



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: Colin Michael Corner, Heather Darlene Halladay, Richard Gerald
Moore and James Edward Rainbird**

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing dated October 21, 2008, the Mutual Fund Dealers Association of Canada (the “MFDA”) announced that it proposed to hold a hearing concerning a disciplinary proceeding commenced by the MFDA against Colin Michael Corner, Heather Darlene Halladay, Richard Gerald Moore and James Edward Rainbird (collectively the “Respondents”). Staff of the MFDA (“Staff”) and counsel for the Respondents propose to make a request to the hearing panel of the MFDA Central Regional Council (the “Hearing Panel”) to consider whether, pursuant to section 24.4 of By-law No. 1, the Hearing Panel should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff and the Respondents.

II. JOINT SETTLEMENT RECOMMENDATION

2. Staff conducted an investigation of the Respondents’ activities. The investigation disclosed that the Respondents had engaged in activity for which the Respondents 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 Respondents recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondents agree to the settlement on the basis of the facts set out in Part IV herein and consent to the making of an Order in the form attached as Schedule "A".

4. Staff and the Respondents 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. ACKNOWLEDGEMENT

5. Staff and the Respondents 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 Respondents 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. Colin Michael Corner ("Corner") was registered in Ontario as a mutual fund salesperson with Farm Mutual Financial Services Inc. ("Farm Mutual") from January 12, 1998 to July 16, 2008. Between March 10, 1998 and December 31, 2006, Corner was also registered as a co-branch manager of a Farm Mutual branch office located in Cambridge, Ontario. Thereafter, until July 16, 2008 Corner was registered only as a salesperson at the Cambridge branch. Corner was first registered as a mutual fund

salesperson in Ontario in 1986. On August 26, 2008, Corner became registered as a mutual fund salesperson with IPC Investment Corporation, a Member of the MFDA.

7. Heather Darlene Halladay (“Halladay”) was registered in Ontario as a mutual fund salesperson with Farm Mutual from May 24, 2000 to August 14, 2008. Between May 24, 2000 and August 14, 2008, Halladay was also registered as the branch manager of a Farm Mutual branch office located in Brockville, Ontario. Halladay was first registered as a mutual fund salesperson in Ontario in 1994. On October 6, 2008, Halladay became registered as a registered representative of Scotia Capital Inc., a member of the Investment Industry Regulatory Organization of Canada.

8. Richard Gerald Moore (“Moore”) was registered in Ontario as a mutual fund salesperson with Farm Mutual from June 18, 1999 until August 13, 2007. Between July 5, 1999 and July 26, 2007, Moore was also registered as the branch manager of a Farm Mutual branch office located in Newmarket, Ontario. Moore was first registered as a mutual fund salesperson in Ontario in 1990. From October 24, 2007 until February 3, 2009, Moore was registered as a mutual fund salesperson with Interglobe Financial Services Corp., a Member of the MFDA. Moore was not registered in the securities industry in any capacity as of September 9, 2009.

9. James Edward Rainbird (“Rainbird”) was registered in Ontario as a mutual fund salesperson with Farm Mutual from August 17, 1998 until August 24, 2007. Between August 17, 1998 and August 24, 2007, Rainbird was also registered as the branch manager of a Farm Mutual branch office located in Chatham, Ontario. Rainbird was first registered as a mutual fund salesperson in Ontario in 1991. Rainbird was a director and an officer of an issuing corporation under the Ontario Securities Act as of October 20, 2008, but otherwise was not registered in the securities industry in any capacity as of that date.

10. Farm Mutual became registered in Ontario as a mutual fund dealer on July 2, 1997 and as a limited market dealer on July 7, 1999. Farm Mutual became a Member of

the MFDA on May 10, 2002 and on August 6, 2008 notified the MFDA of its intention to resign from the MFDA. On August 7, 2008, Farm Mutual filed an assignment in bankruptcy under section 49.1 of the *Bankruptcy and Insolvency Act* (Canada).

Background

11. FactorCorp Financial Inc. (“FactorCorp”) held itself out as being in the business of extending credit to companies which purchased accounts receivable from other companies at a discount and then attempted to collect the accounts in full.

