



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: Yangyi Xie

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and Yangyi Xie (the “Respondent”), 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:

- a) between August 22, 2014 and September 15, 2014, the Respondent processed 3 authorized discretionary trades as part of a dollar-cost averaging strategy in relation to 1 client, contrary to MFDA Rules 1.1.2, 2.5.1, 2.3.1, and 2.1.1;
- b) between August 2014 and October 2014, the Respondent falsified the signature of 1 client on 4 account forms, contrary to MFDA Rule 2.1.1; and
- c) on September 26, 2014, the Respondent failed to comply with a client's trade instructions and engaged in unauthorized discretionary trading by processing 2 trades, contrary to MFDA Rules 2.3.1 and 2.1.1.

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

- a) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any Member of the MFDA, for a period of 18 months commencing from the date of the Order, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- b) the Respondent shall pay a fine in the amount of \$5,500, pursuant to section 24.1.1(b) of By-law No. 1 (the "Fine");
- c) the Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of By-law No. 1 (the "Costs");
- d) the payment by the Respondent of the Fine and Costs shall be made to and received by MFDA Staff in certified funds as follows:
 - i) \$2,500 (Costs) upon acceptance of the Settlement Agreement by the Hearing Panel;
 - ii) \$611.11 on or before the last business day of the first month following the date of Settlement Agreement;
 - iii) \$611.11 on or before the last business day of the second month following the date of Settlement Agreement;

- iv) \$611.11 on or before the last business day of the third month following the date of Settlement Agreement;
 - v) \$611.11 on or before the last business day of the fourth month following the date of Settlement Agreement;
 - vi) \$611.11 on or before the last business day of the fifth month following the date of Settlement Agreement;
 - vii) \$611.11 on or before the last business day of the sixth month following the date of Settlement Agreement;
 - viii) \$611.11 on or before the last business day of the seventh month following the date of Settlement Agreement;
 - ix) \$611.11 on or before the last business day of the eighth month following the date of Settlement Agreement; and
 - x) \$611.11 on or before the last business day of the ninth month following the date of Settlement Agreement.
- e) If the Respondent fails to make any of the payments described above in subparagraph 5(d):
- i) any outstanding balance of the Fine and Costs owed by the Respondent shall become immediately due and payable to the MFDA; and
 - ii) the Respondent shall be prohibited from conducting securities related business while in the employ of or associated with a Member of the MFDA until such time as the total amount outstanding of the Fine and Costs owed by the Respondent is paid to the MFDA, pursuant to s. 24.3.13(c) of MFDA By-law No. 1.
- f) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
- g) the Respondent will attend the Settlement Hearing in person or by teleconference.

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

7. From May 20, 2014 to November 13, 2014, the Respondent was registered in British Columbia as a mutual fund salesperson with BMO Investments Inc. (“BMO”), a Member of the MFDA.

8. The Respondent is not currently registered in the securities industry.

9. At all material times, the Respondent carried on business in the Coquitlam, British Columbia area.

Background

10. At all material times, client X was a client of BMO, whose accounts were serviced by the Respondent.

11. On August 13, 2014, client X signed a BMO Message Agreement Form, which permitted the Respondent to accept instructions from client X by telephone or fax. BMO requires its Approved Persons to take detailed notes of conversations with clients when obtaining instructions over the phone.

12. Between February and August 2014, client X and the Respondent discussed client X’s investment portfolio, and the Respondent recommended client X invest in the BMO Bond Fund and the BMO Monthly High Income Fund II.

13. The Respondent states that he recommended that client X invest her monies totaling \$165,000 using a dollar-cost averaging strategy, which is a strategy whereby the client will make investments at periodic intervals in order to diversify the purchase price for a unit of a given mutual fund.

14. Under the strategy, client X agreed to invest her monies in the BMO Bond Fund and the BMO Monthly High Income Fund II (the “Target Portfolio”).

Authorized Discretionary Trading and Falsification of Client Signatures

15. At all material times, BMO’s policies and procedures prohibited its Approved Persons from engaging in discretionary trading.

16. On August 22, 26, and September 15, 2014, the Respondent processed 3 authorized discretionary trades as part of the dollar-cost averaging strategy he recommended to client X as described below.

17. On August 22, 2014, the Respondent processed a trade in client X’s account to purchase \$40,000 of the BMO Bond Fund and \$10,000 of the BMO Monthly High Income Fund II. The Respondent states that client X authorized the mutual funds to purchase and amounts to be invested. The Respondent used his discretion to select the timing of the trade.

18. On August 26, 2014, the Respondent processed a trade in client X’s account to purchase \$11,596.44 of the BMO Bond Fund and \$2,899.12 of the Monthly High Income Fund II. The Respondent states that client X authorized the mutual fund to purchase and amount to be invested. The Respondent used his discretion to select the timing of the trade.

