



**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: Brien Ingram Robertson Marshall, Blair Robert Cooper and  
Tradex Management Inc.**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Settlement Hearing, 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 By-law No. 1, a hearing panel of the Central Regional Council (“Hearing Panel”) of the MFDA should accept the settlement agreement (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and Brien Ingram Robertson Marshall, Blair Robert Cooper and Tradex Management Inc. (“Tradex”) (collectively, the “Respondents”).

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff conducted an investigation of the Respondents’ activities. The investigation disclosed that the Respondents had engaged in activity for which the Respondents 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 Respondents recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondents agree to the settlement on the basis of the facts set out in Part IV herein and consent to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondents 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 Respondents 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 Respondents 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 XI) 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. Tradex is registered in Ontario, Quebec, and British Columbia as a mutual fund dealer. Tradex’s head office is located in Ottawa, Ontario. Tradex has been a Member of the MFDA since April 4, 2002.

7. Since August 21, 2000, Mr. Cooper has been registered in Ontario as a mutual fund salesperson (now known as a dealing representative<sup>1</sup>) with Tradex. Mr. Cooper is also currently registered as a mutual fund salesperson with Tradex in Quebec and British Columbia. Mr. Cooper is the Ultimate Designated Person (“UDP”), Chief Executive Officer and Chief Financial Officer of Tradex.

8. Since June 9, 1992, Mr. Marshall has been registered in Ontario as mutual fund salesperson with Tradex. Mr. Marshall is also currently registered as a mutual fund salesperson with Tradex in Quebec and British Columbia. Mr. Marshall is the Chief Compliance Officer (“CCO”) and Senior Vice-President of Tradex.

9. At all material times, between four to seven Approved Persons, including the Respondents, were registered with Tradex. The Approved Persons used a joint representative code with Mr. Cooper and/or Mr. Marshall, and collectively serviced all Tradex clients on behalf of them.

10. At all material times, Mr. Cooper and Mr. Marshall conducted business at Tradex’s head office.

## **Background**

11. On or about September 15, 2015, MFDA Compliance Staff completed a compliance examination of Tradex which covered the period October 1, 2011 to April 30, 2014. During this compliance examination, MFDA Compliance Staff identified evidence of the misconduct described in greater below.

12. On October 28, 2015, MFDA Enforcement Staff conducted an unannounced on-site inspection of Tradex’s head office. During this inspection, MFDA Enforcement Staff identified further evidence of the misconduct described in greater below.

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<sup>1</sup> In September 2009, National Instrument 31-103 changed the registration category “mutual fund salesperson” to “dealing representative”.

### **Pre-Signed Account Forms**

13. Between August 14, 2003 and January 28, 2015, Mr. Marshall, Mr. Cooper and/or other Approved Persons at Tradex acting on their behalf, obtained, possessed and, in some instances, used to process transactions at least 81 pre-signed account forms, in respect of 39 clients.

14. To the extent that other Approved Persons engaged in the conduct described in paragraph 13 above, Mr. Marshall and/or Mr. Cooper were responsible for the handling of the client accounts and were aware of, permitted or condoned the activities pertaining to the pre-signed and altered account forms.

15. The pre-signed account forms consisted of Trade Forms, Know-Your-Client (“KYC”) Forms and New Account Application Forms (“NAAFs”).

### **Altered Account Forms**

16. Between June 15, 2006 and February 21, 2014, Mr. Marshall, Mr. Cooper and/or other Approved Persons at Tradex acting on their behalf, altered information on 9 account forms in respect of 9 clients after the clients had signed the account forms without obtaining the clients’ initials to acknowledge the altered information.

17. To the extent that other Approved Persons engaged in the conduct described in paragraph 16 above, Mr. Marshall and/or Mr. Cooper were responsible for the handling of the client accounts and were aware of, permitted or condoned the activities pertaining to the actively falsified account forms.

18. The altered account forms consisted of eight Trade Forms and one KYC form.

## **Failure to Supervise**

19. As stated above, between August 14, 2003 and January 28, 2015, Mr. Marshall, Mr. Cooper and/or other Approved Persons at Tradex acting on their behalf, collected, maintained or used pre-signed and altered account forms.

20. At all material times, Tradex did not have adequate policies and procedures in place that prohibited its Approved Persons from collecting, maintaining or using pre-signed or altered account forms

21. Tradex failed to supervise the activities of its Approved Persons in order to ensure compliance with MFDA requirements and failed to establish, implement and maintain adequate policies and procedures that prohibited its Approved Persons from collecting, maintaining or using pre-signed or altered account forms.

## **Additional Factors**

22. Tradex has revised its policies and procedures, and implemented additional training for all Approved Persons, with respect to the prohibition on the collection or use of pre-signed or altered account forms.

23. The Respondents have no prior disciplinary history with the MFDA.

24. There is no evidence of misappropriation, unauthorized trading or client harm in this matter.

25. No client complaints were received by Staff in connection with the actions of the Respondents in this matter.

26. There is no evidence that the Respondents received any financial benefit from engaging in the misconduct. The Respondents state that they engaged in the conduct described in this Settlement Agreement for the convenience of clients.

27. The Respondents have cooperated fully with Staff during the course of the investigation and, by agreeing to this settlement, have avoided the time and expense necessary to conduct a full hearing on the merits.

