



**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: Timothy Joseph Dunlop**

---

**SETTLEMENT AGREEMENT**

---

**I. INTRODUCTION**

1. By News Release, the Mutual Fund Dealers Association of Canada (“MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of MFDA By-law No. 1, a hearing panel of the Central Regional Council (“Hearing Panel”) of the MFDA should accept the settlement agreement entered into between Staff of the MFDA (“Staff”) and the Respondent, Timothy Joseph Dunlop (“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 section 24.1 of MFDA 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 at least 1994.

7. Between May 15, 2000 and September 25, 2015, the Respondent was registered in Ontario as a mutual fund salesperson / dealing representative<sup>1</sup> with IPC Investment Corporation (“IPC”), a Member of the MFDA. The Respondent was also a licensed insurance agent and mortgage broker.

---

<sup>1</sup> On September 28, 2009 when National Instrument 31-103 came into force, the Respondent’s registration category was changed from mutual fund salesperson to dealing representative.

8. The Respondent resigned from IPC on September 25, 2015.
9. At all material times, the Respondent conducted business in Midland, Ontario.
10. The Respondent is not currently registered in the securities industry in any capacity.

### **The Respondent Arranged for Client JS to Loan Monies to PH**

11. At all material times, client JS was a client of IPC whose accounts were serviced by the Respondent.
12. In November 2007, the Respondent agreed to assist PH to obtain financing to complete a renovation project that PH had been hired to perform by DN (the “Renovation Project”). PH was the principal of 1674509 Ontario Inc., operating as Millennium Homes, which purported to be in the business of renovating homes. PH was not a mutual fund client of IPC.
13. At all material times, IPC required Approved Persons to disclose and obtain approval of any outside business activities.
14. In November 2007, the Respondent informed client JS that she could borrow \$45,000 from her Home Equity Line of Credit (“HELOC”) and lend the money to PH for the Renovation Project.
15. PH agreed to pay the Respondent a \$1,000 fee for his role in arranging the loan with client JS.
16. Client JS agreed to loan \$45,000 to PH.
17. On or about November 16, 2007, client JS withdrew \$25,000 from her HELOC and loaned the monies to PH. At that time, client JS and PH signed a promissory note which stated, among other things, that the loan would be repaid within 45 days and client JS would receive

interest of 15%, compounded monthly, on any outstanding balance after January 1, 2008. Client JS also received a letter of direction signed by PH and DN, which confirmed that DN had hired PH to perform the Renovation Project and directed DN to pay \$25,000 directly to JS (instead of paying PH) upon completion of the Renovation Project.

18. On or about November 23, 2007, client JS withdrew \$20,000 from her HELOC and loaned the monies to PH. At that time, client JS and PH signed a second promissory note which stated, among other things, that the loan would be repaid within 60 days and client JS would receive interest of 15%, compounded monthly, on any outstanding balance after 60 days.

19. The Respondent signed the two promissory notes and the letter of direction as “witness”.

20. PH did not use the money that he borrowed from client JS to complete the Renovation Project for DN. Instead, PH used the money that he had borrowed from client JS to start another business.

21. PH did not repay the loans within the time periods set out in the promissory notes. Instead, PH began making monthly payments to client JS. Client JS received monthly payments from PH until 2010 when a cheque from PH was returned to client JS by the bank due to non-sufficient funds (“NSF”) in PH’s bank account. Client JS told the Respondent about the NSF cheque from PH and the Respondent advised client JS that he would speak to PH about it. A short time later, in or about December 2010, client JS received a cash payment from PH.

22. On or about January 27, 2011, a second cheque from PH was returned to client JS by the bank due to NSF. Client JS informed the Respondent of the second NSF cheque. The Respondent made several telephone calls to PH concerning the amounts owed to client JS.

23. Client JS received several small additional payments from PH, none of which exceeded \$200. Thereafter, all payments from PH ceased. Client JS spoke to the Respondent again about the amounts owed to her and the Respondent contacted PH to try to address the amounts owed.

