



**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: Keybase Financial Group Inc. and Dax Sukhraj**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Hearing dated July 24, 2008, the Mutual Fund Dealers Association of Canada (the "MFDA") announced that it proposed to hold a hearing concerning a disciplinary proceeding commenced by the MFDA against Keybase Financial Group Inc. ("Keybase") and Dax Sukhraj ("Sukhraj") referred to collectively as the "Respondents". Staff of the MFDA ("Staff") and counsel for the Respondents propose to make a request to the hearing panel of the MFDA Central Regional Council (the "Hearing Panel") to consider whether, pursuant to section 24.4 of By-law No. 1, the Hearing Panel should accept the settlement agreement (the "Settlement Agreement") entered into between Staff and the Respondents.

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff conducted an investigation of the Respondents' activities. The investigation disclosed that the Respondents have 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 have agreed 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 paragraph 64) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is approved by the MFDA.

### **IV. AGREED FACTS**

#### **Registration History**

6. Keybase is registered in the province of Ontario as a Mutual Fund Dealer and Limited Market Dealer and in the provinces of Alberta, British Columbia, New Brunswick, Nova Scotia and Prince Edward Island as a Mutual Fund Dealer.

7. Keybase became a Member of the MFDA on May 29, 2003.

8. Sukhraj is a shareholder, the President, sole Director and controlling mind of Keybase.

9. SB was registered as the Chief Compliance Officer of Keybase from 2003 to September 2004 at which time he became the Alternate Compliance Officer. Commencing in November 2004, SB became the Branch Manager for all Approved Persons who were reporting directly to Keybase's Head Office.

10. RT was registered as the Chief Compliance Officer of Keybase from September 2004 to April 2006.

11. JJ was registered as the Chief Compliance Officer of Keybase from November 2006 to March 2008.

12. PR was registered as a salesperson with Keybase from September 2005 to September 2006.

### **The 2001 Ontario Securities Commission Field Review**

13. In 2001, Keybase was subject to a field review by the Ontario Securities Commission (“OSC”), pursuant to section 20 of the *Securities Act* (Ontario) (the “OSC Examination”).

14. The OSC Examination included an assessment of Keybase’s compliance with relevant sections of Ontario securities law for the period from September 1, 2000 to August 31, 2001<sup>1</sup>. The findings of the field review were reported to Keybase in the OSC’s Compliance Field Review Report dated December 13, 2001 (the “2001 OSC Report”). The 2001 OSC Report identified deficiencies in Keybase’s procedures and policies including but not limited to:

- (a) Branch Managers responsibilities regarding approval of new accounts and trade supervision;
- (b) Opening of new accounts and completeness of Know Your Client (“KYC”) information;
- (c) Review and approval of marketing materials; and
- (d) Written policies and procedures regarding new accounts and trading and sales practices.

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<sup>1</sup> The Respondent did not become subject to the By-laws, Rules and Policies of the MFDA until it became a Member of the MFDA on May 29, 2003.

15. On February 11, 2002, Keybase provided the OSC with a response to the 2001 OSC Report in which it outlined the various actions it had taken and the timeline for addressing the deficiencies identified in the 2001 OSC Report.

### **The 2004 MFDA Compliance Examination**

16. In April 2004, the MFDA completed an initial compliance examination of Keybase (the “2004 Examination”) which included an assessment of compliance by Keybase with MFDA By-laws, Rules and Policies for the period from May 29, 2003 to February 29, 2004. The 2004 Examination included a review of Keybase’s head office as well as four branch locations. The findings of the 2004 Examination were reported to Keybase in the MFDA Compliance Examination Report dated August 25, 2004 (the “2004 MFDA Report”).

17. The 2004 MFDA Report identified, amongst other things, deficiencies in the following areas:

- (a) Approval of new accounts;
- (b) Evidence of trade supervision;
- (c) Maintenance of KYC information;
- (d) Dual occupation approval;
- (e) Review and approval of marketing materials; and
- (f) Proficiency requirements of supervisory staff.

18. The deficiencies identified in the 2004 MFDA Report above were similar to some of the deficiencies found in the 2001 OSC Report.

19. To address the deficiencies, the MFDA required Keybase to describe the steps it had taken, or intended to take, with respect to the deficiencies identified in the 2004 MFDA Report. Keybase’s response was due on or before September 20, 2004.

