



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: Felizaida Yancha Colinares

SETTLEMENT AGREEMENT

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 s. 24.4 of By-law No. 1 (“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 the Respondent, Felizaida Yancha Colinares (“Respondent”).

II. 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.

III. 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.

IV. AGREED FACTS

Registration History

6. From August 30, 2004 to December 18, 2012 when she was terminated as a result of the events described herein, the Respondent was registered in Ontario as a mutual fund salesperson with WFG Securities of Canada Inc. (“WFG”), a Member of the MFDA¹.

7. At the material time, the Respondent carried on business at a WFG branch located in Toronto, Ontario (the “Branch”).

8. The Respondent was and is licensed to sell insurance.

¹ Effective July 1, 2013, WFG changed its name to Transamerica Securities Inc.

9. The Respondent has no prior disciplinary history with the MFDA.

Personal Financial Dealings

Borrowing from a Client

10. The Respondent had been the mutual fund salesperson responsible for servicing client MD's mutual fund account since about April 2010. Additionally, in or about September 2003, the Respondent sold client MD a life insurance policy ("Policy") with a face value of \$100,000.

11. In or about September 2012, the Respondent requested that client MD borrow the sum of \$3,000 from her Policy and loan the proceeds to the Respondent.

12. In or about September 2012, the Respondent assisted client MD to complete the paperwork required to borrow \$3,000 from her Policy. Once client MD received the \$3,000, client MD loaned the monies to the Respondent.

13. In or about October 2012, client MD became concerned that interest and additional fees were being applied to the loan from her Policy by the insurance company that she had not been made aware of by the Respondent. In October and November 2012, client MD tried to contact the Respondent, without success.

14. In or about November 2012, client MD made an inquiry to the insurance company that held her Policy, at which time she advised the insurance company that she had borrowed from her Policy and loaned the proceeds to the Respondent. On November 14, 2012, the insurance company provided this information to WFG.

15. On November 19, 2012, WFG compliance staff conducted an interview with the Respondent, wherein the Respondent admitted that she had borrowed \$3,000 from client MD. The Respondent agreed to repay client MD the funds she had borrowed from her. When asked by WFG compliance staff whether she had engaged in personal financial dealings with any other clients, the Respondent admitted that she had used two clients' credit cards, as outlined below.

16. On or about November 22, 2012, the Respondent repaid to client MD the sum of

\$3,101.79, representing the principal amount she had borrowed from her plus the applicable interest and fees..

Use of Clients' Credit Cards

17. In or about 2011, the Respondent requested the use of client LM's credit card in order to pay for her WFG business cards. Client LM was a boarder in the Respondent's home. Client LM consented to the Respondent using her credit card, and the amount debited to the card was \$190. The Respondent repaid client LM shortly thereafter.

18. In or about November 2012, the Respondent requested the use of client JZ's credit card in order to pay for the renewal of her insurance license. Client JZ consented to the Respondent using her credit card, and the amount debited to the card was \$150. The Respondent repaid client JZ shortly thereafter.

Supervision by WFG Securities

19. As noted at paragraph 14 above, on November 14, 2012, WFG was advised that the Respondent had borrowed funds from client MD. In addition to interviewing the Respondent on November 19, 2012, WFG compliance staff conducted a review of all of the Respondent's client files in order to ascertain whether there were any redemptions that could not be accounted for. WFG compliance staff also contacted all of the clients serviced by the Respondent in order to confirm that there were no other instances in which the Respondent had borrowed funds from clients.

The Respondent's Circumstances

20. The Respondent is 66 years old, and has advised Staff that she earned \$13,000 in 2013. She has an old age pension from which she earns \$500 per month. She appears to be impecunious and unable to pay monetary penalties.

V. CONTRAVENTIONS

21. The Respondent admits that:

- i. in or about September 2012, she engaged in personal financial dealings with client MD by borrowing \$3,000 from client MD, thereby placing her own interests ahead of the client's interests and creating a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rules 2.1.4 and Rule 2.1.1; and
- ii. in or about 2011 and November 2012, she engaged in personal financial dealings with client LM and client JZ by using the clients' credit cards (with their knowledge and consent) to pay personal expenses, thereby placing her own interests ahead of the clients' interests and creating a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and Rule 2.1.1.

VI. TERMS OF SETTLEMENT

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

- a) the Respondent shall be prohibited for one year from the date of the final Order in this matter from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to s. 24.1.1(e) of By-law No. 1; and
- b) the Respondent shall in future comply with MFDA Rules 2.1.4 and Rule 2.1.1.

VII. STAFF COMMITMENT

23. 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 V 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 this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in this Settlement Agreement, 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.

VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT

24. 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.

25. 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 her right 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.

26. 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.

27. 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.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

28. 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 section 24.3 of By-law No. 1 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

29. 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.

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

XI. DISCLOSURE OF AGREEMENT

31. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated this 12th day of December, 2013.

“Aleli Colinares”

Witness – Signature

Aleli Colinares

Witness – Print name

“Felizaida Yanca Colinares”

Felizaida Yanca Colinares

“Shaun Devlin”

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



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Re: Felizaida Yancha Colinares

ORDER

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 Felizaida Yancha Colinares (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 the Respondent:

- i. in or about September 2012, engaged in personal financial dealings with client MD by borrowing \$3,000 from client MD, thereby placing her own interests ahead of the client's interests and creating a conflict or potential conflict of interest which the Respondent

- failed to address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rules 2.1.4 and Rule 2.1.1; and
- ii. in or about 2011 and November 2012, engaged in personal financial dealings with client LM and client JZ by using the clients' credit cards (with their knowledge and consent) to pay personal expenses, thereby placing her own interests ahead of the clients' interests and creating a conflict or potential conflict of interest which the Respondent failed to address by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rules 2.1.4 and Rule 2.1.1.

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

1. the Respondent shall be prohibited for one year from the date of this Order from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to s. 24.1.1(e) of By-law No. 1;
2. the Respondent shall in future comply with MFDA Rules 2.1.4 and Rule 2.1.1; and
3. 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]

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