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: William Morris Adams

Heard: March 9, 2015, in Toronto, Ontario
Reasons for Decision: March 18, 2015

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Mark J. Sandler	Chair
Nick Pallotta	Industry Representative
Selwyn Kossuth	Industry Representative

Appearances:

H.C. Clement Wai	)	For the Mutual Fund Dealers Association of Canada
Alan P. Gardner	)	For the Respondent

INTRODUCTION

1. A Settlement Agreement was entered into between Staff of the MFDA ("Staff") and William Morris Adams, (the "Respondent"). On March 9, 2015, after we heard submissions from the parties *in camera*, we approved the Settlement Agreement. As a result, the proceedings, including our Order became public. Our written reasons for approving the Settlement Agreement follow.

AGREED FACTS

Registration History

2. Between October 24, 2008 and December 5, 2008, the Respondent was registered in Ontario as a mutual fund salesperson with W.H. Stuart Mutuals Ltd. ("W.H. Stuart"), a Member of the MFDA. From August 24, 2007 to October 15, 2008, the respondent was registered in Ontario as a mutual fund salesperson with Monarch Wealth Corporation ("Monarch"), a Member of the MFDA. The Respondent had been registered as a mutual fund salesperson since 1997. The Respondent is currently not registered in the securities industry in any capacity.

3. At all material times, the Respondent worked out of a branch office located in Ottawa, Ontario.

Background

4. In or around November 2006, Desjardins Financial Security Investments Inc. ("Desjardins") conducted a review of its York Mills Branch. The branch review revealed, among other things, that Approved Persons at the York Mills Branch, including but not limited to Michelle Crompton and William Henderson, were engaged in outside business activities and selling products that were not known to or approved by Desjardins. In particular, the Approved Persons at the York Mills Branch were involved in a company called Canada Mortgage &

Lending Corp ("CMLC") and a leveraged investment strategy called "Debt Free…For Life". The audit revealed that Brad Crompton was the President of CMLC.

5. In or around May 2007, as a result of the branch review, Michelle Crompton and William Henderson, along with the other Approved Persons at the York Mills Branch, resigned from Desjardins and transferred their registration to Monarch.

6. While registered with Monarch, the York Mills Branch operated under the trade name of Canada Mortgage & Lending Corp. The "CMLC" trade name was approved by Monarch to be used in conjunction with the business of Monarch.

7. In or around August 2007, CMLC opened a branch in Ottawa. The Respondent was hired by CMLC as the Regional Sales Manager for the CMLC branch in Ottawa. At the time, the Respondent was registered as a mutual fund salesperson with Monarch.

8. Commencing in or around November 2008, Monarch received a number of complaints from clients pertaining to a leveraged investment strategy which the clients associated with CMLC.

9. Monarch investigated the complaints and found, among other things, that unregistered individuals were servicing client accounts and that the clients' net worth and/or incomes had been inflated on investment loan applications that had been used to implement leveraged investment strategies in the accounts of the clients.

CMLC and Debt Free...For Life

10. CMLC promoted through newspaper ads and other media a leveraged investment strategy called "Debt Free…For Life" (the "Leveraged Investment Strategy"). The Leveraged Investment Strategy was not known to or approved by Monarch. (Monarch was aware that clients of CMLC were implementing leveraged investment strategies in their accounts but was not aware of the

promotion or branding of those leveraged investments to clients as part of the "Debt Free…for Life" program.)

11. Individuals answering the ads would receive an information package through the mail from CMLC entitled "Special Report". The Special Report contained information regarding a program (the Leveraged Investment Strategy) that purported to, among other things, consolidate the clients' debt while increasing their cash flow and reducing their taxes.

12. CMLC would contact the individuals to set up meetings with CMLC representatives to discuss the Leveraged Investment Strategy.

13. The Leveraged Investment Strategy included recommendations that interested individuals become clients of Monarch, obtain investment loans or refinance the equity in their homes, and then use the borrowed monies to purchase mutual funds for their accounts and, for certain clients, a universal life insurance policy as well.

14. CMLC represented to the clients that the monthly distributions from the mutual funds they invested in would be sufficient to cover the payments on their investment loans, the premiums on life insurance policies and/or provide extra income.

New Account Opening Documents

15. As stated earlier, effective October 24, 2008, the Respondent's registration as a mutual fund salesperson was transferred from Monarch to W.H. Stuart.

16. Following the Respondent's registration at W.H. Stuart, the Chief Compliance Officer ("CCO") of W.H. Stuart contacted eight clients who had transferred their accounts from Monarch to W.H. Stuart to welcome the clients to the firm. The Respondent was the mutual fund salesperson assigned to the clients' accounts. The CCO was advised by some of the clients that they had never met the Respondent. The clients identified Michelle Crompton, Brad

Crompton and a non-registered individual employed by CMLC as the individuals with whom they had dealt.