20. On September 20, 2004 Keybase provided the MFDA with its initial response to the 2004 MFDA Report. Keybase's response did not adequately address the deficiencies identified in the 2004 MFDA Report.

21. Between September 2004 to October 2005, the MFDA communicated with Keybase to address the deficiencies in the 2004 MFDA Report. In its numerous responses to the 2004 MFDA Report, Keybase:

- (a) Failed to respond to all of the MFDA's requests;
- (b) Failed to submit the documents requested by the MFDA;
- (c) Included incomplete documents as evidence of resolution of deficiencies;  
and
- (d) Submitted inconsistent information with respect to the corrective measures purportedly taken by Keybase.

22. Keybase eventually provided the MFDA with action plans to correct the deficiencies identified in the 2004 MFDA Report. The action plans required Keybase to make changes to its policies and procedures.

### **The 2006 Compliance Examination**

23. From January 30, 2006 to February 10, 2006, the MFDA undertook a second compliance examination of Keybase (the "2006 Examination") which included an assessment of compliance by Keybase for the period from March 1, 2004 to December 31, 2005. The 2006 Examination included a review of Keybase's head office as well as three branch locations. The findings of the 2006 Examination were reported to Keybase in the MFDA Compliance Examination Report dated July 6, 2006 (the "2006 MFDA Report").

24. The 2006 MFDA Report identified, amongst other things, the following deficiencies that were previously identified in the 2004 MFDA Report that related to:

- (a) Approval of new accounts;

- (b) Evidence of trade supervision;
- (c) Maintenance of KYC information;
- (d) Dual occupation approval;
- (e) Review and approval of marketing materials; and
- (f) Proficiency requirements of supervisory staff. (collectively the “Repeat Deficiencies”)

25. By virtue of the repeat deficiencies identified in the 2006 MFDA Report, Keybase either did not take the corrective measures which it undertook to implement following the 2004 MFDA Report, or the corrective measures it took failed to resolve the Repeat Deficiencies adequately or at all.

#### **Failure to Ensure Two-Tier Supervision and Branch Manager Trade Reviews**

26. In the 2006 Examination, the MFDA was informed by SB that, in his capacity as Branch Manager for Approved Persons reporting to Keybase’s Head Office, his trade reviews were conducted on-line.

27. The on-line process utilized by SB did not permit SB to adequately review the trading activity of Approved Persons who reported directly to Head Office and prevented SB from maintaining adequate records of the daily trade supervision.

28. In the 2006 Examination, the MFDA also conducted a review of three branch locations. The review identified that the designated Branch Manager of each location did not sufficiently undertake Branch Manager responsibilities with regard to branch level account supervision.

29. The 2006 Examination identified that Keybase did not make sufficient efforts to ensure that its Branch Managers were supervising client account activity at the branch office level. Consequently, Keybase did not have a two-tier supervision structure consisting of supervision at both the branch office and head office levels.

30. Similar deficiencies were identified in the 2001 OSC Examination and the 2004 Examination.<sup>2</sup>

31. Between March 1, 2004 to December 31, 2005, Keybase failed to establish, implement and maintain a two-tier compliance structure to supervise client account activity, in that it failed to maintain and ensure compliance with policies and procedures requiring branch managers to supervise trading activity at the branch office level and failed to retain sufficient evidence of the review of the suitability of client trading activity, contrary to MFDA Rule 2.5 and MFDA Policy 2.

### **Improper Delegation of Responsibilities**

32. During the 2006 Examination it was identified that PR had been designated as a Junior Compliance Officer and was undertaking head office supervisory reviews of trading activity. At the time, PR had completed the Canadian Securities Course and the Conduct and Practices Handbook Course, but he had failed to complete the proficiency requirements set out in MFDA Rules 1.2.3(b)(iv) and (v).

33. Similar deficiencies were identified in the 2004 Examination.<sup>3</sup>

34. Between March 1, 2004 to December 31, 2005, Keybase delegated certain supervisory tasks to a person who lacked the requisite proficiency standards of a compliance officer as set out in MFDA Rule 1.2.3 and contrary to MFDA Rule 2.5.5.

### **Failure to Properly Review and Approve Opening of New Accounts**

35. The 2006 Examination identified the following deficiencies regarding Keybase's review and approval of new accounts:

- (a) New account approval being made later than one business day after the date of the initial trade in the account;
- (b) Branch Managers approving new accounts for their own clients (i.e. no independent oversight of Branch Managers' account openings); and

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<sup>2</sup> See paragraph 29 above.