12. On June 25, 2003, and again on December 18, 2003, Farm Mutual entered into a distribution agreement with FactorCorp pursuant to which Farm Mutual agreed to promote and distribute debentures issued by FactorCorp (the “Debentures”) to Farm Mutual clients through its Approved Persons.

13. The Debentures offered investors a fixed rate of interest of 6%, 7% or 8% based on one-, two- or three-year terms, respectively.

14. The Debentures were offered to investors in Ontario in reliance on the “accredited investor” exemption set out in section 2.3 of Ontario Securities Commission Rule 45-501 and subsequently National Instrument 45-106.¹

15. In June 2003, Farm Mutual permitted Approved Persons at Rainbird’s branch office to sell the Debentures. In October 2003, Farm Mutual approved the Debentures for sale by Approved Persons at all of its branch offices.

16. In September 2003, Farm Mutual's Manager of Compliance & Auditing had distributed materials to Farm Mutual's branch managers describing the Debentures as

¹ In September 2005, National Instrument 45-106 came into force. Many of the prospectus and registration exemptions previously available under OSC Rule 45-501 were incorporated into NI 45-106. The accredited investor” exemption was amended to a limited extent, however the amendments do not affect the allegations against the Respondents in this proceeding.

"highly-secured" and stating that the Debenture funds were "at significantly less risk than typical investments in the equity markets". In October and November 2003, Farm Mutual's President sent emails to the branch managers updating them on Farm Mutual's due diligence review of FactorCorp, stating that Farm Mutual's legal counsel had assessed the Debentures, and describing them as "an outstanding investment opportunity."

17. On November 5, 2003, Farm Mutual's Manager of Compliance & Auditing began approving advertisements describing the Debentures as "fully secured", with "guaranteed rates" and "no market correlation or volatility". Subsequently, from November 2003 through July 2005, Farm Mutual's Manager of Compliance & Auditing approved at least 8 additional similar advertisements, including advertisements describing the Debentures as "secured", as combining attractive growth "with reduced risk versus equity investments", and as "a better alternative to GICs."

18. Based on the aforementioned materials, emails and approved advertisements, the Respondents concluded that Farm Mutual had rated the Debentures as either a low or medium-low risk product.

19. On November 11, 2003, Farm Mutual's Manager of Compliance & Auditing sent an email message to all Farm Mutual branches, the purpose of which was, among other things, to clarify the definition of "accredited investor" in OSC Rule 45-501. This email was not sent directly to all branch managers, however, and one of the Respondents (Moore) never received it.

20. In the same email message, the Manager of Compliance & Auditing stated the following:

"Please make sure that any training that is provided to your sales associates stress the proper definition of an accredited investor under OSC Rule 45-501. Any misinterpretation of this rule/definition could result in a non-compliant sales of an exempt product to our clients and leave the

agent, the branch and FMFS the dealer exposed to large financial losses and also put our licensing under review. All exempt products fall in a high risk category as they require more than the basic knowledge for selling mutual funds. There must be a clear understanding by the sales associate of what they are selling and extra due diligence in supervision by the branch manager in reviewing and approving, first of all the account set up for the investor based on the KYC information and secondly the sale of the product supported by the information obtained by the associate from the investor.”

The Respondents state that they read this email as a caution, first, that the sale of any exempt product, including the Debentures, carried significant risk for Farm Mutual if proper procedures for exempt product sales were not followed; and second, that extra due diligence was required by branch managers in the supervision of the sale of such products. The said Respondents state that they did not read it as a statement that the Debentures were high risk securities suitable only for investors with a high risk tolerance, since such an interpretation of the email was inconsistent with statements contained in the aforementioned emails, materials and advertising approvals distributed by Farm Mutual.

21. Between June 25, 2003 and April 1, 2007, 35 Approved Persons of Farm Mutual sold approximately \$52 million of the Debentures to approximately 680 Farm Mutual clients.

