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: Christopher J. Singer

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 Pacific 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 Christopher J. Singer (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. The Respondent has been registered in the mutual fund industry since July 2001.

7. Since July 2004, the Respondent has been registered in British Columbia and Manitoba as a mutual fund salesperson (now known as a dealing representative) with FundEX Investments Inc. ("FundEX"), a Member of the MFDA. The Respondent has been registered in British Columbia as a Branch Manager since September 28, 2009 with FundEX.

8. At all material times, the Respondent conducted business in White Rock, British Columbia and operated his financial services business using the approved trade name “Singer Olfert Financial Group”.

Client AO

9. Since March 2011, the Respondent serviced the mutual fund accounts of client AO. In March 2011, client AO was a single 62 year old realtor with a novice level of investment knowledge who intended to retire within 3-5 years. Client AO was planning to purchase a new home as soon as she could find a suitable property.

10. At all material times, client AO relied upon and deferred substantially or entirely to the Respondent for investment recommendations and advice.

11. In June 2011, client AO sold her home. The sale proceeds totaled approximately $1.15 million. She met with the Respondent to obtain advice about the possibility of investing this money.

12. Client AO informed the Respondent that she intended to apply approximately $800,000 - $900,000 towards the purchase of a new home as soon as she could find an appropriate property. Client AO told the Respondent that she wanted this portion of her savings to be placed in a low risk short term investment to ensure the preservation of capital required for the anticipated home purchase.

13. Client AO informed the Respondent that she wanted to invest the remaining $300,000 - $400,000 in a manner that would provide her with a source of savings and income to support her during her retirement. Client AO intended on retiring between the ages of 65-68.

ROI Funds

14. In response to client AO's request for investment advice, the Respondent recommended that she apply $485,000 towards the purchase of units of the ROI Private Placement Fund and $650,000 towards the purchase of units of the ROI High Yield Private Placement Fund (referred to collectively as the "ROI Funds") for a total investment of $1,135,000.

15. At the time the Respondent recommended the ROI Funds to client AO, the ROI Funds were exempt securities. According to materials produced and distributed by the fund company, ROI Capital Ltd. ("ROI"), the ROI Funds were open-end investment funds consisting primarily of higher yielding private placements of capital in debt obligations and/or equity securities issued by businesses seeking nonbank financing.

16. In 2009, FundEX approved ROI Funds for sale by its Approved Persons. FundEX deemed the ROI Funds to be medium risk. FundEX also considered the ROI Funds suitable only for sophisticated investors with a long-term time horizon, but there is no evidence that this was communicated to the Respondent. The Respondent states that when he recommended the investment to client AO he was not aware and had not been told by FundEX that it was not suitable for a novice investor. When FundEX reviewed the trade for suitability it was not queried.

17. The ROI Funds' Offering Memorandum dated March 25, 2010 stated that the fund's investment objective is to provide long-term capital appreciation.

18. Client AO was a novice investor who did not have a long term time horizon as she anticipated that she would need a large proportion of the money that she proposed to invest in order to purchase a new home.

19. On July 9, 2011, client AO accepted the Respondent's advice and proceeded to apply the $1.135 million in proceeds from the sale of her home to purchase units of the ROI Funds in her open account.

20. On March 9, 2012, ROI halted redemptions in the ROI Funds.

21. On August 24, 2012, unitholders of the ROI High Income Private Placement Fund, ROI Private Placement Fund and ROI Strategic Private Placement Fund approved resolutions authorizing the restructuring of the funds to a closed-end investment publicly traded on the TSX.

22. On October 3, 2012, client AO had the opportunity to purchase a property. However, client AO could not complete the purchase of the property because trading of the ROI Funds remained halted and therefore she could not process redemptions of units of her ROI Funds and apply the proceeds towards the purchase of the property as she had intended.

23. On December 4, 2012, the ROI Funds were listed on the TSX and the ability of unitholders to redeem their investments in the funds was restored.

24. Between April 3 and May 9, 2014, client AO redeemed her investments in the ROI Funds, and suffered a loss of approximately $92,657.

Allegation #1 - Failure to Learn Essential Facts relative to the Client

25. Prior to investing the savings of client AO in July 2011, the Respondent completed a New Account Application Form (the "NAAF") to open a new account at FundEX for client AO.

26. At all material times, FundEX maintained policies and procedures requiring its Approved Persons to discuss KYC information definitions with clients when completing account opening forms.

27. The KYC information that was recorded on the NAAF was entered on the back office system of FundEX in part for consideration by FundEX compliance staff that conduct trade supervision to try to ensure that all investment orders accepted by the Member are suitable in accordance with MFDA Rule 2.2.1.