19. On September 15, 2014, the Respondent processed a trade in client X’s account for the purchase of \$25,000 of the BMO Monthly High Income Fund II. The Respondent states that client X authorized the mutual fund to purchase. The Respondent used his discretion to choose the amount to be invested and the timing of the trade.

20. The Respondent falsified client X’s signature on 2 trade forms in order to process the transactions that occurred on August 22 and 26, 2014, described above at paragraphs 17 and 18.

21. The Respondent states that, on September 15, 2016, he attempted to contact client X by phone prior to processing the trade described above at paragraph 19, but was unable to speak with client X. To process this trade, the Respondent indicated on the trade form that there was a BMO Message Agreement in client X's file, and that he had called client X on September 15, 2014. The Respondent processed this trade without having a discussion with client X as was required by BMO pursuant to the BMO Message Agreement.

Unauthorized Discretionary Trade and Falsification of Client Signatures

22. On September 26, 2014, the Respondent did not follow client X's instructions to purchase the mutual funds she agreed to as part of the Target Portfolio. Without client X's authorization, the Respondent used his discretion to purchase 2 different mutual funds than those that client X approved the Respondent to purchase on her behalf in the Target Portfolio.

23. In addition to falsifying the signature of client X on two forms as described above at paragraph 20, the Respondent falsified client X's signature on the purchase form and a Know-Your-Client form used to process the transactions on September 26, 2014.

24. As a result of the Respondent's unauthorized discretionary trade, client X suffered a loss of \$2,350.30.

25. On November 13, 2014, BMO compensated client X

BMO's Investigation

26. On October 22, 2014, client X complained to BMO about the unauthorized transaction in her account.

27. BMO subsequently reviewed 47 of the client files serviced by the Respondent, and did not identify any issues.

28. On November 13, 2014, BMO terminated the Respondent as a result of the matters described herein.

Additional Factors

29. The Respondent has not previously been the subject of MFDA disciplinary proceeding.

30. There is no evidence that:

- a) the Respondent received any financial benefit from engaging in the misconduct beyond the commissions or fees to which he would have been ordinarily entitled had the transactions in the clients' accounts been carried out in the proper manner; and
- b) any clients, other than client X, have complained about the Respondent's conduct.

IV. ADDITIONAL TERMS OF SETTLEMENT

31. 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.

32. 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.

33. 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.

34. 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 contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any 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.

35. 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.

36. 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.

37. 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 16th day of March, 2017.

“Yangyi Xie”

Yangyi Xie

“BX”

Witness – Signature

BX

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. 201699



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: Yangyi Xie

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 Yangyi Xie (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 August 22, 2014 and September 15, 2014, the Respondent processed 3 authorized discretionary trades as part of a dollar-cost averaging strategy in relation to 1 client, contrary to MFDA Rules 1.1.2, 2.5.1, 2.3.1, and 2.1.1;
- b) between August 2014 and October 2014, the Respondent falsified the signature of

- 1 client on 4 account forms, contrary to MFDA Rule 2.1.1;
- c) on September 26, 2014, the Respondent failed to comply with a client's trade instructions and engaged in unauthorized discretionary trading by processing 2 trades, contrary to MFDA Rules 2.3.1 and 2.1.1.

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

1. The Respondent shall be prohibited for a period of 18 months from conducting securities related business in any capacity while in the employ of or associated with any Member of the MFDA, commencing from the date of the Order, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
2. the Respondent shall pay a fine in the amount of \$5,500, pursuant to section 24.1.1(b) of By-law No. 1 (the "Fine");
3. the Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of By-law No. 1 (the "Costs");
4. the Respondent shall pay the Fine and Costs in certified funds as follows:
 - i. 2,500 (Costs) upon entering into the Settlement Agreement;
 - ii. \$611.11 (Fine) on or before <date to be inserted>;
 - iii. \$611.11 (Fine) on or before <date to be inserted>;
 - iv. \$611.11 (Fine) on or before <date to be inserted>;
 - v. \$611.11 (Fine) on or before <date to be inserted>;
 - vi. \$611.11 (Fine) on or before <date to be inserted>;
 - vii. \$611.11 (Fine) on or before <date to be inserted>;
 - viii. \$611.11 (Fine) on or before <date to be inserted>;
 - ix. \$611.11 (Fine) on or before <date to be inserted>; and
 - x. \$611.11 (Fine) on or before <date to be inserted>

5. If the Respondent fails to make any of the payments described above in sub-paragraph 4:
- i) any outstanding balance of the Fine and Costs owed by the Respondent shall become immediately due and payable to the MFDA; and
 - ii) the Respondent shall be prohibited from conducting securities related business while in the employ of or associated with a Member of the MFDA until such time as the total amount outstanding of the Fine and Costs owed by the Respondent is paid to the MFDA, pursuant to s. 24.3.13(c) of MFDA By-law No.1.
6. The Respondent shall in the future comply with MFDA Rule 2.3.1 and 2.1.1; and
7. 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]