22. Of that amount, the Respondents either sold, or were responsible for the supervision of Approved Persons who sold, approximately \$43.5 million of the Debentures to 585 Farm Mutual clients, representing 86% of the Farm Mutual clients who bought the Debentures.

23. At the time the Debentures were sold, Farm Mutual clients were asked to complete a Farm Mutual new account application form, a FactorCorp Subscription Agreement, and a FactorCorp Accredited Investor Status Certificate (collectively, the “Sales Documentation”). In accordance with specific instructions from Farm Mutual, clients were directed to make all cheques payable to FactorCorp.

24. For each sale, the Approved Person provided the Sales Documentation, along with the client's cheque in payment for the Debentures, to the Approved Person's branch manager whose responsibility it was to ensure that the Sales Documentation was complete. In accordance with specific instructions from Farm Mutual, the branch manager then forwarded the Sales Documentation, along with the client's cheque, directly to FactorCorp.

25. In their capacity as branch managers, the Respondents conducted first-tier reviews of these purchases upon receiving the Sale Documentation. In Corner's branch, some of the first-tier reviews were conducted by him and some were conducted by his co-branch manager. All of the Respondents' first-tier reviews included reviews for suitability, however those reviews were based on:

(a) the Respondents' aforementioned belief that Farm Mutual had rated the Debentures as low or medium-low risk; and

(b) the Respondents' specific training, by Farm Mutual, that the portfolios of clients with low risk tolerance or medium risk tolerance could suitably hold some higher risk investments provided the clients' other assets were predominantly low risk. (However, Staff's investigation did not reveal any evidence that the Respondents had used any calculations or methodology to apply a "portfolio" approach to suitability or any documentary evidence in the client files to this effect.)

Further, Farm Mutual's President had instructed the branch managers in November 2003 that the onus lay on investors who purchased the Debentures to determine whether or not they qualified as accredited investors, and accordingly the Respondents did not conduct detailed reviews to determine this. Instead, the Respondents considered the clients' assets as part of their first-tier review, however that review was based on advice from Farm Mutual that assets such as shares in private farm corporations and farm product quotas could be included as securities for purposes of the accredited investor qualification

criteria, and Farm Mutual did not clarify that this advice was incorrect until September 2006.

26. In accordance with specific instructions from Farm Mutual, the Respondents sent the Sales Documentation, including the Know-Your-Client forms (the “KYCs”), to FactorCorp and the Respondents did not forward copies of the Sales Documentation or KYCs to Farm Mutual’s head office, but instead, in accordance with Farm Mutual's specific instructions, the Respondents retained copies of the Sales Documentation and KYCs at the branch offices. At no time did Farm Mutual conduct second-tier suitability reviews of any of the Debentures transactions.

27. On October 31, 2005, the MFDA issued Member Regulation Notice MR-0048 “Know-Your-Product” the purpose of which was to set out Staff’s interpretation and to assist Members and Approved Persons with respect to the approval and sale of investment products. The Notice states, among other things, that “Approved Persons are required to ensure that each order accepted or recommendation made for any account of a client is suitable for the client and in keeping with the client’s investment objectives. Know-your-client requirements are a fundamental part of meeting basic suitability obligations. However, these obligations can only be properly discharged if Approved Persons...also fully understand the products that are being recommended to clients.”

28. FactorCorp suspended redemptions in May 2007. On July 6, 2007, the Ontario Securities Commission issued a temporary cease trade order against FactorCorp Inc. and FactorCorp Financial Inc. (collectively, “FactorCorp”). Conditions of the order included: (i) FactorCorp must engage a monitor to oversee its business, operations and affairs; (ii) no redemptions of the Debentures could be made; and (iii) no further Debentures could be sold. Of the approximately \$52 million invested by the Respondent’s clients in the Debentures, approximately \$49 million remained outstanding and unredeemed at the time of the cease trade order.

29. On August 1, 2007, FactorCorp engaged KPMG Inc. to monitor its business, operations and affairs.

30. On October 17, 2007, KPMG Inc. was appointed as receiver and manager of FactorCorp by the Ontario Superior Court of Justice.