28. The KYC information that the Respondent recorded on the NAAF for the open account of client AO included the following:

a) client AO's investment knowledge was recorded as "Novice" (or very low);
b) the risk tolerance of client AO was recorded as "100% moderate"; and
c) the investment time horizon of client AO for investments held in the open account was 3-5 years.

29. If the Respondent had exercised due diligence to ensure that he learned and accurately recorded KYC information for the open account of client AO, he would have known or ought to have known that certain KYC information that he recorded for the open account of client AO in July 2011 was incorrect.

30. Most significantly, the Respondent knew or ought to have known that:

a) client AO's objective to ensure the capital preservation of $800,000-$900,000 that she intended to apply towards the purchase of a new home was incompatible with a medium risk tolerance;
b) client AO's intention to apply a large portion of her savings towards the purchase of a new home as soon as she could find an appropriate property to purchase was incompatible with a time horizon of 3-5 years; and
c) the ROI Funds were not suitable for a "novice" investor.

31. By engaging in the conduct described above, the Respondent failed to use due diligence to learn the essential facts relative to the open account that he opened for client AO and failed to accurately record the essential facts on the client's New Account Application Form, contrary to MFDA Rules 2.2.1(a) and 2.1.1.

Allegation #2 - Suitability of the ROI Funds

32. If the Respondent had exercised due diligence to learn and accurately record KYC information of client AO for the open account that was opened in June 2011, the Respondent should have been aware that client AO was an unsophisticated investor with a low risk tolerance and a short term time horizon.

33. The Respondent knew or ought to have known that the ROI Funds were not suitable investments for an unsophisticated investor such as client AO who intended to apply a substantial proportion of the money invested towards the purchase of a property.

34. By advising client AO to concentrate more than $1 million in two exempt products that were comprised primarily of investments in real estate like the ROI Funds, the Respondent also failed to recommend adequate diversification of the investment holdings of client AO.

35. Accordingly, by advising client AO to invest in two ROI Funds that were incompatible with the investment knowledge, risk tolerance and time horizon of client AO and which failed to ensure appropriate diversification of her investment portfolio, the Respondent failed to ensure that the investment recommendations that he made to client AO were suitable, in keeping with her investment objectives and within the bounds of good business practice, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegation #3 - Failure to Advise Client AO on Risk

36. Prior to making her investment in the ROI Funds, client AO told the Respondent that she was seeking an investment in a low risk product like a short term Guaranteed Investment Certificate ("GIC") that would offer liquidity so that she could redeem a substantial portion of her investment to purchase a new home.

37. The Respondent made representations to client AO indicating that the ROI Funds would satisfy the criteria that the client had outlined to him.

38. The Respondent presented client AO with ROI Funds marketing material that compared a 1-2% return from GICs to a 6-8% return for ROI Funds.

39. When he did so, the Respondent failed to clearly explain to client AO that a purchase of the ROI Funds entailed additional risks that would not be associated with the purchase of GICs.

40. In particular, prior to purchasing the ROI Funds, the Respondent failed to review the risk factors set out in ROI Funds' Offer Memorandum including but not limited to concentration risk, credit risk, large redemption risk, valuation risk of private placements, regulatory risk and liquidity risk.

41. The ROI Funds were not suitable for client AO and the Respondent should not have recommended the investments to her. Among other things, the Respondent was aware of client AO's intention to purchase a new home and should have been aware that the liquidity risk inherent in the ROI Funds might undermine client AO's ability to redeem her investment on short notice to apply towards the purchase of a property.

42. As described above, the Respondent failed to adequately explain the benefits, risks, material assumptions and features of the ROI Funds, thereby failing to present the ROI Funds to client AO in a fair and balanced manner, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegation #4 - Failure to Reconsider Recommendation

43. On November 17, 2011, FundEX sent a Compliance Memorandum to its Approved Persons, including the Respondent, which indicated, amongst other things, that it would be reviewing clients' portfolios that exceeded a concentration of 25% in ROI Funds and that it may require advisors to review portfolio holdings with certain clients. It also stated that, "…[i]t is the expectation of the regulators that a client holding a greater allocation in one fund would have a higher risk tolerance and a longer time horizon."

44. On December 1, 2011, FundEX sent another Compliance Memorandum to follow-up on the November 17, 2011 Compliance Memorandum. The December 1, 2011 Compliance Memorandum advised, amongst other things, that FundEX Regional Branch Managers would send a list of any clients that needed to be reviewed in respect of the suitability of their ROI investments. Although client AO was never included on any such list, the December 1, 2011 memorandum stated that a review for suitability should consider the following factors:

a) Approved Persons should discuss the concentration level of their clients' portfolio and explain the increased risk that can result from a less diverse portfolio. The clients should have an increased appetite for risk if the client wishes to continue to hold the ROI Private Placement Pool with limited diversification;
b) clients should have a minimum time horizon of 5 years;
c) clients should sign an acknowledgment; and
d) Approved Persons should record detailed notes of the client meetings.

