the Respondent failed to report to the Dealer

[7] On December 31, 2021, amendments to MFDA Rule 2.2.4 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to that Rule, the version of MFDA Rule 2.2.4 that was in effect between December 3, 2011 and December 31, 2021 is applicable to this proceeding.

[8] On July 7, 2022, amendments to MFDA Rule 1.1.2 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to that Rule, the version of MFDA Rule 1.1.2 that was in effect between on March 9, 2022 is applicable to this proceeding.

Member that the Respondent received a complaint from a client and offered compensation directly to the client to settle the client's complaint, without the prior written consent of the Dealer Member, contrary to the Dealer Member's policies and procedures and Mutual Fund Dealer Rules 2.1.4, 2.1.1, 1.4(b), 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rules 2.1.4, 2.1.1, 1.4(b), 1.1.2 and 2.5.1) and Mutual Fund Dealer Rule 300 and 600 (formerly MFDA Policy No. 3 and 6); and

(c) On or about August 18, 2021 and August 23, 2021, the Respondent processed redemptions in the accounts of a client without obtaining client instructions with respect to all essential elements of the trades, thereby engaging in discretionary trading, contrary to the Dealer Member's policies and procedures and Mutual Fund Dealer Rules 2.1.1, 2.3.1(b), and 1.1.2 (as it relates to 2.5.1) (formerly MFDA Rule 2.1.1, 2.3.1(b), 1.1.2 and 2.5.1).

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 $25,000 in certified funds upon acceptance of the Settlement Agreement, 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 upon acceptance of the Settlement Agreement, pursuant to Mutual Fund Dealer Rule 7.4.2;

¶ 3 The Respondent shall successfully complete an ethics or other industry course acceptable to CIRO Staff within 12 months of the date of acceptance of the Settlement Agreement by the Hearing Panel, pursuant to Mutual Fund Dealer Rule 7.4.1.1(f);

¶ 4 The Respondent shall in the future comply with 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b), 300 and 600 (formerly MFDA Rules 2.2.1, 2.2.4, 2.1.1, 1.1.2, 2.5.1, 2.1.4, 1.4(b), 2.3.1(b) and MFDA Policy No. 3 and 6); and

¶ 5 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, requests production of or access to exhibits in this proceeding that contain personal information as defined by CIRO's Privacy Policy, then the Corporate Secretary's Office, Mutual Fund Dealer Division of CIRO shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all intimate financial and personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

DATED this [day] day of [month], 202[ ].

Name,

Chair

Name,

Industry Representative

Name,

Industry Representative

[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 that is called the Canadian Investment Regulatory Organization (referred to herein as "CIRO") and is recognized under applicable securities legislation. CIRO 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. Pursuant to Mutual Fund Dealer Rule 1A and s. 14.6 of By-law No. 1 of CIRO, contraventions of former MFDA regulatory requirements may be enforced by CIRO.