



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: Don Everett Andrews

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the “MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central Regional Council (the “Hearing Panel”) of the MFDA should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Don Everett Andrews.

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 June 2006 to December 31, 2009, the Respondent was registered in Ontario as a mutual fund salesperson with Sun Life. He is not currently registered in the securities industry in any capacity.

Universal Settlements International Inc

7. At all material times while registered with Sun Life, the Respondent worked closely with Jeffrey Hanford Harold Young (“Young”), who was acting as the Respondent’s branch manager

and mentor. Young and the Respondent often shared joint advisor codes and responsibilities for servicing client accounts.

8. Commencing no later than 2006, Young became involved with an Ontario corporation known as Universal Settlements International Inc. (“USI Corp.”). USI Corp.’s business involved finding individuals to invest in viatical settlements¹ and American viators interested in selling their existing life insurance policies for an agreed upon lump sum.² In order to find interested investors, USI Corp. contracted with at least 1,200 independent contractors who agreed to sell, recommend, refer or facilitate the sale of its viatical settlements to individuals in return for a sales commission, referral fee or other form of compensation.

9. Young became an independent contractor of USI Corp. no later than 2006, at which time he commenced selling, recommending, referring or facilitating the sale of USI Corp. viatical settlements to clients of Sun Life and other individuals.

10. The Respondent became an independent contractor of USI Corp. in 2007 after being introduced to the company by Young. Commencing in 2007, the Respondent worked with Young to sell, recommend, refer or facilitate the sale of USI Corp. viatical settlements to Sun Life clients and other individuals.

11. The viatical settlements offered by USI Corp. were not investment products approved by Sun Life for sale by its Approved Persons, including Young and the Respondent. The sales of the USI Corp. viatical settlements to Sun Life clients and other individuals were not carried on for the account or through the facilities of Sun Life.

¹ A viatical settlement is the sale of a life insurance policy by the policy owner to a third party for an amount greater than the current cash surrender value of the policy but less than its net death benefit. The policy owner receives a lump sum cash settlement at the time of sale. The third party becomes the new owner of the policy, pays the annual premiums and is entitled to receive the net death benefit when the insured dies.

² On September 29, 2006, following an enforcement proceeding before the Ontario Securities Commission (“OSC”), viatical products offered by USI Corp. were determined by the OSC to be investment contracts under s.1(1) of the Act and, therefore, securities.

12. Between 2006 and 2008, Young and the Respondent sold, recommended, referred or facilitated the sale of USI Corp. viatical settlements to at least 8 Sun Life clients and 10 other individuals, as follows:

Client Name	Member Client
DH and EH	Yes
AM and AnM	Yes
CS	Yes
CM and KM	Yes
RY	No
DB and LB	No
AV	No
BG and SG	No
JS	No
AdM	No
JD	No
TG	No

13. The Respondent admits that he participated in the sale of USI Corp. viatical settlements to at least 8 Sun Life clients and 10 other individuals in the following manner:

- a) Young completed contracts or subscription agreements for the purchase of USI Corp. viatical settlement with the affected clients or individuals following which, either Young or the clients or individuals would send the completed documents, along with a cheque payable to USI Corp., to the Respondent;
- b) the Respondent would sign the completed contracts or subscription agreements given to him by Young or clients;
- c) the Respondent forwarded the completed and fully executed contracts or subscription agreements, along with client funds, to USI Corp.;
- d) the Respondent then received fees or commissions from USI Corp. which he deposited into the bank account of a company he owned and controlled known as High Velocity Performance and Sports Ltd. (“HVPS”) (the “Commission Cheques”);
- e) these commissions or fees were split equally between the Respondent and Young as follows:
 - (i) 50% of the commission or fee remained in HVPS’s bank account; and

- (ii) 50% was sent to Young, but by way of cheques made payable to Young's wife or daughter.

14. The total amount of the USI Corp. viatical settlements sold by the Respondent and Young is not known to Staff. The Respondent believes that he and Young sold, recommended, referred or facilitated the sale of at least \$880,000 USI Corp. viatical settlements between 2007 and 2008. The Respondent states he no longer has possession of or access to the records relating to their sales activity given that he never kept copies of the relevant documents, but delivered them to Young and/or USI Corp. MFDA Staff has been unable to obtain records of their sales activity through other means.

