



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: Gillian Ann Gibson-Sargeant

SETTLEMENT AGREEMENT

INTRODUCTION

1. By Notice of Hearing dated March 8, 2010, 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 Gillian Ann Gibson-Sargeant (“Respondent”). Staff of the MFDA (“Staff”) and the Respondent 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 Respondent.

I. JOINT SETTLEMENT RECOMMENDATION

2. Staff conducted an investigation of the Respondent’s activities. The investigation disclosed that the Respondent had engaged in 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.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondent 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.

II. ACKNOWLEDGEMENT

5. Staff and the Respondent 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 Respondent 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 X) 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.

III. AGREED FACTS

Registration History

6. In November 2006, the Respondent became an employee of the Bank of Montreal, Private Client Group. On December 12, 2006 the Respondent was registered in Ontario as a mutual fund salesperson working in a call centre for BMO Investments Inc. (“BMO Investments”). On November 16, 2007, BMO Investments terminated the Respondent as a result of the matters described herein. The Respondent is not currently registered in the securities industry in any capacity.

7. BMO Investments became a Member of the MFDA on October 25, 2001.

Misconduct

8. MAF and MIF were clients of BMO Investments. On September 6, 2007, the

Respondent, without obtaining instructions, authorization or approval from MAF or MIF:

- a. replaced the bank account information in respect of their joint account at BMO Investments with the information for a bank account in the Respondent's name and under her control (the Respondent's Account);
- b. replaced the mailing address in respect of their joint account at BMO Investments with a fictitious address; and
- c. processed two redemptions in their joint account at BMO Investments in the approximate total amount of \$5,000 and directed the proceeds of the redemption to the Respondent's Account.

9. On September 7, 2007, without notifying MAF and MIF, the Respondent changed the mailing address in respect of MAF and MIF's joint account at BMO Investments back to their correct address.

10. MCB and ECB were also clients of BMO Investments. On September 22, 2007, the Respondent, without obtaining instructions, authorization or approval from MCB or ECB, replaced the bank account information in respect of their joint account at BMO Investments with the information for the Respondent's Account.

11. On October 2, 2007 the Respondent processed a redemption in MCB and ECB's joint account at BMO Investments in the approximate total amount of \$5,000 and directed the proceeds of the redemption to the Respondent's Account, without obtaining instructions, authorization or approval from MCB or ECB.

12. On October 11, 2007, MCB and ECB contacted BMO Investments to inquire about the redemption of \$5,000 on October 2, 2007 from their joint account.

13. On October 15, 2007, BMO Investments contacted clients MAF, MIF, MCB and ECB to verify their bank account numbers and the trading activity in their accounts at BMO Investments.

14. On October 16, 2007, without notifying BMO Investments or MCB and ECB, the Respondent switched the bank account information in respect of MCB and ECB's joint account

at BMO Investments from the Respondent's Account back to MCB and ECB's correct bank account information.

15. In October 2007, BMO Investments conducted an audit of the Respondent's activities as well as an interview with the Respondent in regards to the transactions in the accounts of MAF and MIF, and MCB and ECB. As a result of its investigation, BMO Investments discovered the Respondent's misconduct and restored the clients' accounts at BMO Investments to their correct balances.

16. On November 15, 2007, BMO Investments terminated the Respondent.

17. The Respondent repaid BMO Investments for the amounts misappropriated.

18. On April 1, 2009, the Respondent was convicted and sentenced criminally for the aforementioned matters.

IV. CONTRAVENTIONS

19. The Respondent admits that between September and October 2007, the Respondent processed three redemptions in two accounts without obtaining instructions, authorization or approval from the clients and directed the proceeds of the redemptions in the approximate amount of \$10,000 into her own bank account, thereby misappropriating the monies and failing to deal fairly honestly and in good faith with the clients, contrary to MFDA Rule 2.1.1.

V. TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement:

- (a) A permanent prohibition from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- (b) the Respondent will attend in person, on the date set for the Settlement Hearing.

VI. STAFF COMMITMENT

21. 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 Respondent in respect of the facts set out in Part IV and the contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part X 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 VI 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 VI, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

VII. PROCEDURE FOR APPROVAL OF SETTLEMENT

22. 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 Respondent.

23. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent 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 Respondent agrees to waive its her 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.

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

25. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, 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 her.

VIII. FAILURE TO HONOUR SETTLEMENT AGREEMENT

26. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent 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 the Respondent 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 Respondent agrees 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.

IX. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

27. 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 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 this Settlement Agreement or the settlement negotiations.

28. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it she 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.

X. DISCLOSURE OF AGREEMENT

29. 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.

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

XI. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 21st day of April, 2011.

“Josie Costantini”

Witness – Signature

“Gillian Ann Gibson-Sargeant”

Gillian Ann Gibson-Sargeant

“Shaun Devlin”

Staff of the MFDA

Per: Shaun Devlin

Vice President, Enforcement



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ORDER

WHEREAS on March 8, 2010, 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 Gillian Ann Gibson-Sargeant (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, (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 MFDA By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that between September and October 2007, the Respondent processed three redemptions in two accounts without obtaining instructions, authorization or approval from the clients and directed the proceeds of the redemptions in the approximate amount of \$10,000 into her own bank account, thereby misappropriating the monies and failing to deal fairly honestly and in good faith with the clients, contrary to MFDA Rule 2.1.1.

AND WHEREAS the Respondent, provided restitution in the amount of \$10,000.

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

- a. The Respondent is permanently prohibited from conducting securities related business in any capacity while in the employ of, or associated with, any MFDA Member pursuant to section 24.1.1(e) of MFDA By-law No. 1; and
- b. If at any time a non-party to this proceeding requests production of or access to exhibits in this proceeding that contain intimate financial or personal information, 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 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]