



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: Ronald Lyle Bestard

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (“MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to s. 24.4 of MFDA By-law No. 1, a hearing panel of the Central Regional Council of the MFDA (“Hearing Panel”) should accept the settlement agreement entered into between Staff of the MFDA (“Staff”) and the Respondent, Ronald Lyle Bestard (“Settlement Agreement”).

II. JOINT SETTLEMENT RECOMMENDATION

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

4. Staff and the Respondent 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 Respondent 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 Respondent 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 XI) 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. The Respondent has been registered to sell mutual funds in Ontario since 1982.

7. From May 2003 to June 30, 2010, the Respondent was registered in Ontario as a mutual fund salesperson with Independent Planning Group Inc. (“IPG”), a Member of the MFDA. The subject matter of this proceeding occurred while the Respondent was registered with IPG. The Respondent was terminated by IPG when the subject matter of this proceeding came to light.

8. Commencing August 4, 2010, the Respondent was re-registered in Ontario as a mutual fund salesperson with Olympian Financial Inc. (“Olympian”), also a Member of the MFDA, and remains in that capacity with Olympian to date.

9. In light of IPG's grounds for terminating the Respondent, the Ontario Securities Commission ("OSC") approved the Respondent's registration with Olympian subject to the following terms and conditions:

- The Respondent was required to be subject to strict supervision by Olympian for a period of one year;
- Olympian was required to submit monthly written supervision reports to the OSC and the MFDA;
- Each of the Respondent's clients who transferred their accounts from IPG to Olympian were required to be subject to a new KYC process; and
- The Respondent was required to complete the IFSE Mutual Fund Dealers Compliance Course by July 1, 2011.

10. The Respondent satisfied the terms and conditions without incident. The monthly supervision reports submitted by Olympian from August 2010 to August 2011 represented that the Respondent had been fully compliant with regulatory requirements in his sales activities and dealings with clients. On May 28, 2011, the Respondent successfully completed the IFSE Mutual Fund Dealer Compliance Course.

Respondent's Misconduct

11. In April 2010, supervisory staff at IPG identified the following irregularities on two KYC forms for one of the Respondent's clients: i) the client's signatures differed from each other, and ii) the client's signature on one of the forms was spelled incorrectly.

12. IPG made inquiries of the Respondent, and then reviewed the files of approximately half of the Respondent's client list and found further examples of client signature irregularities on KYC forms.

13. As a result of its findings, IPG commenced a supervisory investigation, which included a full review of all of the Respondent's client files for the duration of his registration with IPG (May 2003 to the time of the investigation). During the course of IPG's investigation, IPG imposed the following restrictions on the Respondent:

- He was placed under strict supervision;
- He was restricted from trading electronically; and
- He was restricted to 'read only' access to IPG's back office system.

14. IPG's investigation found numerous instances where the Respondent appeared to have signed a client's signature on a client account document. IPG also found blank pre-signed forms in the Respondent's client files. Although some of the instances of signature irregularities and blank pre-signed forms could be identified as relating to the period from the Respondent's arrival at IPG in 2003 to 2008, the majority of the instances concerned only a small portion of the Respondent's clientele, and related to the period from 2008 to 2010, during which the Respondent was undergoing intensive treatments for, and recovering from, skin cancer.

15. In addition to the Respondent's practices being contrary to MFDA requirements, they also contravened IPG's policies and procedures, as set out in IPG's Policies and Procedures Manual.

16. In May 2010, the Respondent had retained counsel to assist him in meeting his regulatory obligations. On May 6, 2010, IPG had reported its findings electronically to the MFDA using the MFDA's "METS" computerized reporting system, in accordance with its Member reporting obligations. With the assistance of counsel, the Respondent not only cooperated with both IPG and Staff as he was required to do in the normal course as a registrant, but also voluntarily took steps above and beyond those typically taken by a registrant in order to expedite and facilitate the review and investigation of this matter by both IPG and the MFDA. Those steps are described below.