<sup>3</sup> See paragraph 32 above.

(c) No evidence being maintained of review or approval of new accounts.

36. Similar deficiencies were identified in the 2004 Examination.<sup>4</sup>

37. Between March 1, 2004 to December 31, 2005, Keybase failed to review and approve at all or in a timely manner the opening of new client accounts and maintain evidence of such review and approval, contrary to MFDA Rules 2.2.3 and 2.5.3(b)(ii) and MFDA Policy 2.

### **Missing NAAFs and KYC Information**

38. The 2006 Examination identified instances where client accounts did not have a client New Account Application Form (“NAAF”) on file and instances where client accounts had missing or incomplete KYC information.

39. Similar deficiencies were identified in the 2001 OSC Examination and the 2004 Examination.<sup>5</sup>

40. Keybase permitted purchase transactions to be completed on 11 of these client accounts with missing or incomplete KYC information.

41. On June 5, 2005, in response to the 2004 Examination, Keybase represented to the MFDA that client accounts with missing or incomplete KYC information would be frozen and new purchases would not be permitted on the accounts and purchases. The 2006 Examination identified seven purportedly frozen client accounts in which purchase transactions had been permitted after June 5, 2005.

42. Between March 1, 2004 to December 31, 2005, Keybase failed to complete a NAAF and failed to maintain or complete KYC information on client accounts and permitted trading in such accounts, contrary to MFDA Rules 2.2.1 and 2.2.2.

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<sup>4</sup> See paragraph 35 above.

<sup>5</sup> See paragraph 38 above.



**Failure to Properly Review and Approve Dual Occupations**

43. The 2006 Examination identified Approved Persons with dual occupations that had not been disclosed to the applicable Securities Commission.

44. Keybase's policy and procedure concerning dual occupations did not require the Approved Person to identify the nature of the dual occupation or require Keybase to approve the dual occupation.

45. Similar deficiencies were identified in the 2004 Examination.<sup>6</sup>

46. Between March 1, 2004 to December 31, 2005, Keybase failed to establish, implement and maintain policies and procedures to identify, review and approve dual occupations of its Approved Persons, contrary to MFDA Rule 1.2.1(d)(iii).

**Failure to Properly Review and Approve of Marketing Materials**

47. The 2006 Examination identified a failure by Keybase to maintain sufficient evidence of review and approval of all marketing materials.

48. Keybase failed to maintain records of the review and approval of its website and the personal websites of its Approved Persons.

49. In addition, Keybase was not always maintaining evidence of the review and approval of marketing materials, including evidence of who approved the materials and the timing of the approval.

50. Similar deficiencies were identified in the 2004 Examination.<sup>7</sup>

51. Between March 1, 2004 to December 31, 2005, Keybase failed to establish, implement and maintain policies and procedures to review and approve marketing materials, contrary to MFDA Rule 2.7.3.

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<sup>6</sup> See paragraphs 43 – 44 above.

<sup>7</sup> See paragraph 49 above.

**Sukhraj: Responsibility for Compliance by Keybase**

52. On December 5, 2006 the MFDA released MR-0057 a Joint Regulatory Notice on the Role of Compliance and Supervision.<sup>8</sup> As set out in MR-0057, the board of directors of a Member is responsible for ensuring that the Member maintains a compliance program that identifies and addresses material risks of noncompliance and directors of a Member must act on reports from the Member's management and compliance personnel.

53. Commencing in 2006, JJ, as the Chief Compliance Officer of Keybase, made compliance recommendations to Sukhraj with respect to addressing deficiencies found in the 2006 Examination, specifically recommendations concerning:

- (a) Branch Manager's trade reviews;
- (b) Missing NAAF's and KYC information; and
- (c) Improper delegation of responsibilities.

54. Sukhraj failed to act or failed to act in a timely manner with respect to the compliance recommendations made by JJ.

55. Between March 1, 2004 to 2006, Sukhraj, as the president and sole director of Keybase, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Keybase maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

**V. CONTRAVENTIONS**

56. Keybase admits that between March 1, 2004 to December 31, 2005:

- (a) it failed to establish, implement and maintain a two-tier compliance structure to supervise client account activity, in that it failed to maintain and ensure compliance with policies and procedures requiring branch

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<sup>8</sup> MR-0057 cross-references MR-0037 – Compliance Responsibilities, March 16, 2005.

