



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: Charles Edward Symes

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Charles Edward Symes, consent and agree to settlement of this matter by way of this agreement (the “Settlement Agreement”).

2. Staff conducted an investigation of the Respondent’s activities which disclosed 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.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

- a) between January 2006 and July 2014, the Respondent altered and, in some instances, used to process transactions, 18 account forms in respect of 13 clients, contrary to MFDA Rule 2.1.1; and
- b) between 2004 and January 2015, the Respondent obtained and possessed 3 pre-signed account forms in respect of 3 clients, contrary to MFDA Rule 2.1.1

5. Staff and the Respondent agree and consent to the following terms of settlement:

- a) the Respondent shall pay a fine in the amount of \$10,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
- c) should the Respondent, at any time in the future, seek to hold the position of Branch Manager, before doing so he will be required to successfully complete the Branch Manager's course offered by the Canadian Securities Institute in relation to the mutual fund industry;
- d) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
- e) the Respondent will attend in person, on the date set for the Settlement Hearing.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in Part III herein and consent to the making of an Order in the form attached as Schedule "A".

III. AGREED FACTS

Registration History

7. The Respondent has been registered as a mutual fund salesperson (now known as a dealing representative) with Sun Life Financial Investment Services (Canada) Inc. ("Sun Life"),

a Member of the MFDA, in New Brunswick since October 1989, and Nova Scotia since June 2008.

8. From February 2005 to February 2015, the Respondent was registered as a branch manager with Sun Life in New Brunswick.

9. At all material times, the Respondent conducted business in the Moncton, New Brunswick area.

Altered Forms

10. Between January 2006 and July 2014, the Respondent altered and, in some instances, used to process transactions, 18 account forms in respect of 13 clients. In particular, the Respondent altered the investment instructions, client signature dates, addresses and/or account numbers that were recorded on the account forms.

11. The forms, 16 of which were used to process transactions, consisted of:

- a) 6 direct transfer forms;
- b) 2 order ticket forms;
- c) 2 pension benefit transfer forms;
- d) 2 request to unlock funds forms;
- e) 1 payment election form;
- f) 1 mutual fund switch authorization form;
- g) 1 mutual fund application form;
- h) 1 Know-Your-Client form;
- i) 1 Limited Trade Authorization form; and
- j) 1 appointment of beneficiary form.

12. The Respondent made the alterations described above without obtaining the clients' initials next to the alterations.

Pre-Signed Forms

13. At all material times, Sun Life's policies and procedures prohibited its Approved Persons, including the Respondent, from obtaining or possessing pre-signed account forms.

14. Between 2004 and January 2015, the Respondent obtained and possessed 3 pre-signed account forms in respect of 3 clients. The forms consisted of:

- a) 1 pre-signed identify verification form containing a photocopied client signature;
- b) 1 pre-signed direct transfer form containing a photocopied client signature; and
- c) 1 pre-signed mutual fund switch authorization form containing an original client signature.

Action Taken by the Member

15. Sun Life detected the conduct that is the subject of this Settlement Agreement during a compliance audit conducted on October 8, 2014 and a further follow-up audit on January 21-22, 2015. This audit included a review of all client files maintained by the Respondent.

16. As part of its investigation, Sun Life sent letters to those clients of the Respondent whose files were found to contain altered or pre-signed account forms. None of the clients reported any concerns to Sun Life.

17. On May 19, 2015, Sun Life sent a warning letter to the Respondent regarding the conduct described above. The warning letter instructed the Respondent to immediately cease using pre-signed account forms and to always obtain the client's initials or signature next to any alterations made on account forms. Sun Life placed the Respondent on close supervision for a period of 24 months, and during this period he is no longer acting as branch manager.

Additional Factors

18. The Respondent has not previously been the subject of MFDA disciplinary proceedings.

19. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above, beyond the commissions or fees he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

20. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources and expenses associated with conducting a full hearing of the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

21. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the MFDA Rules of Procedure.

22. The Settlement Agreement is subject to acceptance by the Hearing Panel which shall be sought at a hearing (the "Settlement Hearing"). At, or following the conclusion of, the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement.

23. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

24. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter;
- b) the Respondent waives any 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;

- c) Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts and the contraventions described in this Settlement Agreement. 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 this Settlement Agreement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;
- d) 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; and
- e) 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 the Respondent.

25. If, for any reason, this Settlement Agreement is not accepted 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 the Settlement Agreement or the settlement negotiations.

26. Staff and the Respondent agree that the terms of the 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.

27. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile copy of any signature shall be effective as an original signature.

DATED this 5th day of April, 2016.

“Charles Edward Symes”

Charles Edward Symes

“SMF”

Witness – Signature

SMF

Witness – Print Name

“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
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Re: Charles Edward Symes

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 Charles Edward Symes (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:

- a) between January 2006 and July 2014, altered and, in some instances, used to process transactions, 18 account forms in respect of 13 clients, contrary to MFDA Rule 2.1.1;
- and

- b) between 2004 and January 2015, obtained and possessed 3 pre-signed account forms in respect of 3 clients, contrary to MFDA Rule 2.1.1.

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

1. If at any time a non-party to this proceeding requests production of, or access to, 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*.
2. The Respondent shall pay a fine in the amount of \$10,000 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
3. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
4. Should the Respondent, at any time in the future, seek to hold the position of Branch Manager, before doing so he will be required to successfully complete the Branch Manager's course offered by the Canadian Securities Institute in relation to the mutual fund industry; and
5. The Respondent shall in the future comply with MFDA Rule 2.1.1.

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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