Respondent's Cooperation with the MFDA

17. In May 2010, the Respondent instructed his counsel to contact the MFDA and the OSC and fully disclose any conduct that may have been contrary to the Respondent's regulatory obligations. To that end, on May 26, 2010, Respondent's counsel met in person with MFDA Enforcement Staff to provide information relating to the subject matter of the METS report filed by IPG in respect of the Respondent, and to advise on the current status of the Respondent's

dealings with IPG and the steps the Respondent had already taken and intended to take going forward to assist in the resolution of the matter. Chief amongst these steps was that the Respondent's counsel was going to immediately supervise a second review of the entirety of the Respondent's approximately 395 active client files (in conjunction with the Respondent) for the purpose of attempting to ensure that all instances of signature irregularities on client account documents, blank pre-signed forms and any other client account document irregularities were identified.

18. On May 27, 2010, in order to facilitate the file review, Respondent's counsel arranged a conference call with counsel for IPG and MFDA Enforcement Staff in order to ensure acceptable arrangements were put in place to preserve the integrity of the files during the review.

19. On June 18, 2010, Respondent's counsel provided the results of the review to MFDA Enforcement Staff and to IPG in the form of a written statement ("Statement"), appended to which were copies of all of the client account document irregularities identified during the review, as referenced in the Statement.

20. Following receipt of the Statement and other information furnished by IPG and the Respondent, MFDA Enforcement Staff conducted its own investigation and analysis of the Respondent's activities to verify and test the reliability of the Statement and to determine whether the Respondent had engaged in any other similar misconduct other than that identified by IPG and admitted to by the Respondent.

21. MFDA Enforcement Staff found that the Respondent had, with some minor exceptions, accurately identified, quantified, and evidenced his misconduct in the Statement. MFDA Enforcement Staff did not find evidence of any material instances of the same type of misconduct as acknowledged by the Respondent, nor any instances of any other forms of similar misconduct.

22. As set out in the Statement and found by MFDA Enforcement Staff, the Respondent's misconduct during the period arising from 2008 to 2010 was as follows:

- 15 instances where someone other than the account-holder signed for the client on KYC or NCAF forms (on 6 of the forms, the Respondent signed, and on 9 forms, the Respondent's staff or a relative of the client signed). None of the instances resulted in trades that were inconsistent with the clients' stated investing intentions.
- 7 clients (13 forms) where the Respondent signed a redemption or purchase form for a client. There were no client complaints, the trades were based on clients' instructions, and all redemption proceeds were sent directly to the clients' bank accounts. 7 of the instances were for 2 elderly clients who requested that the Respondent sign for them.
- 4 clients (8 forms) where blank pre-signed forms were obtained and maintained by the Respondent. For 3 of the clients, the forms were not used. For 1 client, the forms were used when she had a broken leg.
- 5 clients (19 forms) where the Respondent 'whited out' details on an old redemption form and re-used the form. 17 of the 19 instances where a form was re-used were for 3 elderly clients, who instructed the Respondent to carry out the trades.

23. The Respondent states that all of instances of misconduct occurred with the clients' consent and that they instructed him to carry out the redemptions and purchases that were processed. Staff's investigation determined that all of the redemption proceeds relating to the transactions in question were made payable to the clients, that there have not been any client complaints to either IPG or the MFDA, nor any evidence that any redemption proceeds were misdirected.

Respondent's Personal Circumstances

24. The Respondent is 63 years old, has five children and has worked in the financial services industry for most of his career. The Respondent works in Peterborough, Ontario where he has resided for the past 30 years.

25. The majority of the Respondent's clients have invested with him for over 10 years, and many have been with him for 20 years or longer.

26. There is no evidence of misappropriation, unauthorized trading, or client harm in this matter, nor are there any client complaints. There is no evidence that the Respondent received

any financial benefit from engaging in the misconduct beyond that to which he would have been ordinarily entitled had the transactions in the clients' accounts been carried out in the proper manner.

27. In 1989, the Respondent was diagnosed with skin cancer, which later resulted in the removal of his ear and tumors on his face in 2007, and extensive, daily radiation treatments in 2009. The Respondent was required to travel to Kingston, Ontario to receive daily radiation treatments. The Respondent's medical issues resulted in him suffering from depression, anxiety, panic attacks, and insomnia for prolonged periods of time, which caused the Respondent considerable mental, emotional and physical stress, and in turn imposed considerable stress on his family and business.

28. The Respondent's health has improved and he continues to attend for follow-up medical appointments.

29. The Respondent states that his medical condition and attendant significant physical, mental and emotional illness at the time clouded his thinking and judgment and allowed him to rationalize cutting corners with respect to compliance matters.