31. On March 25, 2008, by further order of the Court, KPMG Inc. was appointed as trustee in bankruptcy for FactorCorp. A first meeting of creditors was held on April 24, 2008 in London, Ontario.

Suitability and Supervision

Corner

32. Corner sold the Debentures to 15 Farm Mutual clients. Of the 15 clients who purchased the Debentures, the investment was unsuitable for all of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of less than “High” for all 15 clients. In addition, at the time of purchase, 10 of the 15 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

33. Three Approved Persons under Corner’s supervision sold the Debentures to 37 Farm Mutual clients. Of the 37 clients who purchased the Debentures, the purchase was unsuitable for all of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of less than “High” for 35 clients, while no risk tolerance information was collected for two clients. In addition, at the time of purchase, 31 of the 37 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

34. While he was a branch manager, Corner was paid a salary only and he received no additional remuneration due to sales of the Debentures by him or by the Approved Persons in his branch. After Corner ceased being a branch manager, he earned \$2,609.45 in commission from his sales of the Debentures in 2007.

35. Corner has had no disciplinary history throughout his 24 years in the investment industry. He has cooperated fully with Staff in their investigation of this matter.

Halladay

36. Halladay sold the Debentures to 19 Farm Mutual clients. Of the 19 clients who purchased the Debentures, the investment was unsuitable for all of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of less than “High” for 18 clients, while no risk tolerance information was collected for one client. In addition, at the time of purchase, 12 of the 19 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

37. Five Approved Persons under Halladay’s supervision sold the Debentures to 24 Farm Mutual clients. Of the 24 clients who purchased the Debentures, the purchase was unsuitable for all of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of less than “High” for all 24 clients. In addition, at the time of purchase, 21 of the 24 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

38. As a branch manager, Halladay was paid a salary only. She received no additional remuneration due to sales of the Debentures by her or by Approved Persons in her branch.

39. Halladay has had no disciplinary history throughout her 16 years in the investment industry. She has cooperated fully with Staff in their investigation of this matter.

Moore

40. Moore sold the Debentures to 68 Farm Mutual clients. Of the 68 clients who purchased the Debentures, the purchase was unsuitable for 65 of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of “High” for 3 clients, less than “High” for 48 clients, while no risk tolerance information was recorded for 17 clients. In addition, at the time of purchase, 59 of the 68 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

41. Five Approved Persons under Moore’s supervision sold the Debentures to 29 Farm Mutual clients. Of the 29 clients who purchased the Debentures, the purchase was unsuitable for all of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of less than “High” for 27 of the clients, while no risk tolerance information was collected for two clients. In addition, at the time of purchase, 24 of the 29 clients either did not qualify for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

42. As a branch manager, Moore was paid a salary only. He received no additional remuneration due to sales of the Debentures by him or by Approved Persons in his branch.

43. Moore has had no disciplinary history throughout his 19 years in the investment industry. He has cooperated fully with Staff in their investigation of this matter.

Rainbird

44. Rainbird sold the Debentures to 167 Farm Mutual clients. Of the 167 clients who purchased the Debentures, the purchase was unsuitable for 154 of them based on the KYC information collected at the time of purchase. Specifically, the KYC information collected at the time of purchase indicates a risk tolerance of “High” for 13 clients, less than “High” for 143 clients, while no risk tolerance information was recorded for 11 clients. In addition, at the time of purchase, none of the 167 clients qualified for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

45. Seven Approved Persons under Rainbird’s supervision sold the Debentures to 226 Farm Mutual clients. Of the 226 clients who purchased the Debentures, the purchase was unsuitable for 222 of them based on the KYC information collected at the time of purchase. Specifically, the KYC information indicated a risk tolerance of “High” for four clients, less than “High” for 208 of the clients, while no risk tolerance information was collected for 14 clients. In addition, at the time of purchase, none of the 226 clients qualified for the accredited investor exemption or there was insufficient information to determine whether they qualified for the exemption.

46. As a branch manager, Rainbird was paid a salary only. He received no additional remuneration due to sales of the Debentures by him or by Approved Persons in his branch.