17. On December 5, 2008, the CCO of W.H. Stuart sent an email to the Respondent informing him that he had contacted several of the Respondent's clients to welcome them to W.H. Stuart and in doing so, discovered that several of the clients had never met with the Respondent even though the Respondent had signed their new account opening documents at W.H. Stuart as the mutual funds salesperson assigned to their accounts.

18. On December 5, 2008, after taking directions from his superiors Michelle Crompton and Brad Crompton, the Respondent responded by email to the CCO claiming that some clients had completed their own KYC information, and that with respect to other clients the Respondent had either met with them directly to complete the documentation or had reviewed the documentation with the clients over the telephone. This statement was false in that the Respondent had not in fact met or spoken with every client.

19. On December 5, 2008, W.H. Stuart terminated the Respondent alleging that such termination was with cause for "allowing non-approved personnel to facilitate the completion of Account Opening documents".

20. On December 10, 2008, W.H. Stuart filed a report through the MFDA's Member Events Tracking System ("METS") in accordance with MFDA Policy No. 6 advising that the Respondent had been terminated with cause effective December 5, 2008 and explaining why.

21. On August 24, 2010, the Respondent attended an interview with Staff of the MFDA and admitted that during the period October 2008 to December 2008 he had not in fact met with a total of 16 clients that had completed W.H. Stuart new account applications which he had signed as the mutual fund salesperson assigned to their accounts. He also admitted that he had not spoken with at least 12 of those 16 clients.

22. By engaging in the conduct described above, the Respondent signed new account opening documents for at least 12 clients without meeting with the clients and performing the necessary due diligence to learn the essential facts relative to the clients.

Suitability of Leveraged Investment Strategy

23. Between March 2007 and August 2008, the Respondent met with at least 15 clients to discuss the Leveraged Investment Strategy with them. The Respondent recommended that they obtain investment loans and use the borrowed monies to purchase mutual funds for their accounts.

24. The Respondent prepared a CMLC Financial Planning Division Fact Finder ("Fact Finder") for each client that contained the clients' KYC information.

25. The Respondent also prepared and had the clients' sign in blank the following documents:

(a) Monarch new account opening documents in which the clients' KYC information was left blank (i.e. was not populated on the document); and

(b) investment loan applications in which the clients' information, the loan amount and the specific mutual fund(s) to be purchased with the proceeds of the investment loans were all left blank.

26. The Respondent signed the clients' Fact Finder, Monarch new account opening documents and the investment loan applications and sent them to CMLC's "Underwriting Department" located in the York Mills Branch in Toronto. The Underwriting Department would then populate the KYC information in the Monarch new account opening documents as well as the client information, loan amount and the specific mutual fund(s) to be purchased on the investment loan applications. According to the Respondent, he did not realize that the Underwriting Department populated the new account opening documents with false, incorrect or

misleading client information designed to ensure the documentation would pass supervisory review by Monarch and would meet any criteria for the investment loans imposed by the lenders.

27. The Underwriting Department sent the completed Monarch new account opening documents and the investment loan applications directly from the York Mills Branch to Monarch for processing (i.e. they did not return the documents to the Respondent for his review and approval prior to the documents being submitted to Monarch). Neither Monarch, the Respondent nor the lender received the copy of the Fact Finder document which the Respondent completed with the clients and which contained the clients' correct KYC information.

28. Relying unwittingly on the new account opening documents and the investment loan applications which had been populated by the Underwriting Department with false, misleading or incorrect information, Monarch opened accounts for the clients and processed the investment loan applications with the lenders. Thereafter, Adams implemented the Leveraged Investment Strategy in the clients' accounts.

29. On August 24, 2010, the Respondent attended an interview with Staff and stated that he was under strict instructions from Brad Crompton and Michelle Crompton to have the Monarch NAAF's and investment loan applications signed by the clients in blank and to then submit the documents, along with the Fact Finder, to the CMLC Underwriting Department at the York Mills Branch in Toronto. The Respondent stated that he was told by Brad Crompton that the Monarch NAAF's and investment loan applications would be completed using the information from the Fact Finder which the Respondent had completed with the clients.

30. At all material times, the Respondent ought reasonably to have known that the Underwriting Department was completing the Monarch new account opening documents and the investment loan applications with client information that was false, misleading or incorrect. However, the Respondent was not given access to the completed client documents, which were kept only in the York Mills Branch in Toronto in accordance with the instructions of Brad Crompton.

