



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: Iftikhar Mahmood

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Hearing issued December 19, 2014, the Mutual Fund Dealers Association of Canada (the “MFDA”) announced that it proposed to hold a hearing concerning a disciplinary proceeding commenced against the Respondent, Iftikhar Mahmood (the “Respondent”). Staff of the MFDA (“Staff”) and the Respondent propose to make a request to the hearing panel of the 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 entered into between Staff and the Respondent (the “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 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. The Respondent has been registered in the securities industry since November 1998.

7. Since January 18, 2013, the Respondent has been registered in Ontario as a dealing representative with Equity Associates Inc. (“Equity”).

8. From June 18, 2008 to December 21, 2012, the Respondent was registered in Ontario as a mutual fund salesperson with FundEX Investments Inc. (“FundEX”).

9. At all material times, the Respondent has conducted business in the Aurora, Ontario area.

Undisclosed referral arrangement

10. Waterview Capital Corp. (“Waterview”) was an exempt market dealer whose registration, as well as its principal’s, was suspended by the Ontario Securities Commission (“OSC”) on April 25, 2011 following a compliance examination by OSC Staff which identified numerous violations, including that Waterview did not maintain know-your-client forms for some investors, traded without registration while suspended, and sold investments to a non-accredited investor.

11. Prior to its suspension, Waterview sold investments that included interests in mortgages on certain properties.

12. While registered with FundEX, the Respondent met with a Waterview representative in the summer of 2010, at which time the representative of Waterview advised the Respondent that:

- a) Waterview was offering a real estate financing product;
- b) investors would receive 10% interest on monies invested with Waterview;
- c) Waterview would pay a commission on referrals; and
- d) FundEX was in the process of approving the investment in Waterview.

13. After meeting with the Waterview representative, the Respondent did not inquire of FundEX whether it was in the process of approving the Waterview investment.

14. A few weeks after meeting with the Waterview representative during the summer of 2010, the Respondent met with client HF, who was interested in investing \$20,000 for one-year, and sought advice from the Respondent about where to invest her monies.

15. The Respondent states that he advised client HF that investing in mutual funds was too risky given her one-year time frame, and that she might benefit instead from investing in the Waterview product. The Respondent provided client HF with the contact information for the representative of Waterview.

16. The Respondent states that he believed the Waterview investment was appropriate for client HF since Waterview purported to offer a guaranteed return higher than that of a GIC at the time.

17. There is no evidence that the Respondent acted in any further capacity as an intermediary between the client and Waterview.

18. Client HF subsequently invested in Waterview.

19. In or about September 2010, a Waterview representative contacted the Respondent and asked him where he would like the referral fee of \$750 to be paid. The Respondent then inquired of the Waterview representative whether FundEX had approved the investment, and the Respondent states that the Waterview representative told him that FundEX had not, and likely would not, approve the investment.

20. The Respondent states that he told the Waterview representative something along the lines of: *"I'm probably not supposed to receive [the referral fee], but if you're sending me the cheque, can you make it payable to my wife?"*

21. The Respondent requested that Waterview issue the cheque in the name of his wife in order to *"mitigate any breach ... that may have occurred"* after the Waterview representative had told him that FundEX had not approved the Waterview investment.

22. Waterview was not an investment approved by FundEX for sale by its Approved Persons, including the Respondent. The transactions involving Waterview were not processed for the account or through the facilities of FundEX.

23. Prior to referring client HF to invest in Waterview, the Respondent did not disclose to FundEX that he was making such a referral. FundEX did not have a referral agreement with Waterview.

24. In July 2012, the Respondent attended a FundEX compliance conference during which he voluntarily disclosed to FundEX's compliance officer that he had referred a client to Waterview.

25. On September 24, 2012, FundEX issued a letter of reprimand to the Respondent due to the undisclosed referral arrangement and commission payment from Waterview. FundEX advised the Respondent that it was placing him under strict supervision, and would be deducting a percentage of his commissions.