47. Rainbird has had no disciplinary history throughout his 19 years in the investment industry. He has cooperated fully with Staff in their investigation of this matter.

V. CONTRAVENTIONS

48. Farm Mutual has been disciplined for deficiencies in its due diligence assessment of FactorCorp debentures, deficiencies in its approval of FactorCorp debentures for sale to clients, and deficiencies in its supervision of such sales, including its failure to conduct second-tier supervisory reviews.² The Respondents' contraventions, as admitted to below, occurred in the context of those deficiencies and, in large part, as a result of those deficiencies.

49. The Respondents admit that between June 25, 2003 and April 1, 2007, the Respondents, in their capacity as Approved Persons of Farm Mutual, conducted sales of exempt securities – specifically FactorCorp debentures – using training and information provided by the Respondents' Member, Farm Mutual, and as a result of deficiencies in that training and deficiencies in that information the Respondents sold FactorCorp debentures to clients who did not qualify as accredited investors in accordance with Ontario Securities Commission Rule 45-501 and subsequently National Instrument 45-106 and to clients whose risk tolerance was less than high, thereby contravening MFDA Rule 2.1.1 (c) and thereby engaging the jurisdiction of the Hearing Panel to impose a penalty on the Respondents pursuant to s. 24.1.1(h) of MFDA By-Law No. 1.

50. The Respondents admit that between June 25, 2003 and April 1, 2007, the Respondents, in their supervisory capacity as branch managers of Farm Mutual, complied with a directive from Farm Mutual to send all FactorCorp debenture sales documentation, including KYCs, directly to FactorCorp and not to Farm Mutual's head office, and in so complying the Respondents failed to discern that Farm Mutual's Compliance department and its senior management were rendering themselves incapable of conducting second-tier reviews necessary for Farm Mutual to properly supervise client accounts, thereby

² Notice of Hearing re: Farm Mutual Financial Services Inc. dated June 2, 2008 and *Farm Mutual Financial Services Inc. (Re)*, [2008] MFDA Hearing Panel of the Central Regional Council, Hearing Panel Decision dated April 24, 2009, File No. 200812.

contravening MFDA Rule 2.5.3 (b) (i) and thereby engaging the jurisdiction of the Hearing Panel to impose a penalty on the Respondents pursuant to s. 24.1.1(h) of MFDA By-Law No. 1.

51. In making these admissions, the Respondents acknowledge that their regulatory obligations as mutual fund salespersons and branch managers were not limited to the training and information they received from Farm Mutual with respect to the risks associated with the FactorCorp debentures but extended to include a knowledge of the essential regulatory framework associated with the sale of exempt securities and an understanding of their Member's capacity to conduct second-tier reviews.

VI. TERMS OF SETTLEMENT

52. The Respondents agree to the following terms of settlement:

Corner

- (a) Corner shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;
- (b) Corner shall be prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or ultimate designated person ("UDP"), for a period of five (5) years, pursuant to section 24.1.1(f) of By-law No. 1;
- (c) If he has not already done so within the last three (3) years, Corner shall successfully complete the IFSE (IFIC) Mutual Fund Dealer Compliance course (the "Course") or alternatively the IFIC Investment Funds in Canada course 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;
- (d) Corner shall successfully complete a three (3) month period of close supervision immediately following the date that the Settlement Agreement

is accepted by the Hearing Panel, pursuant to section 24.1.1(f) of By-law No. 1;

- (e) Corner shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;
- (f) Corner shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including MFDA Rules 2.2.1(a), (b), (c) and (d), 2.1.1(c), 2.5.3(b) and MFDA Policy No. 2;

Halladay

- (g) Halladay shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;
- (h) In the event that Halladay becomes an Approved Person of a MFDA Member, Halladay is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;
- (i) Halladay shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

Moore

- (j) Moore shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;
- (k) In the event that Moore becomes an Approved Person of a MFDA Member, Moore is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years

from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

- (l) In the event that Moore seeks to become an Approved Person of a MFDA Member, Moore shall successfully complete the Course prior to becoming an Approved Person unless he has already done so within the last three (3) years from the date that Moore seeks to become an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;
- (m) In the event that Moore becomes an Approved Person of a MFDA Member, Moore shall successfully complete a six (6) month period of close supervision from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;
- (n) Moore shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