managers to supervise trading activity at the branch office level and failed to retain sufficient evidence of the review of the suitability of client trading activity, contrary to MFDA Rule 2.5 and MFDA Policy 2;

- (b) it delegated certain supervisory tasks to a person who lacked the requisite proficiency standards of a compliance officer as set out in MFDA Rule 1.2.3 and contrary to MFDA Rule 2.5.5;
- (c) it failed to review and approve at all or in a timely manner the opening of new client accounts and maintain evidence of such review and approval, contrary to MFDA Rules 2.2.3 and 2.5.3(b)(ii) and MFDA Policy 2;
- (d) it failed to ensure NAAF's had been completed and failed to maintain or complete KYC information on client accounts and permitted trading in such accounts, contrary to MFDA Rules 2.2.1 and 2.2.2;
- (e) it failed to establish, implement and maintain policies and procedures to identify, review and approve dual occupations of its Approved Persons, contrary to MFDA Rule 1.2.1(d)(iii); and
- (f) it failed to establish, implement and maintain policies and procedures to review and approve marketing materials, contrary to MFDA Rule 2.7.3.

57. Sukhraj admits that between March 1, 2004 to 2006, Sukhraj, as the president and sole director of Keybase, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Keybase maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

## **VI. TERMS OF SETTLEMENT**

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

- (a) Keybase shall pay a fine in the amount of \$150,000.00, pursuant to section 24.1.2(b) of MFDA By-law No. 1;

- (b) Keybase shall retain an independent monitor to resolve compliance deficiencies identified in the MFDA 2006 Sales Compliance Examination Report dated July 6, 2006 and (if any) deficiencies identified in the MFDA 2009 Sales Compliance Examination Report when issued, as well as any deficiencies identified by the independent monitor in their review in accordance with Schedule B, pursuant to section 24.1.2(g) of MFDA By-law No. 1;
- (c) Sukhraj shall pay a fine in the amount of \$50,000.00, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
- (d) Sukhraj shall complete the Partners Directors and Senior Officers course within 1 year of date of the acceptance of the Settlement Agreement;
- (e) The Respondents shall together pay costs in the amount of \$25,000.00, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of MFDA By-law No. 1;
- (f) The fines and costs as prescribed in this Settlement Agreement against the Respondents are payable as follows:
  - i. \$50,000 in fines and \$25,000 in costs payable upon acceptance of the Settlement Agreement;
  - ii. \$50,000 in fines payable on or before October 22, 2009;
  - iii. \$50,000 in fines payable on or before April 22, 2010; and
  - iv. \$50,000 in fines payable on or before October 22, 2010.
- (g) If the Respondents fail to pay the fines or costs as prescribed in this Settlement Agreement, Staff may summarily, without further notice, suspend the rights and privileges of Keybase and the authority of Sukhraj to conduct securities related business until such fines or costs are paid, pursuant to s. 24.3.13 of MFDA By-law No. 1.

## **VII. STAFF COMMITMENT**

59. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against Sukhraj, Keybase or any officer or director of Keybase in respect of any conduct or alleged conduct of the Respondents in relation to:

- (a) deficiencies (if any) identified in the MFDA 2009 Sales Compliance Examination Report when issued;
- (b) the facts set out in Part IV of this Settlement Agreement; and
- (c) matters concerning Keybase currently in the Enforcement Department of the MFDA.

This would not preclude enforcement action against any individual Approved Person in respect of any such matters currently in the Enforcement Department of the MFDA and is subject to the provisions of paragraph 64 below.

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

60. Acceptance of this Settlement Agreement shall be sought before the Hearing Panel on a date agreed to by Staff and the Respondents.

61. 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 Respondents 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.

62. 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 sections 24.1.1 and 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.

63. 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 Respondents from making full answer and defence to any civil or other proceedings against it them.

64. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent(s) fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under the By-laws of the MFDA against either or both of the Respondent(s) or if applicable any of its 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.

65. 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.

66. 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.

## **IX. DISCLOSURE OF AGREEMENT**

67. 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 the Respondents and Staff or as may be required by law.