45. The Respondent failed to review or reconsider his recommendation to client AO in light of the information provided in the FundEX memos, and failed to recommend an alternative investment strategy and investment products that were suitable for client AO. This failure was in contravention of MFDA Rules 2.2.1 and 2.1.1.

Client AO's Complaint

46. On March 11, 2014, client AO sent a written complaint to FundEX to express the view that the Respondent's recommendation that she purchase the ROI Funds was unsuitable.

47. On March 17, 2014, client AO transferred her accounts to RBC Dominion Securities.

48. Between April 3 and May 9, 2014, client AO redeemed her investments in the ROI Funds.

49. On May 5, 2014, client AO submitted a written complaint to the MFDA.

50. As stated above, as a result of the Respondent's recommendation to purchase the ROI Funds, client AO suffered a loss of $92,657.47.

51. On April 15, 2015, FundEX entered into a settlement agreement with client AO and paid compensation to her to resolve her complaint.

V. CONTRAVENTIONS

52. The Respondent admits that:

a) between June 2011 and March 17, 2014, the Respondent failed to use due diligence to learn the essential facts relative to client AO and accurately record the essential facts on the client's New Account Application Forms, contrary to MFDA Rules 2.2.1(a) and 2.1.1;

b) between June 2011 and March 17, 2014, the Respondent failed to ensure that an investment recommendation he made to client AO was suitable having regard to the client's Know-Your-Client ("KYC") factors including her investment objectives, investment knowledge, risk tolerance, time horizon, and failed to ensure appropriate diversification of her investment portfolio, contrary to MFDA Rules 2.2.1 and 2.1.1;

c) between June 2011 and March 17, 2014, the Respondent failed to adequately explain the risks, benefits, material assumptions and features of exempt securities he recommended to client AO, thereby failing to present the investment to the client in a fair and balanced manner, contrary to MFDA Rules 2.2.1 and 2.1.1; and

d) between November 17, 2011 and March 17, 2014, the Respondent failed to review or reconsider his recommendation to client AO in light of criteria for assessing the suitability of the ROI Funds provided by the Member in December 2011, contrary to MFDA Rules 2.2.1 and 2.1.1.

VI. TERMS OF SETTLEMENT

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

a) the Respondent shall pay a fine in the amount of $63,500, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 upon acceptance of this Settlement Agreement;
b) the Respondent shall pay costs in the amount of $10,000, pursuant to s. 24.2 of MFDA By-law No. 1 upon acceptance of this Settlement Agreement;
c) the Respondent shall in the future comply with MFDA Rules 2.2.1 and 2.1.1.
d) the Respondent will attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

54. 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

55. Acceptance of this Settlement Agreement shall be sought at a hearing of the Pacific Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and

a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

56. 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.

57. 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. 24.1.1 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.

58. 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

59. 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

60. 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.

61. 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

62. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 14th day of February, 2017.

"Christopher J. Singer"
Christopher J. Singer

"JW"
Witness – Signature

JW
Witness – Print Name

"Shaun Devlin"
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: Christopher J. Singer

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 Christopher J. Singer (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,

a) between June 2011 and March 17, 2014, the Respondent failed to use due diligence to learn the essential facts relative to client AO and accurately record

the essential facts on the client's New Account Application Forms, contrary to MFDA Rules 2.2.1(a) and 2.1.1;

b) between June 2011 and March 17, 2014, the Respondent failed to ensure that an investment recommendation he made to client AO was suitable having regard to the client's Know-Your-Client ("KYC") factors including her investment objectives, investment knowledge, risk tolerance time horizon, and failed to ensure appropriate diversification of her investment portfolio, contrary to MFDA Rules 2.2.1 and 2.1.1;

c) between June 2011 and March 17, 2014, the Respondent failed to adequately explain the risks, benefits, material assumptions and features of exempt securities he recommended to client AO, thereby failing to present the investment to the client in a fair and balanced manner, contrary to MFDA Rules 2.2.1 and 2.1.1; and

d) between November 17, 2011 and March 17, 2014, the Respondent failed to review or reconsider his recommendation to client AO in light of criteria for assessing the suitability of the ROI Funds provided by the Member in December 2011, contrary to MFDA Rules 2.2.1 and 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 $63,500, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;

2. the Respondent shall pay costs in the amount of $10,000, pursuant to s. 24.2 of MFDA By-law No. 1; and;

3. If at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this

proceeding that contain personal information as defined by the MFDA Privacy Policy, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all 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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