Rainbird

- (o) Rainbird shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;
- (p) In the event that Rainbird becomes an Approved Person of a MFDA Member, Rainbird is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;
- (q) In the event that Rainbird seeks to become an Approved Person of a MFDA Member, Rainbird shall successfully complete the Course prior to becoming an Approved Person unless he has already done so within the last three (3) years from the date that Rainbird seeks to become an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;
- (r) In the event that Rainbird becomes an Approved Person of a MFDA Member, Rainbird shall successfully complete a six (6) month period of

close supervision from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

- (s) Rainbird shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

The Respondents

- (t) the Respondents will attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

53. 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 Respondents in respect of the facts set out in Part IV and 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 facts and contraventions that are not set out in Parts IV and V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and V, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondents from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

54. 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 Respondents.

55. Staff and the Respondents may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondents 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 Respondents in this matter, and the Respondents agree to waive their rights to a full hearing, a review hearing 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.

56. Staff and the Respondents agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondents 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.

57. Staff and the Respondents agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondents will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondents from making full answer and defence to any civil or other proceedings against them.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

58. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondents fail to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under the By-laws of the MFDA against the Respondents 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 Respondents agree 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

59. 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 Respondents 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.

60. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondents agree that they 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.

XI. DISCLOSURE OF AGREEMENT

61. 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 Respondents and Staff or as may be required by law.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

64. A facsimile copy of any signature shall be effective as an original signature.

Dated: June 29, 2010

“Karen Corner”

Witness - Signature

Karen Corner

Witness - Print name

“Flora Morgan”

Witness - Signature

Flora Morgan

Witness - Print name

“April Williams”

Witness - Signature

April Williams

Witness - Print name

“Adina Rainbird”

Witness - Signature

Adina Rainbird

Witness - Print name

“Colin Corner”

Colin Michael Corner

“Heather Halladay”

Heather Darlene Halladay

“Richard Moore”

Richard Gerald Moore

“James Rainbird”

James Edward Rainbird

“Shaun Devlin”

Staff of the MFDA

Per: Shaun Devlin

Vice-President, Enforcement



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Association canadienne des courtiers de fonds mutuels

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**Re: Colin Michael Corner, Heather Darlene Halladay, Richard Gerald
Moore and James Edward Rainbird**

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 By-law No. 1 in respect of Colin Michael Corner, Heather Darlene Halladay, Richard Gerald Moore and James Edward Rainbird (collectively the "Respondents");

AND WHEREAS the Respondents entered into a settlement agreement with Staff of the MFDA, dated [date] (the "Settlement Agreement"), in which the Respondents agreed to a proposed settlement of matters for which the Respondents could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

AND WHEREAS Farm Mutual Financial Services Inc. ("Farm Mutual") has been disciplined for deficiencies in its due diligence assessment of FactorCorp Financial Inc. ("FactorCorp") debentures, deficiencies in its approval of FactorCorp debentures for sale to clients, and deficiencies in its supervision of such sales, including its failure to conduct second-

tier supervisory reviews. The Respondents' contraventions, as admitted to in this proceeding, occurred in the context of those deficiencies and, in large part, as a result of those deficiencies.

AND WHEREAS in making these admissions, the Respondents acknowledge that their regulatory obligations as mutual fund salespersons and branch managers were not limited to the training and information they received from Farm Mutual with respect to the risks associated with the FactorCorp debentures but extended to include a knowledge of the essential regulatory framework associated with the sale of exempt securities and an understanding of their Member's capacity to conduct second-tier reviews.