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

**X. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

Dated: April 21, 2009

“Don Cook”

Witness- Signature

“Dax Sukhraj”

Keybase Financial Group Inc.  
Per: Dax Sukhraj, President

“Amalia Florescu”

Witness- Signature

“Dax Sukhraj”

Dax Sukhraj

“Shaun Devlin”

Staff of the MFDA  
Per: Shaun Devlin  
Vice-President, Enforcement



**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: Keybase Financial Group Inc. and Dax Sukhraj**

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**ORDER**

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**WHEREAS** on July 24, 2008, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Hearing pursuant to sections 20 and 24 of By-law No. 1 in respect of Keybase Financial Group Inc. ("Keybase") and Dax Sukhraj ("Sukhraj") referred to collectively as the "Respondents";

**AND WHEREAS** the Respondents entered into a settlement agreement with Staff of the MFDA dated April 21, 2009 (the "Settlement Agreement") in which the Respondents agreed to a proposed settlement of matters for which it could be disciplined pursuant to s. 20, 24.1.1 and 24.1.2 of By-law No. 1;

**AND UPON** reviewing the Settlement Agreement and Notice Hearing, and upon hearing submissions from counsel for the Respondents and Staff of the MFDA;

**AND WHEREAS** the Hearing Panel is of the opinion that between March 1, 2004 to December 31, 2005:

- (a) Keybase failed to establish, implement and maintain a two-tier compliance structure to supervise client account activity, in that it failed to maintain



and ensure compliance with policies and procedures requiring branch managers to supervise trading activity at the branch office level and failed to retain sufficient evidence of the review of the suitability of client trading activity, contrary to MFDA Rule 2.5 and MFDA Policy 2;

- (b) Keybase delegated certain supervisory tasks to a person who lacked the requisite proficiency standards of a compliance officer as set out in MFDA Rule 1.2.3 and contrary to MFDA Rule 2.5.5;
- (c) Keybase failed to review and approve at all or in a timely manner the opening of new client accounts and maintain evidence of such review and approval, contrary to MFDA Rules 2.2.3 and 2.5.3(b)(ii) and MFDA Policy 2;
- (d) Keybase failed to ensure NAAF's had been completed and failed to maintain or complete KYC information on client accounts and permitted trading in such accounts, contrary to MFDA Rules 2.2.1 and 2.2.2;
- (e) Keybase failed to establish, implement and maintain policies and procedures to identify, review and approve dual occupations of its Approved Persons, contrary to MFDA Rule 1.2.1(d)(iii); and
- (f) Keybase failed to establish, implement and maintain policies and procedures to review and approve marketing materials, contrary to MFDA Rule 2.7.3.

**AND WHEREAS** the Hearing Panel is of the opinion that between March 1, 2004 to 2006, Sukhraj, as the president and sole director of Keybase, engaged in business conduct or practice that was unbecoming or detrimental to the public interest by failing to ensure that Keybase maintained a compliance program that identified and addressed material risks of non-compliance and that appropriate supervision and compliance procedures to manage those risks had been implemented, contrary to MFDA Rules 2.1.1(c) and 2.5.1 and MFDA Policy 2.

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

- (a) Keybase shall pay a fine in the amount of \$150,000.00, pursuant to section 24.1.2(b) of MFDA By-law No. 1;
- (b) Keybase shall retain an independent monitor to resolve compliance deficiencies identified in the MFDA 2006 Sales Compliance Examination Report dated July 6, 2006 and (if any) deficiencies identified in the MFDA 2009 Sales Compliance Examination Report when issued, as well as any deficiencies identified by the independent monitor in their review in accordance with Schedule B, pursuant to section 24.1.2(g) of MFDA By-law No. 1;
- (c) Sukhraj shall pay a fine in the amount of \$50,000.00, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
- (d) Sukhraj shall complete the Partners Directors and Senior Officers course within 1 year of date of the acceptance of the Settlement Agreement;
- (e) The Respondents shall pay costs in the amount of \$25,000.00, attributable to conducting the investigation and settlement of this matter, pursuant to section 24.2 of MFDA By-law No. 1;
- (f) The fines and costs as prescribed in this Order are payable by the Respondents as follows:
  - i. \$50,000 in fines and \$25,000 in costs payable on the date this Order is issued;
  - ii. \$50,000 in fines payable on or before October 22, 2009;
  - iii. \$50,000 in fines payable on or before April 22, 2010; and
  - iv. \$50,000 in fines payable on or before October 22, 2010.

- (g) If the Respondents fail to pay the fines or costs as prescribed in this Order, Staff may summarily, without further notice, suspend the rights and privileges of Keybase and the authority of Sukhraj to conduct securities related business until such fines or costs are paid, pursuant to s. 24.3.13 of MFDA By-law No. 1.