28. The Respondents have expressed remorse for their misconduct.

## **V. CONTRAVENTIONS**

29. The Respondents admit that:

- (a) between August 14, 2003 and January 28, 2015, Mr. Cooper, Mr. Marshall and/or other Approved Persons at Tradex acting on their behalf, obtained, possessed and, in some instances, used to process transactions approximately 81 pre-signed account forms in respect of 39 clients, contrary to MFDA Rule 2.1.1;
- (b) between June 15, 2006 and February 21, 2014, Mr. Cooper, Mr. Marshall and/or other Approved Persons at Tradex acting on their behalf, altered information on 9 account forms in respect of 9 clients after the clients had signed the account forms without obtaining the clients' initials to acknowledge the altered information, contrary to MFDA Rule 2.1.1; and
- (c) between August 14, 2003 and January 28, 2015, Tradex failed to supervise the activities of its Approved Persons in order to ensure compliance with MFDA requirements and failed to establish, implement and maintain adequate policies and procedures that prohibited its Approved Persons from collecting, maintaining or using pre-signed or altered account forms, contrary to MFDA Rules 2.5, 2.9, 2.10, and 2.1.1, and MFDA Policy No. 2.

## **VI. TERMS OF SETTLEMENT**

30. The Respondents agree to the following terms of settlement:

- (a) the Respondents shall pay a fine of \$40,000 pursuant to s. 24.1.2(b) of MFDA By law No. 1;
- (b) the Respondents shall pay costs of \$5,000 pursuant to s. 24.2 of MFDA By law No. 1;
- (c) the Respondent shall in the future comply with MFDA Rules 2.1.1, 2.5, 2.9, 2.10, MFDA Policy No. 2, and all applicable securities legislation; and
- (d) Mr. Cooper and Mr. Marshall will attend via teleconference on the date set for the Settlement Hearing.

## **VII. STAFF COMMITMENT**

31. 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 Respondents or any of Tradex's officers or directors 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 Respondents from fulfilling any continuing regulatory obligations.

## **VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT**

32. 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 Respondents.

33. Staff and the Respondents may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondents 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 Respondents agree to waive their 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.

34. Staff and the Respondents agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondents 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.

35. Staff and the Respondents agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondents 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 it.

## **IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT**

36. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondents fail to comply with any of the terms of the Settlement Agreement, Staff reserves the right to bring proceedings under section 24.3 of the By-laws of the MFDA against the Respondents and any of Tradex's officers or directors 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 Respondents agree 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**

37. 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 Respondents 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.

38. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondents agree that they 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**

39. 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.

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

## **XII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

**DATED** this 24<sup>th</sup> day of October, 2017.

“Blair Cooper”

\_\_\_\_\_  
Tradex Management Inc.  
Per: Blair Cooper,  
Chief Compliance Officer

“Brien Marshall”

\_\_\_\_\_  
Brien Marshall

“Blair Cooper”

\_\_\_\_\_  
Blair Cooper

“DW”

\_\_\_\_\_  
Witness - Signature

“DW”

\_\_\_\_\_  
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. 201785**



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PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF  
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**Re Brien Ingram Robertson Marshall, Blair Robert Cooper and  
Tradex Management Inc.**

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**ORDER**

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**WHEREAS** on [date], the Mutual Fund Dealers Association of Canada (“MFDA”) issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Brien Ingram Robertson Marshall, Blair Robert Cooper and Tradex Management Inc. (“Tradex”) (collectively, the “Respondents”);

**AND WHEREAS** the Respondents entered into a settlement agreement with Staff of the MFDA, dated [date] (the “Settlement Agreement”), in which the Respondents agreed to a proposed settlement of matters for which the Respondents 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 Respondents:

- a) between August 14, 2003 and January 28, 2015, Mr. Cooper, Mr. Marshall and/or other Approved Persons at Tradex acting on their behalf, obtained,

- possessed and, in some instances, used to process transactions approximately 81 pre-signed account forms in respect of 39 clients, contrary to MFDA Rule 2.1.1;
- b) between June 15, 2006 and February 21, 2014, Mr. Cooper, Mr. Marshall and/or other Approved Persons at Tradex acting on their behalf, altered information on 9 account forms in respect of 9 clients after the clients had signed the account forms without obtaining the clients' initials to acknowledge the altered information, contrary to MFDA Rule 2.1.1; and
  - c) between August 14, 2003 and January 28, 2015, Tradex failed to supervise the activities of its Approved Persons in order to ensure compliance with MFDA requirements and failed to establish, implement and maintain adequate policies and procedures that prohibited its Approved Persons from collecting, maintaining or using pre-signed or altered account forms, contrary to MFDA Rules 2.5, 2.9, 2.10, and 2.1.1, and MFDA Policy No. 2.

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

1. The Respondents shall pay a fine of \$40,000 pursuant to s. 24.1.2(b) of MFDA By law No. 1;
2. The Respondents shall pay costs of \$5,000 pursuant to s. 24.2 of MFDA By law No. 1;
3. The Respondents shall in the future comply with MFDA Rules 2.1.1, 2.5, 2.9, 2.10, MFDA Policy No. 2, and all applicable securities legislation;

4. 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]

DM 590031