AND WHEREAS the Hearing Panel is of the opinion that:

- (i) Between June 25, 2003 and April 1, 2007, the Respondents, in their capacity as Approved Persons of Farm Mutual, conducted sales of exempt securities – specifically FactorCorp debentures – using training and information provided by the Respondents' dealer Farm Mutual, and as a result of deficiencies in that training and deficiencies in that information the Respondents sold FactorCorp debentures to clients who did not qualify as accredited investors in accordance with Ontario Securities Commission Rule 45-501 and subsequently National Instrument 45-106 and to clients whose risk tolerance was less than high, thereby contravening MFDA Rule 2.1.1 (c) and thereby engaging the jurisdiction of the Hearing Panel to impose a penalty on the Respondents pursuant to s. 24.1.1(h) of MFDA By-Law No. 1.
- (ii) Between June 25, 2003 and April 1, 2007, the Respondents, in their supervisory capacity as branch managers of Farm Mutual, complied with a directive from Farm Mutual to send all FactorCorp debenture sales documentation, including KYCs, directly to FactorCorp and not to Farm Mutual's head office, and in so complying the Respondents failed to discern that Farm Mutual's Compliance department and its senior management were rendering themselves incapable of conducting second-tier reviews necessary for Farm Mutual to properly supervise client accounts, thereby contravening MFDA Rule 2.5.3 (b) (i) and thereby engaging the jurisdiction of the Hearing Panel to impose a penalty on the Respondents pursuant to s. 24.1.1(h) of MFDA By-Law No. 1.

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

1. If at any time a non-party to this proceeding requests production of or access to exhibits in this proceeding that contain intimate financial or personal information, 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 intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*;

Corner

2. Colin Michael Corner (“Corner”) shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;

3. Corner shall be prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or ultimate designated person (“UDP”), for a period of five (5) years, pursuant to section 24.1.1(f) of By-law No. 1;

4. If he has not already done so within the last three (3) years, Corner shall successfully complete the IFSE (IFIC) Mutual Fund Dealer Compliance course (the “Course”) or alternatively the IFIC Investment Funds in Canada course 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;

5. Corner shall successfully complete a three (3) month period of close supervision immediately following the date that the Settlement Agreement is accepted by the Hearing Panel, pursuant to section 24.1.1(f) of By-law No. 1;

6. Corner shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

7. Corner shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including MFDA Rules 2.2.1(a), (b), (c) and (d), 2.1.1(c), 2.5.3(b) and MFDA Policy No. 2;

Halladay

8. Heather Darlene Halladay (“Halladay”) shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;

9. In the event that Halladay becomes an Approved Person of a MFDA Member, Halladay is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

10. Halladay shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

Moore

11. Richard Gerald Moore (“Moore”) shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;

12. In the event that Moore becomes an Approved Person of a MFDA Member, Moore is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

13. In the event that Moore seeks to become an Approved Person of a MFDA Member, Moore shall successfully complete the Course prior to becoming an Approved Person unless he

has already done so within the last three (3) years from the date that Moore seeks to become an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

14. In the event that Moore becomes an Approved Person of a MFDA Member, Moore shall successfully complete a six (6) month period of close supervision from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

15. Moore shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1;

Rainbird

16. James Edward Rainbird (“Rainbird”) shall be reprimanded, pursuant to section 24.1.1 (a) of By-law No. 1;

17. In the event that Rainbird becomes an Approved Person of a MFDA Member, Rainbird is prohibited from acting in a supervisory capacity including specifically from acting as a branch manager or an alternate branch manager, compliance officer or UDP, for a period of five (5) years from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

18. In the event that Rainbird seeks to become an Approved Person of a MFDA Member, Rainbird shall successfully complete the Course prior to becoming an Approved Person unless he has already done so within the last three (3) years from the date that Rainbird seeks to become an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

19. In the event that Rainbird becomes an Approved Person of a MFDA Member, Rainbird shall successfully complete a six (6) month period of close supervision from the date of commencing to be an Approved Person, pursuant to section 24.1.1(f) of By-law No. 1;

20. Rainbird shall pay costs in the amount of \$5,000, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of By-law No. 1.

DATED this [day] day of [month], 2010.

Per: _____
The Hon. Edward Saunders, Q.C., Chair

Per: _____
Jeanne Beverly, Industry Representative

Per: _____
Linda J. Anderson, Industry Representative

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