



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: Melissa Marie Smith

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Melissa Marie Smith, 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 March 2014 and February 2015, the Respondent altered and, in 17 instances, used to process transactions, 20 account forms in respect of 2 clients by using photocopies of previously signed signature pages from other forms or altering previously used account forms, contrary to MFDA Rule 2.1.1; and
- b) between March 2014 and October 2014, the Respondent obtained and possessed 1 pre-signed account form in respect of 1 client, 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, payable in two installments as follows:
 - i) the first installment of \$5,000 shall be paid on or before the first business day of the 6 months that follow the date of acceptance of the Settlement Agreement by the Hearing Panel;
 - ii) the second installment of \$5,000 shall be paid on or before the first business day of the 12 months that follow the date of acceptance of the Settlement Agreement by the Hearing Panel;
- b) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1, payable immediately upon acceptance of the Settlement Agreement by the Hearing Panel;
- c) if the Respondent fails to make any of the payments described in subparagraph (a) when the payments become due, then without further notice to the Respondent, the Respondent shall summarily be suspended from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member, until the full amount of the fine has been paid;

- 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 Nova Scotia since March 2008, and Alberta since June 2013.

8. The Respondent was also previously registered with Sun Life in Alberta from March 2005 to December 2009.

9. At all material times, the Respondent conducted business in the St. Andrews, Nova Scotia area.

Altered Forms

10. Between March 2014 and February 2015, the Respondent altered and, in 17 instances, used to process transactions, 20 account forms in respect of 2 clients.

11. The forms consisted of 14 Transfer Authorization Forms, 3 Know-Your-Client Forms, 2 Investment Application Forms and 1 Limited Trade Authorization Form.

12. With regard to 15 of the 20 account forms, the Respondent used photocopies of previously signed client signature pages from other account forms to complete the form. The Respondent submitted to Sun Life at least 12 of these account forms for processing.

13. With regard to the remaining 5 account forms, the Respondent altered previously used account forms and re-submitted them to Sun Life to process additional transactions. In particular, the Respondent altered account numbers, client signature dates, know-your-client information and/or investment instructions.

Pre-Signed Form

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

15. Between March 2014 and October 2014, the Respondent obtained and possessed 1 pre-signed Order Ticket Form in respect of 1 client.

Action Taken by the Member

16. Sun Life detected the conduct that is the subject of this Settlement Agreement during a compliance audit conducted on October 27, 2014, and a further follow-up audit on February 19 and March 10, 2015. This audit included a review of all client files maintained by the Respondent.

17. As part of its investigation, Sun Life sent letters to all clients serviced by the Respondent to determine whether the Respondent had engaged in any unauthorized trading activity in the clients' accounts. None of the clients reported any concerns to Sun Life.

18. On August 13, 2015, Sun Life sent a warning letter to the Respondent regarding the conduct described above and placed the Respondent on close supervision for a period of 12 months. No further concerns have arisen as a result.

Additional Factors

19. The Respondent states that the clients had authorized all of the transactions referenced in this Settlement Agreement.

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

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

22. 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

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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 13th of June, 2016.

“SS”
Witness – Signature

“Melissa Marie Smith”
Melissa Marie Smith

SS
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
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Melissa Marie Smith

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 Melissa Marie Smith (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 March 2014 and February 2015, altered and, in 17 instances, used to process transactions, 20 account forms in respect of 2 clients by using photocopies of previously signed signature pages from other forms or altering previously used account forms, contrary to MFDA Rule 2.1.1; and

- b) between March 2014 and October 2014, obtained and possessed 1 pre-signed account form in respect of 1 client, 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, payable in two installments as follows:

- i) the first installment of \$5,000 shall be paid on or before the first business day of the 6 months that follow the date of acceptance of the Settlement Agreement by the Hearing Panel;
- ii) the second installment of \$5,000 shall be paid on or before the first business day of the 12 months that follow the date of acceptance of the Settlement Agreement by the Hearing Panel;

3. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1, payable immediately upon acceptance of the Settlement Agreement by the Hearing Panel;

4. If the Respondent fails to make any of the payments described in paragraph 2 when the payments become due, then without further notice to the Respondent, the Respondent shall summarily be suspended from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member, until the full amount of the fine has been paid; 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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