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: Michel Joseph Landry

Heard: August 22, 2012 in Toronto, Ontario
Reasons for Decision: August 24, 2012

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Mark J. Sandler	Chair
Susan L. Schulze	Industry Representative
Terrence Bourne	Industry Representative

Appearances:

Rohit Kumar	)	For the Mutual Fund Dealers Association of Canada
Kara L. Beitel	)	For the Respondent

Introduction

1. On July 16, 2012, the Mutual Fund Dealers Association of Canada ("the MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of MFDA By-law No. 1 in respect of Michel Joseph Landry (the "Respondent").

2. The Respondent entered into a Settlement Agreement with MFDA Staff, dated August 10, 2012, 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.

3. On August 22, 2012, after hearing submissions from counsel, we approved the Settlement Agreement, and signed an Order reflecting that approval. These are our written reasons for doing so.

Agreed Facts

Facts relating to the Respondent

4. Prior to his voluntary resignation on January 31, 2012, the Respondent was registered in Ontario (since July 23, 1999), Alberta and British Columbia (since April 16, 2010) as an Alternate Compliance Officer, Shareholder and Dealing Representative with Independent Accountants Investment Group Inc. ("IAIG").

5. The Respondent was registered as the Compliance Officer of IAIG between July 1999 and February 2006. The Respondent was registered as a Branch Manager with IAIG between October 21, 2003 and June 21, 2011.

6. At the material time, the Respondent carried on business from IAIG's branch office located in Listowel, Ontario.

7. At the material time, the Respondent was a shareholder of the company that owned IAIG.

8. The Respondent is currently registered, as an Officer, Director and Ultimate Designated

Person in Ontario (since 2003) and as an Ultimate Designated Person in Alberta and British Columbia (since 2010) with Independent Accountants Investment Counsel Inc. ("IAIC"). IAIC is a Portfolio Manager and is not a Member of the MFDA.

9. The Respondent is not currently registered in the mutual fund industry.

Background

10. In October 2008, MFDA Staff issued a warning letter to the Respondent in respect of the use of pre-signed forms as a result of a finding made during the course of a MFDA compliance examination.

11. In or around May 2010, MFDA Compliance Staff conducted its third-round compliance examination of IAIG, which included a review of the branch office located in Listowel, Ontario, covering the period March 1, 2008 to March 31, 2010 (the "2010 Examination"). The 2010 Examination identified 11 pre-signed forms in nine of the Respondent's client files.

12. On or about September 15, 2010, and in response to the 2010 Examination, IAIG completed a review of the client files of all Approved Persons at the Listowel branch office (the "IAIG Review") in an attempt to find and remove any pre-signed forms from client files. The IAIG Review identified 19 pre-signed forms in 10 of the Respondent's client files, which IAIG voluntarily provided to Staff.

13. On or about September 30, 2010, MFDA Enforcement Staff conducted an unannounced on-site inspection of the Listowel branch office and reviewed 78 of the Respondent's client files (the "Staff Review"). The Staff Review identified three pre-signed forms in three of the Respondent's client files.

The Respondent's Misconduct

14. The 2010 Examination, the IAIG Review and the Staff Review identified a total of 33 pre-signed forms in a total of 22 of the Respondent's client files.

15. The pre-signed forms were either blank or partially completed. The Respondent obtained,

maintained and, in some cases, used pre-signed forms in order to process transactions in client accounts.

16. The Respondent obtained, maintained and used blank or partially completed pre-signed IAIG Mutual Fund Transaction Forms and MRS Deregistration/Withdrawal Request Forms to facilitate and expedite redemptions for clients who made frequent withdrawals from their accounts. In particular, on occasions when the Respondent was out of the office, partially completed pre-signed forms were provided to clients for signature by the Respondent's assistants in accordance with the Respondent's instructions. The Respondent subsequently entered the fund code information for the transaction.

17. The Respondent obtained, maintained and used blank pre-signed CRA T2033 Direct Transfer Forms to facilitate and expedite the repurchase of GIC investments upon a client's existing GIC investment reaching maturity.

18. The Respondent used some of the partially completed pre-signed forms to process redemptions in the accounts of clients on or about seven occasions.

19. There have been no client complaints and no known client losses concerning the Respondent's use of the pre-signed forms.

20. The Respondent has cooperated with MFDA Staff's investigation of this matter.

Analysis

21. The Respondent admits that between at least March 1, 2008 and September 30, 2010, he obtained and/or maintained 33 pre-signed forms in respect of 22 different client accounts and used the forms to process redemptions in the accounts on or about seven occasions. By obtaining and/or maintaining and using pre-signed forms as described above, the Respondent engaged in conduct prohibited by MFDA Rule 2.1.1: *Gary Alan Price (Re*), MFDA File No. 200814, Hearing Panel of the Central Regional Council, Decision and Reasons (Misconduct) dated April 18, 2011, at paras. 135-138.

22. The Settlement Agreement provides that the Respondent shall (i) pay a fine in the amount of $20,000, (ii) pay costs in the amount of $5,000, and (iii) write or re-write and pass an appropriate industry course acceptable to MFDA Staff, prior to being registered in the mutual fund industry.

23. A hearing panel should not interfere lightly in a negotiated settlement. More specifically, it should not reject a Settlement Agreement unless it views the proposed disposition as clearly falling outside the range of reasonableness. In our view, the Settlement Agreement advances the public interest, and is reasonable and proportionate having regard to all of the circumstances.

24. In so concluding, we have considered the following factors:

(a) The Nature of the Misconduct – A significant number of pre-signed forms were obtained and/or maintained (33 in total), and seven of these forms were used to process redemptions. The Respondent was warned by MFDA Staff respecting the use of pre-signed forms in October 2008, but the Respondent's conduct persisted thereafter.
(b) Discipline History – The Respondent has not been the subject of previous MFDA disciplinary proceedings.
(c) The Respondent's Supervisory Role – The Respondent has been employed in the securities industry since about 1999, and at the relevant times worked in various supervisory capacities. He is no longer registered in the mutual fund industry.
(d) No Client Harm – There is no evidence of any client losses as a result of the Respondent's conduct. No client has complained.
(e) The Respondent's Acceptance of Responsibility – The Respondent has accepted responsibility for his misconduct, cooperated with the MFDA's investigation and, through the Settlement Agreement, spared the MFDA the costs associated with a contested hearing.

25. The Respondent's supervisory position, the number of forms involved and most important, the prior warning which went unheeded are all aggravating factors. The absence of a discipline history and any known client losses, together with the Respondent's acceptance of responsibility, serve in mitigation.

26. We have also considered the existing precedents on penalty, as well as the MFDA non-binding Penalty Guidelines.

27. As previously indicated, it is our view that the Settlement Agreement is in the public interest. It is reasonable and proportionate, addresses specific and general deterrence, and ultimately fosters public confidence in the integrity of the Canadian capital markets, and the industry.

Order

28. For these reasons, the Settlement Agreement was approved.

29. We are grateful to both counsel for their assistance.

DATED this 24th day of August, 2012.

"Mark J. Sandler"
Mark J. Sandler.,
Chair

"Susan Schulze"
Susan L. Schulze,
Industry Representative

"Terrence Bourne"
Terrence Bourne,
Industry Representative

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