26. The Respondent resigned from FundEX in December, 2012, and at that point, FundEX had deducted \$1,500 from commission payments owed to the Respondent, plus a \$500 fee for mailing statements to clients. In January 2013, the Respondent became registered as a dealing representative with Equity.

27. During the material time, FundEX had written policies and procedures that prohibited its Approved Persons from, among other things, entering into a referral arrangement directly with another person or entity.

28. The Respondent knew or ought to have known that FundEX's policies and procedures prohibited him from engaging in the conduct described herein.

29. There have been no complaints against the Respondent, and there is no evidence of investor harm arising out of the Respondent's conduct described herein.

30. The Respondent has not been the subject of any previous MFDA disciplinary proceedings.

V. CONTRAVENTIONS

31. The Respondent admits that between June 2010 and October 2010, he referred one (1) client to a company that sold mortgage investment products and received \$750 in referral fees for

doing so, thereby participating in a referral arrangement to which the Member was not a party and which did not otherwise comply with sections 13.7 and 13.8 of National Instrument 31-103.

VI. TERMS OF SETTLEMENT

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

- (a) the Respondent shall pay a fine of \$5,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- (b) the Respondent shall pay costs of \$2,500, pursuant to section 24.2 of MFDA By-law No. 1;
- (c) the payment by the Respondent of the fine and costs in subparagraphs (a) and (b) above shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (costs) upon entering into the settlement agreement;
 - ii. \$2,500 (fine) on or before May 15, 2015;
 - iii. \$2,500 (fine) on or before June 15, 2015;
- (d) if the Respondent fails to make any of the payments described in subparagraph (c) above, then:
 - i. any outstanding balance of fine and costs owed by the Respondent shall immediately become due and payable to the MFDA; and
 - ii. the Respondent shall immediately be suspended from conducting securities related business while in the employ of, or associated with, a Member of the MFDA, pursuant to section 24.3.13(c) until such time as the total amount of the outstanding fine and costs owed by the Respondent to the MFDA is paid to the MFDA.

- (e) the Respondent shall in the future comply with sections 13.7 and 13.8 of National Instrument 31-103; and
- (f) the Respondent will attend in person on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

33. 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 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 Respondent from fulfilling any continuing regulatory obligations.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

34. 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.

35. 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 its 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.

36. 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.

37. 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

38. 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

39. 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.

40. 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

41. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 16th day of March, 2015.

“Mayuri Saleam”

Witness – Signature

Mayuri Saleam

Witness – Print name

“Iftikhar Mahmood”

Iftikhar Mahmood

“Shaun Devlin”

Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President,
Member Regulation – 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: Iftikhar Mahmood

ORDER

WHEREAS on December 19, 2014, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Hearing pursuant to sections 20 and 24 of By-law No. 1 in respect of Iftikhar Mahmood (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 September 2010 and October 2011, referred one (1) client to a company that sold mortgage investments and received \$750 in referral fees for doing so, thereby participating in a referral arrangement to which the Member was not a party and which did not otherwise comply with sections 13.7 and 13.8 of National Instrument 31-103;

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

1. The Respondent shall pay a fine of \$5,000, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs of \$2,500, pursuant to section 24.2 of MFDA By-law No. 1;
3. The payment by the Respondent of the fine and costs in paragraphs (1) and (2) above shall be made to and received by MFDA Staff in certified funds as follows:
 - i. \$2,500 (costs) upon entering into the settlement agreement;
 - ii. \$2,500 (fine) on or before May 15, 2015;
 - iii. \$2,500 (fine) on or before June 15, 2015;
4. If the Respondent fails to make any of the payments described in paragraph (3) above, then:
 - i. any outstanding balance of fine and costs owed by the Respondent shall immediately become due and payable to the MFDA; and;
 - ii. the Respondent shall immediately be suspended from conducting securities related business while in the employ of, or associated with, a Member of the MFDA, pursuant to section 24.3.13(c) until such time as the total amount of the outstanding fine and costs owed by the Respondent to the MFDA is paid to the MFDA;
5. The Respondent shall in the future comply with sections 13.7 and 13.8 of National Instrument 31-103; and
6. 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]

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