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 James Clarke

SETTLEMENT AGREEMENT

I. INTRODUCTION

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

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. From May 21, 2008 to October 11, 2012 when he resigned, the Respondent was registered in Alberta as a mutual fund salesperson and a Branch Manager with Investia Financial Services Inc. (“Investia”), a Member of the MFDA.

7. The Respondent was also registered with Investia in Ontario from August 22, 2008 to October 11, 2012, and in Saskatchewan from February 22, 2011 to October 11, 2012.

8. Prior to being registered with Investia, the Respondent was registered as a mutual fund

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1 Investia Financial Services Inc. has been a Member of the MFDA since June 7, 2002.
salesperson with Worldsource Financial Management Inc., also a Member of the MFDA, from March 14, 2003 to May 20, 2008.

9. At all material times, the Respondent conducted business out of a branch office located in Edmonton, Alberta.

**Respondent’s misconduct**

10. At all material times, Investia’s policies and procedures prohibited its Approved Persons from using pre-signed forms to conduct business.

11. During a review of the Respondent’s branch office conducted on or about August 2, 2012, Investia found that, between 2008 and 2012, the Respondent had obtained 115 account forms in relation to 54 client accounts that had been signed by the clients when the forms were blank or only partially complete and had used the forms to process transactions in relation to the accounts, as described below:

   a) 72 account forms were signed by the clients when the forms were blank;
   b) 39 account forms were signed by the clients when the forms were only partially complete; and
   c) 4 of the account forms were altered by the Respondent after the clients had signed the forms.

12. During the branch review, Investia also found that the Respondent had obtained 6 account forms in relation to 6 client accounts that had been signed by the clients when the forms were blank or only partially complete, but there was no evidence that the Respondent had used the forms to process any transactions in relation to the accounts.

13. The particulars of the account forms are summarized below:
### 115 Forms Used to Conduct Business in Relation to 54 Client Accounts

<table>
<thead>
<tr>
<th>Form Type</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-signed forms</td>
</tr>
<tr>
<td>Order Instruction Form</td>
<td>32</td>
</tr>
<tr>
<td>Know Your Client Update Forms</td>
<td>23</td>
</tr>
<tr>
<td>Financial Instruction Forms</td>
<td>13</td>
</tr>
<tr>
<td>Non-Financial Instruction Forms</td>
<td>4</td>
</tr>
<tr>
<td>New Account Application Forms</td>
<td>1</td>
</tr>
<tr>
<td>Systematic Instruction Form</td>
<td>3</td>
</tr>
<tr>
<td>Group PAC Authorization Form</td>
<td>5</td>
</tr>
<tr>
<td>Transfer Authorization For Registered Investments</td>
<td>2</td>
</tr>
<tr>
<td>Automatic Conversion of Units Without Sales Charges Form</td>
<td>3</td>
</tr>
<tr>
<td>Borrowing to Invest – Suitability Analysis Form</td>
<td>1</td>
</tr>
<tr>
<td>Application forms for other accounts</td>
<td>6</td>
</tr>
<tr>
<td>RESP forms</td>
<td>6</td>
</tr>
</tbody>
</table>

### 6 Forms in Relation to 6 Client Accounts Obtained but Not Used to Conduct Business

<table>
<thead>
<tr>
<th>Form Type</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-signed forms</td>
</tr>
<tr>
<td>New Account Application Form</td>
<td>1</td>
</tr>
<tr>
<td>Know Your Client Update Form</td>
<td>1</td>
</tr>
<tr>
<td>Self-Directed New Account Application Form</td>
<td>1</td>
</tr>
<tr>
<td>Transfer from an RRSP Form</td>
<td>1</td>
</tr>
<tr>
<td>Automatic Conversion of Units Without Sales Charges Form</td>
<td>1</td>
</tr>
<tr>
<td>Financial Instruction Form</td>
<td>1</td>
</tr>
</tbody>
</table>

14. With respect to the 115 account forms described in paragraph 11 above, 37 of the forms were used to process trades, 26 of the forms were used to update Know-Your-Client information, and 9 of the forms were used to open client accounts.