24. On October 28, 2011, PH was charged with 11 counts of fraud over \$5,000 under the *Criminal Code*, R.S.C., 1985, c. C-46. In March 2012, PH was charged with 21 additional counts of fraud over \$5,000. In August 2015, PH was sentenced to two years imprisonment for fraud.
25. Between August 2013 and November 2014, client JS received several additional payments of approximately \$150 each from PH.
26. As described in greater detail below, in about March 2015, the Respondent received \$400 from PH and then personally paid the \$400 to client JS in respect of the monies owed to her for the Renovation Project.
27. Client JS was owed at least \$45,000 plus interest in respect of the loans to PH.
28. The Respondent did not disclose his activities (including the compensation he received) with respect to facilitating the loans from client JS to PH, and the Member did not approve these activities. The Respondent states that he mistakenly believed that the activities fell under the auspices of the Financial Services Commission of Ontario (“FSCO”) and did not need to be disclosed to the Member.
29. On or about June 24, 2008, the Respondent failed to disclose to the Member in his response to the Member’s annual compliance questionnaire that he received compensation from an outside business activity. Again, the Respondent states that he mistakenly believed that the receipt of such compensation fell under the auspices of FSCO and did not need to be disclosed to the Member.
30. In 2016, the Member paid \$50,000 to settle with client JS and was indemnified \$25,000 by the Respondent.

## **Failure to Comply with Reporting Requirements**

31. Between about December 2010 and March 2015, client JS repeatedly complained to the Respondent about the amounts owed for the monies she loaned in respect of the Renovation Project. The Respondent did not report these complaints to the Member.

32. On several occasions, client JS advised the Respondent that she wanted to approach the police about PH. The Respondent expressed his opinion to client JS that if the police became involved, PH would be inclined to leave the jurisdiction and client JS would be unlikely to recover the monies she had loaned in respect of the Renovation Project.

33. The Respondent advised client JS that if she went to the police the publicity could negatively impact his reputation and career.

34. Client JS advised the Respondent that she intended to speak with her lawyer about PH and the monies owed to her. In response, the Respondent expressed concerns to client JS about the cost of retaining counsel and whether this would be the best approach for getting her money back.

35. In March 2015, client JS advised the Respondent that she would not pursue formal police charges against PH if she received two monthly payments of \$200 each in cash going forward.

36. The Respondent subsequently received two payments from PH of \$200 each which he deposited into his bank account. The Respondent then transferred two payments of \$200 each to client JS from his personal bank account. The Respondent engaged in this activity without the prior written consent of the Member.

37. The Respondent's treatment of the complaints by client JS could reasonably be perceived as giving rise to a conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the client.

## **Blank Signed Account Forms**

38. In July 2009, IPC conducted a review of the Respondent's branch office and found that the Respondent maintained blank pre-signed account forms in client files. IPC sent a warning letter to the Respondent dated August 14, 2009 advising the Respondent that he was not permitted to obtain pre-signed accounts forms and that any future violations of this nature would result in the impositions of fines or his termination.

39. In about May 2015, IPC conducted a review of the Respondent's client files in response to a complaint from client JS with regards to the events described above. During this review, IPC identified that the Respondent had obtained and maintained seven blank pre-signed account forms in respect of four clients. The accounts forms consisted of order entry forms, which the Respondent could use to place trades in client accounts.

## **V. CONTRAVENTIONS**

40. The Respondent admits that in November 2007, the Respondent recommended and facilitated unsecured loans from client JS to a third party borrower in exchange for a fee from the borrower, thereby engaging in outside business activities which were not disclosed to and approved by the Member, and/or conduct that could reasonably be perceived as giving rise to a conflict of interest that the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.1, 2.1.4, 1.2.1(d)<sup>2</sup>, 2.5.1, and 1.1.2.

41. The Respondent admits that between December 2010 and March 2015, the Respondent failed to report a complaint by client JS to the Member, and engaged in complaint handling without the prior written consent of the Member, contrary to the policies and procedures of the Member, and MFDA Rules 2.1.1, 2.1.4, 1.2.2(b), 2.11 and 1.1.2 and MFDA Policy Nos. 3 and 6.