ANALYSIS

31. Based on the agreed upon facts, we find the following contraventions:

(a) Between October 2008 and December 2008, the Respondent signed new account opening documents as the mutual fund salesperson responsible for the accounts of at least 12 clients, without having ever met with the clients, thereby failing to perform the necessary due diligence to learn the essential facts relative to the clients and failing to observe high standards of ethics and practice in the conduct of business, contrary to MFDA Rules 2.2.1 and 2.1.1; and

(b) Between March 2007 and August 2008, the Respondent obtained blank, pre-signed new account opening forms and investment loan applications from at least 13 clients, which he forwarded to a third party to complete and submit to the Member in order to open accounts for the clients and implement a leveraged investment strategy in the accounts, and in so doing:

i. facilitated an arrangement whereby the third party populated the new account opening documents and investment loan applications with client information which was false, incorrect or misleading, thereby failing to observe high standards of ethics and conduct in the transaction of business and engaging in conduct unbecoming an Approved Person, contrary to MFDA Rule 2.1.1; and

ii. failed to ensure that the leveraged investment strategy was suitable for the clients and in keeping with the clients' investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1.

32. The parties agreed to the following terms of settlement:

(a) The Respondent shall pay a fine in the amount of $17,500, pursuant to section 24.1(b) of MFDA By-law No. 1, upon the acceptance of the Settlement Agreement;

(b) The Respondent shall successfully complete an industry compliance course acceptable to the MFDA within six (6) months of the date that the Settlement Agreement is accepted by the Hearing Panel, pursuant to section 24.1.1(f) of By-law No. 1;

(c) The Respondent shall pay the costs of this proceeding in the amount of $7,500, pursuant to section 24.2 of MFDA By-law No. 1, upon the acceptance of the Settlement Agreement;

(d) The Respondent will appear and give truthful testimony at a hearing commenced by the MFDA against any person or entity in relation to any of the facts or allegations referred to in the Settlement Agreement, if requested by Staff;

(e) The Respondent shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations; and

(f) The Respondent will attend in person, on the date set for the Settlement Hearing.

33. A hearing panel should not interfere lightly in a negotiated settlement. More specifically, it should not reject a Settlement Agreement unless it views the proposed disposition as clearly falling outside the range of reasonableness. We are satisfied that the Settlement Agreement here advances the public interest, and is reasonable and proportionate having regard to the very particular circumstances.

34. The contraventions are very serious. Among other things, they facilitated the placement of clients in unsuitable investments, in the absence of appropriate due diligence and regulatory oversight by the Member. This exposed the clients to significant risk of loss. Given the

disposition here, it was unnecessary for the parties to quantify the actual losses suffered by the clients.

35. The seriousness of these contraventions would ordinarily attract a very different penalty than the one proposed by the parties. After all, dishonesty, including the falsification of documents, figured prominently in how the clients' investments were dealt with. However, it was not the Respondent who inserted false client data into the documents. The falsified documents were never returned to him. Staff accepts that he was told (and believed, albeit unwisely) that the documentation would be completed using the actual information from the Fact Finder which he had completed with the clients. On more than one occasion, he challenged his superiors respecting the use of the Fact Finder, and the submission of incomplete documentation, but was instructed in no uncertain terms to proceed in that way. He cooperated fully with Staff, and provided information that assisted in the overall investigation. He was prepared to testify truthfully at the hearing of other Respondents. Staff regarded his cooperation as valuable. He was a salaried employee, with a limited bonus arrangement. He received no trailer fees or other commissions. He has no prior discipline record, and is not currently working in the mutual fund industry. He acknowledged his misconduct early in the disciplinary process.

36. None of these points excuse the Respondent or immunize him from the findings of misconduct we have made. Although he was unaware at the material time of the most damning components of the scheme engaged in by others, he was aware at the time that his conduct contravened the Rules, and he should have known that his conduct was likely facilitating dishonesty by others. Nonetheless, there are a number of mitigating circumstances already outlined that commend the proposed disposition to us. As well, although a term of supervision might ordinarily be advisable in like circumstances, we are satisfied (as is the MFDA) that such a term is not required here, having regard to the lessons already learned by the Respondent, the educational component of the proposed disposition, and the fact that he is working closely with a compliance officer in a related industry.

ORDER

37. For these reasons, we have approved the Settlement Agreement and signed an Order to that effect.

38. We are grateful to both counsel for their assistance.

DATED this 18th day of March, 2015.

"Mark J. Sandler"

Mark J. Sandler
Chair

"Nick Pallotta"

Nick Pallotta
Industry Representative

"Selwyn Kossuth"

Selwyn Kossuth
Industry Representative

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