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: Sterling Mutuals Inc.

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 Central 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 the Respondent, Sterling Mutuals Inc. (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 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. Since June 6, 1996, the Respondent has been registered in Ontario and in other Canadian provinces as a Mutual Fund Dealer and became a Member of the MFDA on March 8, 2002.

7. Between 1991 and May 29, 2015, Armstrong & Quaile Associates Inc. ("A&Q") was registered in Ontario and in other Canadian provinces as a Mutual Fund Dealer. A&Q amalgamated with the Respondent on May 29, 2015. A&Q was a Member of the MFDA from December 7, 2001 to May 29, 2015.

Barry Hunt – A Former Approved Person Of A&Q

8. Between June 5, 2003 and June 24, 2011, Barry Allan Hunt ("Hunt") was registered in the provinces of Ontario, Alberta and Québec as a mutual fund salesperson / dealing representative with A&Q. He is no longer registered in the securities industry.

The Supervision Of Hunt And The Handling Of The Complaint Against Him

The Conduct Of Hunt

9. Hunt was a respondent to a separate but related disciplinary proceeding (MFDA File No. 201342) that was commenced by Notice of Hearing issued on September 11, 2013 and concluded by reasons for decision dated July 18, 2014. In that proceeding, Hunt signed an agreed statement of facts dated May 2, 2014 in which he admitted that:

(1) Between September 12, 2007 and June 24, 2011, he engaged in securities related business that was not carried on for the account or through the facilities of A&Q by selling, recommending, referring or facilitating the sale of investments in real estate outside the Member including:

i. a $100,000 real estate investment product to client VM; and
ii. investments totaling $660,000 in a real estate development project that he owned and operated to clients VM, LT, BM and 11 other individuals; and
iii. investments totaling $60,000 in two housing restoration projects to client VM;

contrary to MFDA Rules 1.1.1(a) and 2.1.1; and

(2) Between September 12, 2007 and June 24, 2011, he engaged in personal financial dealings with clients VM, LT and BM by:

i. selling an investment of $60,000 in a property owned by Hunt to each of clients VM, LT and BM; and
ii. borrowing $120,000 from client VM;

thereby giving rise to a conflict or potential conflict of interest between his interests and the interests of clients VM, LT and BM which he failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and 2.1.1.

The Handling Of The Complaint Concerning VM's Account

10. In 2003, when he became an Approved Person of A&Q, Hunt disclosed and obtained approval from A&Q to engage in an outside business activity as a licensed real estate broker. He did not disclose to A&Q at any time prior to 2010 that he was engaged in real estate investing or that he solicited money from clients for that purpose.

11. On June 7, 2010, client VM appointed her brother and sister-in-law CS and JW as her powers of attorney.

12. On June 21, 2010, CS and JW met with Hunt to discuss client VM's investments.

13. By letter dated June 22, 2010, CS and JW submitted a complaint to A&Q about loans and investments in real estate that had been solicited from client VM by Hunt. CS and JW submitted an additional letter dated July 15, 2010 restating their concerns and requesting the liquidation of all investments other than mutual funds and segregated funds.

14. A&Q failed to report the complaint of CS and JW to the MFDA or the concerns about possible personal financial dealings and unauthorized outside business activities engaged in by Hunt and did not treat the concerns raised on behalf of client VM as a complaint or respond promptly and fairly to the concerns about Hunt's conduct that were raised in the complaint.

15. A&Q also inappropriately delegated authority to Hunt to respond to and resolve the complaint on his own without the involvement of the dealer.

16. A&Q knew or ought to have known that the participation of the subject of a complaint (in this case Hunt) in the complaint handling process and investigation gave rise to a conflict of interest that could not be resolved in the best interests of the client.

17. By failing to implement a proper complaint handling process and by failing to report the complaint to the MFDA following receipt of the complaint of CS and JW, A&Q contravened MFDA Rules 2.11, 2.1.1 and 2.1.4 and MFDA Policy Nos. 3 and 6.

Failure To Conduct A Reasonable Supervisory Investigation

18. A&Q also failed to undertake a reasonable supervisory investigation after receiving the letters from CS and JW, by among other things, failing to adequately investigate:

(a) what investments client VM had made with or through Hunt that were not carried on for the account of the dealer or processed through the facilities of the dealer;
(b) the range and extent of Hunt's outside business activities;
(c) whether any clients or individuals other than client VM had been solicited by Hunt to engage in personal financial dealings with Hunt or to participate in investments that he facilitated that were not processed through the dealer or with its approval; or
(d) whether any other complaints had been received by Hunt or whether any other legal proceedings had been commenced against him.