15. On August 3, 2012, immediately following the branch review, the Respondent signed an Acknowledgment and Undertaking with Investia in which he agreed to cease using pre-signed forms of any kind and to abide by Investia’s policies and procedures.

16. The Respondent states that the transactions he processed using the pre-signed account
forms described in paragraph 11 above were authorized by the clients but he states he did not maintain adequate notes of the instructions he states he received from the clients.

17. The Respondent states that his practice was to send blank or partially completed account forms to clients by facsimile or e-mail. The clients would sign the blank or partially completed accounts forms, and return them to the Respondent. The Respondent would then contact the clients to obtain the information necessary to complete the account forms, complete the account forms himself, and submit the completed account forms to Investia for processing.

18. On or about August 17, 2012, Investia sent letters, including copies of account transaction statements, to all of clients whose accounts were serviced by the Respondent requesting that the clients review the trading activity in their accounts and notify Investia of any unauthorized activities. None of the clients reported any unauthorized activities to Investia.

19. There is no evidence that:

   a) the Respondent received any financial benefit from engaging in the misconduct beyond the sales commissions or fees to which he would have been ordinarily entitled had the transactions in the clients’ accounts been carried out in the proper manner;
   b) the Respondent processed any trades or changes to client information without the knowledge or authorization of his clients;
   c) clients suffered any financial harm as a result of the Respondent using, maintaining or altering account forms which the clients had signed when the forms were blank or only partially completed; and
   d) any clients have complained about the Respondent’s conduct.

20. The Respondent has no prior disciplinary history with the MFDA and cooperated with Staff during the course of the investigation.
V. CONTRAVENTIONS

21. The Respondent admits that, between 2008 and 2012, he:

a) used 115 blank or partially completed pre-signed forms to process transactions in relation to 54 client accounts;
b) obtained and maintained 6 blank or partially completed pre-signed account forms in relation to 6 client accounts; and
c) altered 4 account forms after the clients had signed them;

contrary to MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

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

a) The Respondent shall pay a fine in the amount of $7,500, pursuant to section 24.1.1 of By-law No. 1;
b) The Respondent shall pay $2,500 in respect of the costs of the investigation and settlement of this matter pursuant to section 24.2 of By-law No. 1;
c) The Respondent shall be prohibited from acting in a supervisory capacity with a Member of the MFDA for a period of six (6) months from the date of the acceptance of this Settlement Agreement, pursuant to section 24.1.1 of By-law No.1; and
d) the Respondent 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 2.1.1.

VII. STAFF COMMITMENT

23. 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
contraventions described in Part VI 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 contraventions that are not set out in Part VI of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part VI, 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

24. Acceptance of this Settlement Agreement shall be sought at a hearing of the Prairie Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

25. 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.

26. 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.

27. 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

28. 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 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

29. 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.

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

31. 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.
32. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

**XII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

Dated this 26th day of November, 2013.

“Rita Rankin”
Witness – Signature

“William James Clarke”
William James Clarke

Rita Rankin
Witness – Print name

“Shaun Devlin”
Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President, Member Regulation – Enforcement
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 James Clarke

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 William James Clarke (the “Respondent”);

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the “Settlement Agreement”), 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;

AND WHEREAS the Hearing Panel is of the opinion that the Respondent between 2008 and 2012:

a) used 115 blank or partially completed pre-signed forms to process transactions in relation to 54 client accounts;
b) obtained and maintained 6 blank or partially completed pre-signed account forms in relation to 6 client accounts; and

c) altered 4 account forms after the clients had signed them.

contrary to MFDA Rule 2.1.1.

**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 $7,500, pursuant to section 24.1.1 of By-law No. 1;

2. The Respondent shall pay $2,500 in respect of the costs of the investigation and settlement of this matter pursuant to section 24.2 of By-law No. 1;

3. the Respondent shall be prohibited from acting in a supervisory capacity with a Member of the MFDA for a period of six (6) months from the date of the acceptance of this Settlement Agreement, pursuant to section 24.1.1 of By-law No. 1;

4. The Respondent 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 2.1.1; and

5. 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, then 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]