**DATED:** April 22, 2009.

Per: \_\_\_\_\_  
Thomas Lockwood, QC

Per: \_\_\_\_\_  
Linda Anderson

Per: \_\_\_\_\_  
Cheryl Hamilton



**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: Keybase Financial Group Inc. and Dax Sukhraj**

**TERMS OF THE INDEPENDENT MONITOR**

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1. In accordance with the terms of the Settlement Agreement dated April 21, 2009 between Keybase Financial Group Inc. (the "Member") and the Mutual Fund Dealers Association of Canada (the "MFDA") (the "Settlement Agreement"), and the Order of the Hearing Panel dated April 22, 2009 arising therefrom (the "Order"), the Member shall:

- a. Resolve the following deficiencies (the "Deficiencies"):
  - i. The deficiencies identified in the MFDA 2006 Sales Compliance Examination Report dated July 6, 2006 ;
  - ii. The deficiencies identified in the MFDA 2009 Sales Compliance Examination Report when issued; and
  - iii. Any deficiencies in its compliance department, including staffing, education and training programs as identified in accordance with paragraph 1(c)(i)(1) below.

- b. Retain an independent consultant (the “Monitor”) at the Member’s expense, to assist in resolving all of the Deficiencies on the following terms:
  - i. The Member will execute a retainer with the Monitor incorporating the requirements of the *Duties and Standards of the Independent Monitor* attached hereto as Appendix “1” (the “Duties and Standards”) and provide a copy of the retainer to MFDA Staff (“Staff”);
  - ii. The Member will fully co-operate with and provide full disclosure to the Monitor in a timely manner of all matters and information relevant to the activities of the Monitor hereunder and in accordance with the terms and conditions of the Duties and Standards; and
  - iii. Staff must approve the selection of the Monitor and the terms of the Member’s retainer of the Monitor.
- c. Resolve all of the Deficiencies in accordance with the terms and conditions of the Duties and Standards and on the following terms:
  - i. The Member shall cause the Monitor to:
    - 1. Assess the Member’s compliance department (the “Department”), including the adequacy of its staffing, education, training programs, identify any deficiencies therein and make recommendations on any changes (the “Assessment”) and provide its assessment to the Member no later than 90 calendar days from issuance of 2009 Exam Report; and
    - 2. Develop, in collaboration with the Member, a written plan containing proposed actions (and timeframes for implementation of the actions) to remedy the Deficiencies (the “Action Plan”). The Action Plan shall meet the requirements of the Duties and Standards and be completed and delivered to Staff by no later than 90 calendar days from issuance of 2009 Exam Report.

- ii. Staff reserve the right to add, delete or change any part of the Action Plan provided that the Member is given a reasonable opportunity to comment on any such addition, deletion or change;
- iii. The Member shall fully implement the actions identified in the Action Plan within the time frames set out therein;
- iv. The independent consultant shall discuss with the MFDA its proposed procedures for testing the Member's implementation of the Action Plan and thereafter submit written proposals for testing procedures, time frame for completion of testing and format for a report to the MFDA on the Member's completion of the implementation of the Action Plan and resolution of the Deficiencies (the "Completion Report").
- v. The MFDA reserves the right to add, delete or change any aspect of the proposed testing procedures, time frame or Completion Report format, provided that the Member will be given a reasonable opportunity to comment on any such addition, deletion or change;
- vi. Once the testing procedures, time frame and Completion Report format have been approved by the MFDA, the independent consultant shall complete the testing procedures and provide the Completion Report to the MFDA in the format within the time frame to the MFDA;
- vii. Where the Completion Report identifies any continuing Deficiencies, or where prior to the satisfaction by the Member of its obligations under these *Terms of the Independent Monitor* the MFDA becomes aware from other sources that there are continuing Deficiencies, the MFDA may in its sole discretion do either or both of the following:
  - 1. make recommendation to resolve the continuing Deficiencies identified in the Completion Report and direct the Member to

implement all such recommendations and have the Monitor conduct any additional testing within a reasonable time period to be determined by the MFDA;

2. pursue enforcement action pursuant to Section 24 of MFDA By-law No. 1 with regard to the Member's failure to resolve the Deficiencies.
  
- viii. During the period between the MFDA approval of the action plan and the commencement of testing by the Monitor, the Monitor shall deliver a report to Staff every three months detailing the Monitor's assessment of the status of the implementation of the Action Plan;
  
- ix. The Member shall provide its Board of Directors with copies of the quarterly status reports, the Action Plan and the Completion Report; and
  
- x. Exceptions to any terms of these *Terms of the Independent Monitor* are permissible only with the prior express written consent of Staff.