19. A&Q also failed to take any reasonable supervisory or disciplinary action to ensure that Hunt ceased to engage in personal financial dealings or to facilitate additional investments that were not for the account of the dealer or processed through the facilities of the dealer.

20. A&Q reported this matter to the MFDA for the first time in March 2011 after CS and JW commenced a lawsuit against Hunt and A&Q on behalf of client VM. Prior to the resolution of the lawsuit that was commenced by CS and JW, A&Q learned that:

(a) two other clients (in addition to client VM) and 11 other individuals who were not clients of A&Q had also been solicited by Hunt to participate in real estate investments;
(b) Hunt had obtained personal loans from two other clients (in addition to client VM); and
(c) Hunt was a defendant to multiple lawsuits that had not been reported to A&Q that had been commenced by plaintiffs that included other clients of A&Q.

21. By failing to conduct a reasonable supervisory investigation after receiving the letter from CS and JW dated June 22, 2010, A&Q contravened MFDA Rules 2.5.1 and 2.1.1 and MFDA Policy Nos. 2 and 3 which may have delayed the discovery of the full scope of the outside business activities and personal financial dealings that Hunt had engaged in.

BO – A Former Approved Person Of A&Q

22. From August 30, 1999 to May 20, 2009 BO was registered in Ontario as a mutual fund salesperson / dealing representative with A&Q and was an Approved Person of A&Q from December 7, 2001 (when A&Q became a Member of the MFDA) until May 2009. He is no longer registered in the securities industry.

The Handling Of The Complaint Of JH & JH

23. By letter sent to A&Q on August 7, 2010, former A&Q clients JH and JH (who are spouses) submitted a complaint concerning the suitability of a leveraged investment strategy that was recommended to them and implemented for them in November 2004 by BO who was by then a former Approved Person of A&Q. Clients JH and JH claimed that at the time that the leveraged investment strategy was implemented, they were provided with unjustified assurances

that they would not incur any losses associated with the strategy if they maintained their investments for at least 10 years.

24. In 2009, clients JH and JH transferred their accounts to a new advisor at another mutual fund dealer. Following the transfer, it was explained to clients JH and JH that they held investments that were not subject to guarantees and they had incurred investment losses and interest charges on the loans associated with the leveraged investment strategy that amounted to more than $45,000 as of June 2009.

25. The Ultimate Designated Person of A&Q (the "UDP of A&Q") reviewed the complaint of clients JH and JH and concluded that in his view the leveraged investment strategy that was implemented in November 2004 was suitable for the clients.

26. In reaching that conclusion, the UDP of A&Q failed to consider the Know-Your-Client ("KYC") information on file for clients JH and JH that had been completed and signed on September 21, 2004, just two months prior to the implementation of the leveraged investment strategy which indicated that the joint income of the clients was less than $25,000 per year. This information was later corroborated by the tax returns of clients JH and JH that show the joint annual income of the clients at that time.

27. The UDP of A&Q justified his decision to dismiss the complaint without compensating the clients by applying KYC information reported on a KYC form that was completed in May 2004 that indicated that the joint annual income of the clients was between $50,000 and $100,000. Tax returns that were subsequently produced by the clients appear to support their claims that the amount of their income was inflated on the May 2004 KYC document. In any event, the May 2004 KYC document was not the most up to date KYC information applicable to the clients at the time that the leveraged investment strategy was implemented.

28. By failing to take into account the most recent KYC information on file for the clients at the time when the leveraging strategy was implemented in November 2004 prior to issuing its substantive response to the complaint submitted by clients JH and JH, A&Q failed to deal fairly

and promptly with the client complaint, contrary to MFDA Rules 2.11, 2.1.1, 2.1.4 and MFDA Policy No. 3.

Mazzotta's Branch

29. Since June 2002, Carmine Paul Mazzotta ("Mazzotta") has been registered in the provinces of Ontario, Quebec and British Columbia as a mutual fund salesperson / dealing representative with the Respondent. Mazzotta operates his branch office in Ottawa, Ontario using the approved trade name, the Innovative Financial Group ("Mazzotta's Branch").

30. Since July 2002, David John Ireland ("Ireland") has been registered in the provinces of Ontario, Quebec and British Columbia as a mutual fund salesperson / dealing representative with the Respondent and has always worked at Mazzotta's Branch. He was also the Branch Manager of Mazzotta's Branch from August 11, 2008 to March 14, 2011.