---

<sup>2</sup>Since November 2007 when the alleged conduct took place, MFDA Rules have been amended and renumbered. The conduct regulated by MFDA Rule 1.2.1(d) in November 2007 is now addressed in MFDA Rule 1.3 concerning outside activities.

42. The Respondent admits that in May 2015, seven blank pre-signed account forms in respect of four clients were found in the Respondent's client files, which were obtained and maintained by the Respondent, contrary to MFDA Rule 2.1.1.

## **VI. TERMS OF SETTLEMENT**

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

- (a) The Respondent shall be imposed with a permanent prohibition on the authority of the Respondent to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- (b) The Respondent shall pay costs in the amount of \$5,000, pursuant to section 24.2 of MFDA By-law No. 1; and
- (c) the Respondent will attend in person, on the date set for the Settlement Hearing.

## **VII. STAFF COMMITMENT**

44. 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 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 contraventions that are not set out in Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part 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**

45. 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. 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](http://www.mfda.ca).

46. 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.

47. 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 section 24.1.1 of MFDA By-law No. 1 for the purpose of giving notice to the public thereof in accordance with section 24.5 of MFDA By-law No. 1.

48. 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**

49. 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**

50. 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 MFDA By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

51. 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**

52. 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.

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

**XII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

**DATED** this 14<sup>th</sup> day of June, 2017.

“Timothy Joseph Dunlop”  
\_\_\_\_\_  
Timothy Joseph Dunlop

“ABF”  
\_\_\_\_\_  
Witness – Signature

ABF  
\_\_\_\_\_  
Witness – Print Name

“Shaun Devlin”  
\_\_\_\_\_  
Shaun Devlin  
Staff of the MFDA  
Per: Shaun Devlin  
Senior Vice-President,  
Member Regulation – Enforcement

**Schedule “A”**

**Order**

**File No. 201694**



**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: Timothy Joseph Dunlop**

---

**ORDER**

---

**WHEREAS** on [date], the Mutual Fund Dealers Association of Canada (“MFDA”) issued a News Release pursuant to section 24.4 of By-law No. 1 in respect of Timothy Joseph Dunlop (“Respondent”);

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (“Settlement Agreement”), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to sections 20 and 24.1 of MFDA By-law No. 1;

**AND WHEREAS** the Hearing Panel is of the opinion that:

- a) in November 2007, the Respondent recommended and facilitated unsecured loans from client JS to a third party borrower in exchange for a fee from the borrower, thereby engaging in outside business activities which were not disclosed to and approved by the Member, and/or conduct that could reasonably be perceived as

giving rise to a conflict of interest that the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.1, 2.1.4, 1.2.1(d)<sup>3</sup>, 2.5.1, and 1.1.2;

- b) between December 2010 and March 2015, the Respondent failed to report a complaint by client JS to the Member, and engaged in complaint handling without the prior written consent of the Member, contrary to the policies and procedures of the Member, and MFDA Rules 2.1.1, 2.1.4, 1.2.2(b), 2.11 and 1.1.2 and MFDA Policy Nos. 3 and 6; and
- c) in May 2015, seven blank pre-signed account forms in respect of four clients were found in the Respondent's client files, which were obtained and maintained by the Respondent, contrary to MFDA Rule 2.1.1.

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

1. The Respondent shall be imposed with a permanent prohibition on the authority of the Respondent to conduct securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$5,000, pursuant to section 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*.

---

<sup>3</sup>Since November 2007 when the alleged conduct took place, MFDA Rules have been amended and renumbered. The conduct regulated by MFDA Rule 1.2.1(d) in November 2007 is now addressed in MFDA Rule 1.3 concerning outside activities.

**DATED** this [day] day of June, 2017.

---

John Lorn McDougall, Q.C.  
Chair

---

Brigitte Geisler  
Industry Representative

---

Wanda Traczewski  
Industry Representative

DM 557630 v1