30. In addition to the role played by his health issues, the Respondent states that the following factors contributed to his misconduct:

- His belief that he was providing better and faster service to his clients by not 'bothering' them to sign the client account forms;
- The fact that he was admittedly not up to date with, and did not appreciate the importance of, an Approved Person's obligations under the current regulatory regime, as the system had changed and evolved significantly since he started in the mutual fund business over 30 years ago; and
- The fact that he perceived himself as isolated in running his business alone, notwithstanding his employment relationship with and supervision by IPG.

31. As referred to above, IPG conducted a reasonable supervisory investigation of the Respondent's activities after it identified the initial signature irregularities. The Respondent has paid approximately \$13,000 to IPG for the investigation and other fees that were incurred by

IPG, which IPG “clawed back” from the Respondent’s trailer fees and commissions, in accordance with the terms of his advisor agreement with IPG.

32. In addition, the Respondent has incurred his own substantial legal fees in relation to the file review undertaken by his own counsel. The Respondent’s mutual fund sales practice was also disrupted for a period of approximately three months (May to July 2010), while IPG undertook its investigation and restricted his activities.

33. Staff is satisfied that the Respondent is contrite, accepts his conduct was improper, and has undertaken a proactive course of action to comply with his regulatory obligations going forward. Respondent’s counsel has made the Respondent aware of his regulatory obligations as an Approved Person.

34. The Respondent has no prior disciplinary history with the MFDA, and was fully and proactively cooperative with Staff, in a manner which reduced the need for a full investigation.

35. Since providing the Statement, the Respondent has demonstrated best efforts in becoming knowledgeable and compliant with MFDA Rules and policies.

V. CONTRAVENTIONS

36. The Respondent admits that between 2008 and 2010 he:

- i) falsified, or permitted to be falsified, client signatures on 15 account opening documents, and signed redemption or purchase forms for 7 clients, contrary to MFDA Rule 2.1.1(a); and;
- ii) obtained and maintained blank pre-signed forms for 4 clients, and ‘whited out’ details on old redemption forms and re-used the forms for 5 clients, contrary to MFDA Rule 2.1.1(a).

VI. TERMS OF SETTLEMENT

37. The Respondent agrees to the following terms of settlement:

- i) the Respondent shall pay a fine in the amount of \$5,000;
- ii) the Respondent shall pay costs in the amount of \$1,000;
- iii) the Respondent shall attend in person at the Settlement Hearing; and
- iv) the Respondent shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations.

VII. STAFF COMMITMENT

38. 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 Respondent 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 XI 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 Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

39. 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 Respondent.

40. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent 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 Respondent in this matter, and the Respondent agrees to waive his 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.

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

42. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, 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 him.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

43. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honor any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under section 24.3 of the By-laws of the MFDA against the Respondent based on, but not limited to, the facts set out in Part IV of the 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

44. 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 Respondent 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.

45. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it he 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

46. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated: December 2, 2011.

“Amy Walsh”

Witness – Signature

“Ronald Lyle Bestard”

Ronald Lyle Bestard

Amy Walsh

Witness - Print name

“Shaun Devlin”

Staff of the MFDA
Per: Shaun Devlin
Vice-President, Enforcement



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**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: Ronald Lyle Bestard

ORDER

WHEREAS on December 2, 2011, the Mutual Fund Dealers Association of Canada ("MFDA") issued a Notice of Settlement Hearing pursuant to s. 24.4 of By-law No. 1 in respect of Ronald Lyle Bestard ("Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA dated December 2, 2011, in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1 ("Settlement Agreement");

AND WHEREAS the Hearing Panel is of the opinion that between 2008 and 2010, the Respondent:

- i. falsified, or permitted to be falsified, client signatures on 15 account opening documents, and signed redemption or purchase forms for 7 clients, contrary to MFDA Rule 2.1.1(a); and;

ii. obtained and maintained blank pre-signed forms for 4 clients, and ‘whited out’ details on old redemption forms and re-used the forms for 5 clients, contrary to MFDA Rule 2.1.1(a).

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 \$5,000;
2. the Respondent shall pay costs in the amount of \$1,000; and
3. if at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents 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.

DATED this [day] day of [month], 20[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]