31. Mazzotta and Ireland are respondents to a separate but related disciplinary proceeding (MFDA File No. 201511) that was commenced by the MFDA in November 2015 concerning their conduct following receipt of the complaint of client JN as described below.

32. Between September 28, 2005 and August 29, 2008, CB was registered in the province of Ontario as a mutual fund salesperson with the Respondent who worked at Mazzotta's Branch.

The Leveraged Investment Strategy Recommended By Former Approved Person CB

33. Client JN became a client of the Respondent in or about April 2008. His investment accounts were serviced by Approved Persons of the Respondent who worked at Mazzotta's Branch. Initially, client JN received investment advice from former Approved Person CB. After CB resigned in August 2008, the accounts were transferred to Mazzotta and Ireland who serviced the accounts from August 2008 until February 2013.

34. In May 2008, CB recommended and implemented a leveraged investment strategy for client JN that resulted in client JN and his wife client NG borrowing $175,000 by way of an investment loan from B2B Trust and investing the proceeds in mutual funds in amounts recommended by CB (the "Leveraged Investment Strategy").

Client JN's Complaint

35. By letter dated December 5, 2012, client JN submitted a complaint that was addressed to Mazzotta and copied to the Ultimate Designated Person of the Respondent (the "UDP"). The complaint alleged, among other things, that the Leveraged Investment Strategy that CB had recommended was unsuitable and left client JN with outstanding loans that substantially exceeded the value of the investments that he was advised to purchase with the proceeds of the loans and thereafter, Mazzotta and Ireland failed to take satisfactory steps to reduce the risk of client JN's portfolio or provide advice to facilitate the recovery of the losses that he had incurred.

The Handling Of Client JN's Complaint

36. By letter to client JN dated December 10, 2012, the Chief Compliance Officer of the Respondent (the "CCO") acknowledged receipt of the complaint letter from client JN and advised him that the CCO would investigate it. The letter informed client JN that he could contact the CCO if he wished to inquire about the status of the complaint or had any questions or concerns. A copy of the MFDA Client Complaint Information Form was enclosed with the letter to client JN.

37. The Respondent informed Mazzotta and Ireland of their concern that Mazzotta and Ireland might be held accountable to compensate client JN for a significant proportion of the losses that he had incurred because the value of client JN's account had declined by a substantial amount during the period when they were servicing his account. In spite of this concern, they authorized Mazzotta and Ireland to contact the complainant and schedule a meeting with him to discuss his complaint without the involvement or participation of any compliance staff of the Respondent.

38. On December 18, 2012, Mazzotta and Ireland reported that the "[m]eeting [with client JN] went well." They informed the UDP and the CCO that client JN only intended to direct his complaint towards the conduct of CB and they promised to deliver a further response shortly.

39. The Respondent took no steps to:

(a) assign responsibility for the handling of client JN's complaint to an impartial and qualified supervisor or compliance staff member of the Respondent;
(b) contact client JN to hear his account of what was discussed during the meeting with Mazzotta and Ireland; or
(c) prevent further direct involvement of Mazzotta and Ireland in the handling of client JN's complaint about their conduct even after being informed that they had discussed the possibility of a withdrawal or revision of the complaint with client JN.

40. On February 14, 2013, client JN contacted the Respondent directly by telephone to request that the Respondent transfer his account to a new advisor because he was no longer comfortable dealing with Mazzotta and Ireland.

41. During the telephone call with client JN on February 14, 2013, the Respondent did not request an explanation from client JN about the meetings and communication that had occurred between client JN, Mazzotta and Ireland.

42. On February 14, 2013, client JN also submitted a complaint to the MFDA with respect to the servicing of his investment account by Mazzotta.

43. Subsequently, client JN alleged to Staff of the MFDA ("Staff") that Mazzotta and Ireland had:

(a) attempted to persuade him to withdraw his complaint against them and direct his concerns solely towards former Approved Person CB and the Respondent;

(b) drafted a revised complaint letter for client JN to sign and submit to the Respondent; and

(c) asked client JN to sign a document that was prepared by Mazzotta's lawyer entitled "Assignment of Claims" that purported to assign to client JN all claims Mazzotta had against CB arising from Mazzotta's business/professional relationship with CB in return for a release of Mazzotta from all claims that client JN had against Mazzotta in relation to his investment losses.

44. Client JN also told Staff that he had consulted with lawyers who informed him that the legal claims that Mazzotta had offered to assign to him were statute barred.