15. The Respondent admits that between 2007 and 2008, he and Young received referral fees or commissions from USI Corp. totaling at least \$26,400, which they shared equally.

16. The Respondent had previously sought and obtained approval from Sun Life to operate HVPS, although not for the purposes described above in paragraph 13. The Respondent had incorporated HVPS to provide personal training and coaching services.

17. On December 2, 2008, USI Corp. made an application to the Ontario Superior Court of Justice to commence proceedings pursuant to the Ontario *Companies' Creditors Arrangement Act* (the "CCAA Application"). As a result of the CCAA Application, the Court made an order granting USI Corp. protection from its creditors while it restructured its affairs. USI Corp.'s subsequent restructuring resulted in the nominal value of the USI Corp.'s viatical settlements, without any return on investment, being repaid in full to investors, including the 10 clients and individuals described at paragraph 12 above.

18. At no time did Young and the Respondent seek or obtain approval from Sun Life to commence or continue their involvement in USI Corp. or to sell, recommend, refer or facilitate the sale of the USI Corp. viatical settlements to clients of Sun Life or other individuals.

19. Sun Life did not have a referral arrangement with USI Corp. with respect to the sale or referral of its viatical settlements.

Aslan Holding Corporation

20. On August 13, 2008, Young's wife, VY, and another individual, CT, incorporated Aslan Holding Corporation ("AHC Corp.") in Ontario. VY and CT became shareholders and directors of AHC Corp. CT's husband, JT, became AHC Corp.'s President and C.E.O.

21. At all material times, and as of September 2008, the Respondent, Young and JT participated in AHC Corp.'s operations as follows: they corresponded with AHC Corp.'s legal counsel and met and corresponded with third parties with whom AHC Corp. conducted, or intended to conduct, business, they met with potential investors (including Sun Life clients for whom Young and/or the Respondent were the servicing mutual fund salespersons) and regularly held, attended and participated at management meetings or other meetings where decisions about AHC Corp.'s affairs were discussed and made. In addition, the Respondent, Young and JT regularly discussed AHC Corp.'s operations and exchanged emails, or otherwise held meetings, about the company.

22. The Respondent states that he was not a director or an officer for AHC Corp. Rather, he states that he assisted AHC Corp. as financial advisor or consultant, when requested by Young, JT, VY (Young's wife) or CT.

23. AHC Corp. was formed with the intention to borrow monies from investors at a fixed rate of return for the purposes of making investments in speculative ventures. In particular, AHC Corp. intended to offer to investors principal protected notes offering a guaranteed return of 2.5% per month (the "AHC Investment").

24. The speculative venture investments that AHC Corp. participated in included: (1) the purchase or viatical products offered by USI Corp. Settlements; (2) the purchase of shares in Capital Interest LLC, a Nevada limited liability corporation; and (3) the purchase of securities offered by a Nevada-based corporation known as Axxess Automation, LLC ("Axxess"). On May 9, 2009, the United States Securities and Exchange Commission obtained a court order halting the operations of Axxess, alleging that commencing February 2006 the company operated a

Ponzi scheme pursuant to which it raised \$14.1 million from investors by promising weekly returns of up to 5 percent from trading in futures.

25. In or about September 2008, the Respondent became involved in AHC Corp.'s operations including, among other matters: (1) negotiations held between AHC Corp. and other companies in which AHC Corp. sought to invest;³ and (2) the sale, referral or recommendation of the AHC Investment to Sun Life clients and other individuals.

26. Between September 2008 and December 2008, Young and the Respondent sold, recommended, referred or facilitated the sale of the AHC Investment totaling at least \$700,000⁴ to at least the following 5 clients of Sun Life: BM, DB, DS, AM, and MT.

27. For his efforts in selling, recommending, referring or facilitating the sale of the AHC Investments to Sun Life clients, the Respondent received fees from AHC Corp. totaling \$5,000. The \$5,000 fee was paid by AHC Corp. to his wife, KA, in her capacity as an employee of HVPS. The Respondent states that a short time after the \$5,000 fee was paid by AHC Corp. to his wife, the Respondent repaid the full amount to AHC Corp. using a credit card cheque.