I confirm that by my signature, I am authorized to bind the Member to these Terms of the Independent Monitor as part of the implementation of the Settlement Agreement and the Order.

"Dax Sukhraj"  
Name:  
Title: President  
Keybase Financial Group Inc.

Apr. 21/09      "Don Cook"  
Date                      Witness  
Name:

Mutual Fund Dealers Association of Canada

"Shaun Devlin"  
Shaun Devlin  
Vice-President, Enforcement

Apr. 21/09  
Date



**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: Keybase Financial Group Inc. and Dax Sukhraj**

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**DUTIES AND STANDARDS OF  
THE INDEPENDENT MONITOR**

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**A. Defined Terms**

1. Terms defined in the *Terms of the Independent Monitor* shall have the same meaning in these *Duties and Standards of the Independent Monitor*.

**B. Duties of the Independent Monitor**

1. The Monitor shall perform its duties with unimpaired professional judgment and objectivity, and shall be seen to be doing so by a reasonable observer.
2. The Monitor shall be retained and remunerated by the Member.
3. The Monitor shall perform its services in accordance with these *Duties and Standards of the Independent Monitor*.
4. The Monitor:
  - i. Shall notify the MDFA of any disagreement, dispute or other limitation encountered with the Member that may result in the Terms of the Independent



Monitor not being satisfied, including but not limited to situations where there is a difference of opinion between the Monitor and the Member with regard to:

- The detailed nature of the Deficiencies;
  - The actions necessary to remedy the Deficiencies;
  - The procedures to be used to test the Member's implementation of the Action Plan.
- ii. May advise the Member of the results during the testing process;
- iii. Shall prepare the Completion Report in an independent manner without consultation with the Member as to the content of the report; and
- iv. Shall provide the Completion Report directly to Staff, with a copy to the Member.

**C. Qualifications of the Independent Monitor**

1. The Monitor must exhibit and apply:
- i. An understanding of MFDA requirements (i.e. By-laws, Rules, Policies, Notices and Bulletins);
  - ii. Familiarity with mutual fund dealer operations and compliance issues; and
  - iii. Familiarity with adequate Member compliance procedures (i.e. the Monitor should not be proposing procedures it develops at first instance without an understanding of procedures compliant Members have instituted to meet MFDA requirements).

**D. Compliance Department Assessment**

1. The Assessment performed by shall:

- i. Be sufficient to determine whether the Member has adequate resources to satisfy its compliance obligations;
- ii. Specify the measurements and criteria used in the analysis;
- iii. Specify the major processes within the Department, including, but not limited to, Two-tier Supervision of Trading and Leveraging, Complaint Handling, Registration, Corporate and Branch Supervision, and Branch Reviews;
- iv. Document the analysis performed and conclusions drawn; and
- v. Make recommendations for any additional resources required, taking into consideration the Action Plan.

**E. Action Plan**

1. The Action Plan must outline the actions that will remedy the Deficiencies and specific time frames for the completion of those actions.

**F. Testing Procedures**

1. The testing procedures determined by the Monitor shall:
  - i. Be sufficient to determine whether the Deficiencies have been resolved or remain unresolved;
  - ii. Specify the objective of the testing procedures, including citing which of the Deficiencies the testing will address; and
  - iii. Specify the sampling methodology, including the size of samples to be tested.
2. The Monitor shall prepare and maintain a file of its working papers regarding the testing, which shall be made available to Staff upon request. The file must contain sufficient information to enable an experienced individual, having no previous connection to the engagement, to re-perform the testing procedures and come to the same conclusions. The file must include appropriate documentation of the procedures performed and the evidence obtained, including copies of documents

reviewed or sufficiently detailed information to identify the specific documents reviewed.

**G. Completion Report**

1. When reporting on the results of testing, the Monitor must:
  - i. Specify the procedures performed and the details of the samples selected;
  - ii. State the factual results of performing the procedures and not express an opinion on the results;
  - iii. Link the factual findings to the Deficiency being tested;
  - iv. List any new deficiencies in compliance with MFDA requirements that are noted during the testing on the original Deficiencies;
  - v. Indicate any restrictions or limitations on the Monitor's ability to perform the procedures; and
  - vi. Provide recommendations to remedy any new deficiencies or any continuing Deficiencies.