45. On February 26, 2013, Staff scheduled a conference call with the Respondent and informed the Respondent about client JN's complaint to the MFDA.

46. Following the call with Staff, for the first time, the Respondent directed Mazzotta and Ireland to cease further communication with client JN. The Respondent also informed Mazzotta and Ireland that:

(1) their conduct may have breached regulatory requirements and policies and procedures of the Respondent;

(2) pending the completion of the MFDA investigation into their conduct, the Respondent was imposing terms of strict supervision on their trading;

(3) a monthly amount would be deducted from their commissions to offset the costs of the heightened supervision for as long as the strict supervision continued.

47. The Respondent continues to impose strict supervision over the trading of Mazzotta and Ireland and a strict supervision charge of 5% is deducted each month from their gross commissions. No additional action was taken against Mazzotta and Ireland by the Respondent.

48. The Respondent knew or ought to have known that the participation of the subjects of a client complaint (in this case Mazzotta and Ireland) in the complaint handling process gives rise to a conflict of interest that could not be resolved in the best interests of the client.

49. On March 23, 2013, the Respondent sent client JN a substantive response to his complaint that informed client JN that the Respondent had completed its review of the complaint and had concluded that proper risk disclosure was provided to him and that based upon the KYC information on file for client JN the Leveraged Investment Strategy that was recommended to client JN was suitable.

50. Following the receipt of the December 5, 2012 complaint from client JN, the Respondent failed to engage in a proper complaint handling process. The Respondent also failed to conduct a reasonable supervisory investigation of the facts and allegations raised in the complaint of client JN and failed to ensure that the complaint was handled by qualified supervisory or compliance staff and instead permitted the subjects of the complaint to participate in the handling of the complaint, contrary to MFDA Rules 2.1.1, 2.5, 2.1.4 and 2.11 and MFDA Policy No. 3.

Former Approved Persons SW and BY

51. Between May 20, 2014 and December 31, 2015, SW was registered in the provinces of Saskatchewan, Alberta and British Columbia as a dealing representative with the Respondent. SW is no longer registered in the securities industry in any capacity.

52. Between May 27, 2014 and December 31, 2015, BY was registered in the provinces of Saskatchewan, Alberta, British Columbia and Ontario as a dealing representative with the Respondent. He is no longer registered in the securities industry in any capacity.

The Contractual "Release" From Suitability Obligations

53. Effective May 27, 2014, SW and BY transferred their registration from another Member of the MFDA (their "Former Member") and became Approved Persons of the Respondent. They

also arranged for the accounts of many of the clients whose accounts they had serviced for their Former Member to be transferred to the Respondent.

54. In respect of most or all of the client accounts that were transferred into the Respondent to be serviced by SW and BY:

(a) uniform Know-Your-Client ("KYC") information was recorded for the clients that represented their risk tolerance as '100% high risk', their investment knowledge as 'good', their time horizon as 'long' and their investment objective as '100% growth'; and
(b) the investment portfolios were comprised primarily of medium to high risk mutual funds that were heavily concentrated in investments in resources and precious metals such as gold.

55. When the accounts were transferred in, the Respondent failed to exercise due diligence to ensure that the uniform KYC information that was recorded for the clients was accurate or that the assets that were transferred into the new client accounts with the Respondent were suitable for the clients.

56. Shortly after SW and BY became Approved Persons of the Respondent, SW and BY showed the CCO of the Respondent a form entitled "Acknowledgement and Release" that clients of their Former Member had apparently been asked to sign. According to the wording of the form, by signing the document, clients were purportedly indicating that they:

(a) 'acknowledge' the high risk of the investment portfolios that SW and BY had recommended to them; and
(b) 'release' the Member and its Approved Persons from their ordinary obligations to ensure the suitability of the investment recommendations that they made to clients and the orders that they accepted from clients.

57. The Respondent oversaw the amendment of the form for use by SW and BY on behalf of the Respondent and instructed SW and BY to arrange for clients of the Respondent to sign the amended Acknowledgement and Release form if the clients had been advised by SW and BY to invest primarily in mutual funds that were heavily concentrated in resource and precious metals investments such as gold.

58. By instructing former Approved Persons SW and BY to arrange for clients to sign the Acknowledgement and Release form instead of ensuring that accurate KYC information was obtained from the clients and that the investments held in their accounts with the Respondent were suitable, the Respondent contravened its supervisory and suitability obligations and required clients to sign a document that purported to release the Respondent and the Approved Persons from liability for contraventions of their suitability obligations, contrary to MFDA Rules 2.2.1(a), (b), (c) and (e)(i), 2.1.1, 2.1.4 and 2.5.1 and MFDA Policy No. 2.