28. In or about November 2008, the Respondent sought to purchase \$25,000 of the AHC Investment. Nevertheless, the Respondent states that rather than make a payment in the amount of US\$25,000, he or his wife tendered a payment of CAD\$25,000, but that it was not tendered within the timelines required by AHC Corp. The Respondent states that neither he nor his wife ever purchased US\$25,000 of the AHC Investment.

29. In addition, in or about November 2008, the Respondent and his wife were presented with the option for his wife to purchase one third of the total outstanding shares in AHC Corp. from CT and VY. A share purchase agreement was prepared by counsel for AHC Corp., which, at the Respondent's request, was then sent (on November 28, 2008) to the Respondent's legal counsel.

³ Including negotiations with USI Corp.

⁴ In total, between September 2008 and December 2008 AHC Corp. sold \$2,225,405 of the AHC Investments to 13 investors

30. In December 2008, the Respondent's lawyer counseled the Respondent and his wife not to purchase shares of AHC Corp. and further counseled the Respondent to cease any and all involvement in this venture. As such, on December 22, 2008, the Respondent sent an email to Young and JT informing them that, on the advice of his lawyer, his wife would not purchase AHC Corp. shares. On December 23, 2008, the Respondent sent another email to Young and JT stating as follows:

Please be advised that this is not a resignation. We will not be proceeding in any offering [AHC Corp.] has put forward.

All monies received from [AHC Corp.] in kind, will be paid directly back in full by year end. No offence intended.

31. After the United States Securities and Exchange Commission halted Axcoss's operations⁵, all individuals who purchased the AHC Investment, including clients BM, DB, DS, AM and MT, lost the totality of their investments.

32. The AHC Investment was not an investment product approved by Sun Life for sale by its Approved Persons, including the Respondent. The sales of the AHC Investment to the Sun Life clients were not carried on for the account or through the facilities of Sun Life.

33. At no time did Young and the Respondent seek or obtain approval from Sun Life to commence or continue his involvement in AHC Corp. or to sell, recommend or facilitate the sale of the AHC Investment to clients of Sun Life or other individuals.

V. THE RESPONDENT'S POSITION

34. Prior to June 2006, the Respondent had never worked in the securities industry. When he became registered with Sun Life, he states that he came under the tutelage and supervision of Young. The Respondent states that, as their professional relationship grew, so too did their personal relationship; Young, who served as a minister at the church where the Respondent and his family attended, baptized the Respondent's son.

⁵ See paragraph 24 above.

35. The Respondent states that, being new to the mutual fund industry and only having ever been supervised by Young, he fully trusted Young. The Respondent further states that his trust in Young also placed him in a difficult position when approached by Young to participate in AHC Corp.

36. On December 30, 2008, the Respondent met with a Sun Life branch manager, at which time he reported, for the first time, that he and Young had perhaps contravened Sun Life's policies and procedures as a result of Young's involvement in AHC Corp. and their sale of USI Corp. viatical settlements. During that December 30, 2008 meeting, the Respondent informed the same Sun Life branch manager that commissions earned by Young for the sale of USI Corp. viatical settlements had been processed through HVPS.

37. On January 12, 2009, the Respondent sent a letter to the same Sun Life branch manager reiterating the concerns he had reported on December 30, 2008.

38. Between January 2009 and February 2010, during Sun Life's and the MFDA's subsequent investigation into Young's and the Respondent's activities, the Respondent admitted to having participated in the sale of USI Corp. viatical settlements, as described above in paragraphs 12 to 19. The Respondent further informed Sun Life that Young had approached some clients for whom Young and the Respondent shared joint advisor codes for the purpose of soliciting their purchase of the AHC Investment. He also informed Sun Life and the MFDA that AHC Corp. had approached the Respondent's wife to purchase of one third of AHC Corp.'s shares, but that such offer was declined on the advice of the Respondent's counsel. Finally, he provided to Sun Life and the MFDA documentary evidence, including email correspondence, outlining his and Young's role in AHC Corp.

39. On December 9, 2009, counsel for the Respondent sent a letter to the Ontario Securities Commission and the Financial Services Commission of Ontario outlining the Respondent's conduct, as described above. The Respondent states that he then fully cooperated with Staff during its investigation into this matter.

40. On December 31, 2009, the Respondent resigned from Sun Life. He has not been

registered in the securities industry in any capacity since that time.

