



**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: William Way**

Heard: April 28, 2016 in Toronto, Ontario  
Reasons for Decision: July 28, 2016

**ORAL REASONS FOR DECISION FOR ACCEPTANCE OF  
SETTLEMENT AGREEMENT**

Hearing Panel of the Central Regional Council:

Paul M. Moore, Q.C.	Chair
Colleen Waring	Industry Representative
Robert C. White	Industry Representative

Appearances:

Sarah Glickman	)	Counsel for the Mutual Fund Dealers
	)	Association of Canada
	)	
	)	
William Way	)	In Person
	)	

## **Background**

1. We, the Hearing Panel, are here 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 (the “MFDA”) and William Way (the “Respondent”).

2. The Hearing Panel has had a copy of the settlement agreement (the “Settlement Agreement”), submissions of MFDA Staff and a book of authorities. We have had a chance to consider the Settlement Agreement and the book of authorities and have no difficulty in approving the Settlement Agreement. Therefore we don't need to go *in camera*.

## **Decision**

3. We approve and accept the Settlement Agreement because it is in the public interest to do so. We direct that a copy of the Settlement Agreement be attached herein as Schedule “1”.

## **Reasons**

4. The penalties fall within the parameters of precedent cases and send a deterrent message to the Respondent and to the industry in general.

## Allegations

5. The allegations against the Respondent, and to which the Respondent admits, are that the Respondent violated the bylaws, rules or policies of the MFDA, in that between January of 2012 and May 2013, he obtained, possessed, and in some instances used to process trades 20 pre-signed account forms in respect of 8 clients contrary to MFDA Rule 2.1.1.

## Penalty

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

- a) the Respondent shall pay a fine of \$6,250;
- b) the Respondent shall pay costs of \$2,500;
- c) the Respondent shall in the future comply with all MFDA Rules; and
- d) the Respondent will attend in person on the date of the settlement hearing

#### Agreed Facts

7. The Agreed Facts are set forth in greater detail in part three of the Settlement Agreement.

#### Relevant factors

8. We have approved the Settlement Agreement taking into count the following factors which are outlined in the Settlement Agreement and have been stressed in the submissions of Staff which we have had a chance to consider in detail.

#### Breach of the Rules

9. Breach of the Rules, regardless of the innocuous nature of the conduct, is a violation which needs to have a consequence. The rules regarding non-use of pre-signed account forms need to be followed in order to allow a proper audit trail and in order to assist the Member in properly supervising its sales representatives.

#### No client harm

10. There was no client harm. The clients did not complain. Indeed the Member canvased all the clients and it appears that, if anything, the Respondent was receiving instructions from the clients involved.

No extraordinary or unusual profits

11. The Respondent did not profit from his action other than the normal profits he makes as a registered representative doing what is the normal course of business.

No fraud, moral turpitude or incompetence

12. The conduct did not contain any fraud, or moral turpitude, or suggestion of incompetence. It was a question of the Rules not being followed.

Past conduct

13. There is no indication that the Respondent has had any previous disciplinary proceedings against him by his Member or the MFDA.

Co-operation

14. The Respondent co-operated with the Member in its investigation into his conduct. By entering into the Settlement Agreement, the Respondent has saved the MFDA the time, resources and expenses associated with conducting a full hearing of the allegations.

Remorse

15. The Respondent understands the seriousness of his actions, and, through statements he made to us this morning, it is clear that he is remorseful.

Guidelines

16. The agreed fine is within the suggested penalties under the MFDA penalty guidelines.

Precedents

17. Staff provided us with a book of authorities containing many precedents, and the penalties are within the range of penalties in similar cases.

Costs

18. The costs of \$2,500 are appropriate and reasonable in the circumstances.

This written version of the oral Reasons for Decision is

**DATED** this 28<sup>th</sup> day of July, 2016.

“Paul M. Moore”

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Paul M. Moore, Q.C.  
Chair

“Colleen Waring”

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Colleen Waring  
Industry Representative

“Robert C. White”

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Robert C. White  
Industry Representative



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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. Staff of the Mutual Fund Dealers Association of Canada ("Staff") and the Respondent, William Way, 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 to the following violations of the By-laws, Rules or Policies of the MFDA: between January 2012 and May 2013, he obtained, possessed, and in some instances, used to process trades, 20 pre-signed account forms in respect of 8 clients contrary to MFDA Rule 2.1.1.

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

(a) the Respondent shall pay a fine in the amount of \$6,250 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;

(b) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;

(c) the Respondent shall in the future comply with all MFDA Rules, including MFDA Rule 2.1.1; and;

(d) the Respondent will attend in person, on the date set for the Settlement Hearing.

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 History**

7. Since September 1997, the Respondent has been registered in Ontario as a mutual fund salesperson (now known as a Dealing Representative) with Investors Group Financial Services Inc. ("Investors Group"), a Member of the MFDA.

8. A The Respondent has also been registered in Manitoba since July 2013.

9. The Respondent was registered as a branch manager with Investors Group from September 2009 to January 2011. None of the misconduct in question occurred during this period.

10. At all material times, the Respondent conducted business in the Scarborough, Ontario area.

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

11. At all material times, Investors Group's policies and procedures prohibited its Representatives, including the Respondent, from holding pre-signed account forms.

12. Between January 2012 and May 2013, the Respondent obtained, possessed, and in some instances, used to process trades, 20 pre-signed account forms in respect of 8 clients.

13. The 20 pre-signed account forms, 9 of which were used, consisted of Investment Instruction forms, Transfer Authorization forms, Know-Your-Client forms, Pre-Authorized Contribution Agreement forms and Bank Account Change forms.

### **Investors Group's Investigation**

14. Investors Group's compliance department detected the conduct that is the subject of this Settlement Agreement as a result of a routine audit of the Respondent's files in October 2014.

15. As part of its follow up investigation, the Respondent's Branch Manager reviewed all of the Respondent's client files. Investors Group identified evidence that the Respondent received instructions from all affected clients and no additional concerns.

16. Investors Group issued a warning letter to the Respondent on December 18, 2014.



## **Additional Factors**

17. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond the commissions and fees that he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.
18. There is no evidence of client harm.
19. The Respondent cooperated with Investors Group's investigation into his conduct.
20. The Respondent understands the seriousness of his actions.
21. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
22. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources and expenses associated with conducting a full hearing of the allegations.

## **IV. ADDITIONAL TERMS OF SETTLEMENT**

23. 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.
24. 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.
25. 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.

26. 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 facts and the contraventions described in this Settlement Agreement. 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 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.

27. 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.

28. 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.

29. 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 29<sup>th</sup> day of January, 2016.

“JAW”  
\_\_\_\_\_  
Witness – Signature

JAW  
\_\_\_\_\_  
Witness – Print name

“William Way”  
\_\_\_\_\_  
William Way

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



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**ORDER**

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**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 William Way (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 between January 2012 and May 2013, the Respondent obtained, possessed, and in some instances, used to process transactions, 20 pre-signed account forms in respect of 8 clients;

**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 \$6,250 pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
3. The Respondent shall in future comply with all MFDA Rules, including MFDA Rule 2.1.1; and
4. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or 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]