59. Sterling hired a new CCO in December 2014.

V. CONTRAVENTIONS

60. As described in paragraphs 14 and 17 of this Settlement Agreement,the Respondent admits that prior to its amalgamation with the Respondent, commencing in June 2010, A&Q failed to report to the MFDA that it had received a client complaint that alleged that an Approved Person, Barry Hunt, had engaged in personal financial dealings with a client and had potentially engaged in unauthorized outside business activities and/or unauthorized securities related business with a client, contrary to MFDA Rules 2.1.1, 2.1.4 and 2.11 and MFDA Policies No. 3 and 6.

61. As described in paragraphs 18-21 of this Settlement Agreement, the Respondent admits that prior to its amalgamation with the Respondent, commencing in June 2010, A&Q failed to conduct a reasonable supervisory investigation with respect to the conduct of an Approved Person, Barry Hunt, after it received a complaint on behalf of client VM alleging that Hunt had engaged in personal financial dealings and had potentially engaged in unauthorized outside

business activities and/or securities related business that was not carried on for the account of the Member, contrary to MFDA Rules 2.5.1, 2.1.1 and MFDA Policy No. 2.

62. As described in paragraphs 14-17 of this Settlement Agreement, the Respondent admits that prior to its amalgamation with the Respondent, commencing in June 2010, A&Q failed to ensure that a complaint submitted on behalf of client VM with respect to the conduct of Approved Person, Barry Hunt, was handled promptly and fairly by qualified compliance staff and inappropriately permitted the subject of the complaint to engage in the complaint handling process without supervision, contrary to MFDA Rules 2.11, 2.1.1 and 2.1.4 and MFDA Policy No. 3.

63. As described in paragraphs 25-28 of this Settlement Agreement, the Respondent admits that prior to its amalgamation with the Respondent, commencing in August 2010, A&Q failed to ensure that a complaint received from clients JH and JH that alleged that unsuitable leveraged investment recommendations had been made to the complainants by BO, a former Approved Person of A&Q, was handled promptly and fairly, contrary to MFDA Rules 2.11, 2.1.1 and 2.1.4 and MFDA Policy No. 3.

64. As described in paragraphs 37-39, 41, 48 and 50 of this Settlement Agreement, the Respondent admits that commencing in December 2012, the Respondent failed to conduct a reasonable supervisory investigation after receiving a complaint from client JN, and failed to ensure that the complaint was handled promptly and fairly by qualified compliance staff and inappropriately permitted the subjects of the complaint to engage in the complaint handling process without supervision, contrary to MFDA Rules 2.5, 2.11, 2.1.4, and 2.1.1, and MFDA Policies No. 2 and 3.

65. As described paragraphs 54-58 of this Settlement Agreement, the Respondent admits that between May 2014 and March 2015, the Respondent: (a) failed to adequately supervise the conduct of Approved Persons SW and BY to ensure that: (i) accurate KYC information was recorded for each client; and (ii) the investments held in portfolios transferred to the Respondent from another Member and serviced by Approved Persons SW and BY and trade orders accepted

for such clients thereafter were suitable for the clients; and (b) directed SW and BY to obtain signed documents from clients that purported to release the Respondent and its Approved Persons from liability for contraventions of their suitability obligations, contrary to MFDA Rules 2.2.1(a), (b), (c) and (e)(i), 2.1.1, 2.1.4 and 2.5.1 and MFDA Policy No. 2.

VI. TERMS OF SETTLEMENT

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

(a) the Respondent shall pay a fine in the amount of $75,000;;

(b) the Respondent shall pay compensation in the amount of $34,000 to former clients JH and JH (which payment has already been made);

(c) the Respondent shall pay costs to the MFDA in the amount of $20,000;

(d) the Respondent shall in the future comply with MFDA Rules 2.1.1, 2.1.4, 2.2.1, 2.5 and 2.11, MFDA Policy Nos. 2, 3 and 6 and the Respondent's policies and procedures concerning complaint handling by, among other things:

(i) ensuring that all information and events that should be reported to the MFDA on the Member Event Tracking System ("METS") are reported in a timely way;
(ii) ensuring that complaints are handled by qualified and impartial supervisory staff or compliance staff;
(iii) prohibiting the subjects of a complaint from taking any role in the complaint handling process that involves contact with the complainant concerning the subject-matter of the complaint;
(iv) ensuring that complaints are handled by the Member promptly and fairly; and
(v) taking reasonable supervisory action upon receipt of a complaint; and

(e) at least one senior officer of the Respondent will attend in person at the Settlement Hearing when this Settlement Agreement is presented to a Hearing Panel.