VI. CONTRAVENTIONS

41. Between 2007 and 2008, by engaging in the conduct described above, the Respondent admits the following:

- a) By selling, referring or facilitating the sale of USI Corp. viatical settlements to at least 8 Sun Life clients and 10 other individuals in a total amount of \$880,000, the Respondent engaged in securities related business that was not carried on for the account and through the facilities of Sun Life, contrary to MFDA Rules 1.1.1(a) and 2.1.1.
- b) By selling, referring or facilitating the sale of USI Corp. viatical settlements to Sun Life clients and other individuals, and by participating in the operation of AHC Corp., the Respondent had and continued in another gainful occupation which was not disclosed to and approved by Sun Life, contrary to MFDA Rules 1.2.1(d)⁶ and 2.1.1; and
- c) He entered into a referral arrangement with USI Corp. in respect of the sale of viatical settlements pursuant to which, along with Young, he was paid or entitled to receive referral fees or commissions totaling at least \$13,200, contrary to MFDA Rules 2.4.2(b) and 2.1.1.

VII. TERMS OF SETTLEMENT

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

- a) He shall pay a fine in the amount of \$5,000, pursuant to section 24.1(b) of By-law No. 1, upon the acceptance of this Settlement Agreement;
- b) He shall be prohibited from acting as a mutual fund salesperson for a period of 3 years, pursuant to section 24.1(c) of By-law No. 1, commencing on the date of

⁶ Effective February 2011, the MFDA's Rules were amended. As a result, MFDA Rule 1.2.1(d), which was in force during the material time, was renumbered as current MFDA Rule 1.2.1(c). The wording of the rule was not changed.

- acceptance of this Settlement Agreement;
- c) He shall pay the costs of this proceeding in the amount of \$5,000, pursuant to section 24.2 of By-law No. 1, upon the acceptance of this Settlement Agreement;
 - d) Prior to becoming re-registered as a mutual fund salesperson with a Member of the MFDA, he shall complete an industry course acceptable to Staff of the MFDA; and
 - e) He will attend in person on the date set for the Settlement Hearing.

VIII. STAFF COMMITMENT

43. 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 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.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

44. 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.

45. 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 his 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.

46. 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.

47. 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 it him.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

48. 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 the By-laws of the MFDA against the Respondent based on, but not limited to, the facts and contraventions set out in Parts IV and VI 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.

XI. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

49. 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.

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

XII. DISCLOSURE OF AGREEMENT

51. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated this 4th day of April, 2014.

Jim Kilgour
Witness – Signature

“Jim Kilgour”
Witness - Print name

“Don Everett Andrews”
Don Everett Andrews

“Shaun Devlin”
Staff of the MFDA
Per: Shaun Devlin
Senior Vice-President,
Member Regulation – 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: Don Everett Andrews

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 Don Everett Andrews (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:

1. Between 2007 and 2009, the Respondent sold, recommended, referred or facilitated the sale of viatical settlements offered by Universal Settlements International Inc. ("USI Corp.") to at least 8 Sun Life clients and 10 other individuals in a total amount of \$880,000, thereby

engaging in securities related business that was not carried on for the account and through the facilities of the Member, contrary to MFDA Rules 1.1.1(a) and 2.1.1;

2. Between 2007 and 2009, the Respondent sold, recommended, referred or facilitated the sale of the sale of viatical settlements offered by USI Corp. and participated in the operation of Aslan Holding Corporation, thereby having and continuing in another gainful occupation which was not disclosed to and approved by the Member, contrary to MFDA Rules 1.2.1(d) and 2.1.1; and

3. Between 2007 and 2009, the Respondent entered into a referral arrangement with USI Corp. in respect of the sale of viatical settlements pursuant to which he was paid or entitled to receive referral fees or commissions totaling at least \$13,200, contrary to MFDA Rules 2.4.2(b) and 2.1.1.

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

1. 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*;

2. The Respondent shall be prohibited from acting as a mutual fund salesperson for a period of three (3) years, pursuant to section 24.1(c) of By-law No. 1;

3. The Respondent shall pay a fine in the amount of \$5,000, pursuant to section 24.1(b) of By-law No. 1;

4. The Respondent shall pay the costs of this proceeding in the amount of \$5,000, pursuant to section 24.2 of By-law No. 1; and

5. Prior to becoming re-registered as a mutual fund salesperson with a Member of the MFDA, he shall complete an industry course acceptable to Staff of the MFDA.

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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