VII. STAFF COMMITMENT

67. 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 or any of its officers or directors 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

68. 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.

69. 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 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.

70. 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.

71. 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 it.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

72. 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 or any of its officers or directors 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 such 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 they are available.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

73. 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.

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

75. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 26th day of May, 2016.

"Nelson Cheng"

Sterling Mutuals Inc.
Per: Nelson Cheng, President and Ultimate Designated Person

"Shaun Devlin"

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

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: Sterling Mutuals Inc.

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 Sterling Mutuals Inc. (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 Settlement Agreement also addresses the conduct of Armstrong & Quaile Associates Inc. ("A&Q"), a former Member of the MFDA that amalgamated with the Respondent on May 29, 2015;

AND WHEREAS on the basis of the admissions made by the Respondent in the Settlement Agreement, the Hearing Panel is of the opinion that:

(a) commencing in June 2010, prior to its amalgamation with the Respondent A&Q failed to report to the MFDA that it had received a client complaint that alleged that an Approved Person, Barry Hunt, had engaged in personal financial dealings with a client and had potentially engaged in unauthorized outside business activities and/or unauthorized securities related business with a client, contrary to MFDA Rules 2.1.1, 2.1.4 and 2.11 and MFDA Policies No. 3 and 6;

(b) Commencing in June 2010, prior to its amalgamation with the Respondent, A&Q failed to conduct a reasonable supervisory investigation with respect to the conduct of an Approved Person, Barry Hunt, after it received a complaint on behalf of client VM alleging that Hunt had engaged in personal financial dealings and had potentially engaged in unauthorized outside business activities and/or securities related business that was not carried on for the account of the Member, contrary to MFDA Rules 2.5.1, 2.1.1 and MFDA Policy No. 2;

(c) Commencing in June 2010 and prior to its amalgamation with the Respondent, A&Q failed to ensure that a complaint submitted on behalf of client VM with respect to the conduct of Approved Person, Barry Hunt, was handled promptly and fairly by qualified compliance staff and inappropriately permitted the subject of the complaint to engage in the complaint handling process without supervision, contrary to MFDA Rules 2.11, 2.1.1 and 2.1.4 and MFDA Policy No. 3;

(d) Commencing in August 2010 and prior to its amalgamation with the Respondent, A&Q failed to ensure that a complaint received from clients JH and JH that alleged that unsuitable leveraged investment recommendations had been made to JH and JH by BO, a former Approved Person of A&Q, was handled promptly and fairly, contrary to MFDA Rules 2.11, 2.1.1 and 2.1.4 and MFDA Policy No. 3;

(e) Commencing in December 2012, the Respondent failed to conduct a reasonable supervisory investigation after receiving a complaint from client JN, and failed to

ensure that the complaint was handled promptly and fairly by qualified compliance staff and inappropriately permitted the subjects of the complaint to engage in the complaint handling process without supervision, contrary to MFDA Rules 2.5, 2.11, 2.1.4, and 2.1.1, and MFDA Policies No. 2 and 3; and

(f) Between May 2014 and March 2015, the Respondent: (a) failed to adequately supervise the conduct of Approved Persons SW and BY to ensure that: (i) accurate KYC information was recorded for each client; and (ii) the investments held in portfolios transferred to the Respondent and serviced by Approved Persons SW and BY and trade orders accepted for such clients thereafter were suitable for the clients, and (b) directed SW and BY to obtain signed documents from clients that purported to release the Respondent and its Approved Persons from liability for contraventions of their suitability obligations, contrary to MFDA Rules 2.2.1(a), (b), (c) and (e)(i), 2.1.1, 2.1.4 and 2.5.1 and MFDA Policy No. 2.

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 $75,000, pursuant to s. 24.1.2(b) of MFDA By-law No. 1.

2. The Respondent shall pay compensation to clients JH and JH in the amount of $34,000, pursuant to s. 24.1.2(f) of MFDA By-law No. 1; and.

3. The Respondent shall pay costs in the amount of $20,000 to the MFDA, pursuant to s. 24.2 of MFDA By-law No. 1.

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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