



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: Blair Addison

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, Blair Addison.

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 XI) 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

6. The Respondent has been registered in Ontario as a mutual fund salesperson with Desjardins Financial Security Investments Inc. (“Desjardins”) since May 26, 2005. At the material time, the Respondent carried on business in Brampton, Ontario.

7. The Respondent has not previously been the subject of disciplinary proceedings.

Personal Financial Dealings with Client DH

8. In 2008, DH became a client of Desjardins. The Respondent was the mutual fund salesperson responsible for servicing client DH’s account. Prior to client DH becoming a Desjardins client, client DH and the Respondent had been friends for approximately 20 years.

9. In or about September 2009, the Respondent approached client DH about investing \$120,000 in a rental property owned by the Respondent in Toronto, Ontario by way of a second mortgage secured against the rental property.

10. The investment was for a term of one year with a maturity date of September 24, 2010 and interest payable at the rate of 7.8% per annum due on the 24th day of each month, commencing on October 24, 2009 and concluding on September 24, 2010. The Respondent assured client DH that there would be no issues with repayment since the investment was only for a short period of time and he (the Respondent) had sufficient capital and resources to repay the second mortgage in full at maturity. Client DH agreed to proceed with the investment.

11. At all material times, Desjardins' Policies and Procedures Manual ("PPM"), dated October 2007, addressed, among other things, conflicts and potential conflicts of interest between Approved Persons and clients. The PPM provided that any transaction giving rise to a conflict or potential conflict of interest between an Approved Person and a client must be immediately reported to the Member prior to the transaction in question taking place.

12. The Respondent did not disclose the second mortgage arrangement with client DH to Desjardins prior to entering into the transaction or at any time thereafter. As a consequence, Desjardins was unable to take appropriate supervisory action, including prohibiting the Respondent from proceeding with the second mortgage.

13. Prior to client DH advancing the mortgage proceeds to the Respondent, Desjardins would not permit a client to hold a second mortgage in an RSP account. Accordingly, the Respondent directed client DH to open a B2B Trust Self-Directed RSP account set up in client DH's name.

14. On August 27, 2009, client DH transferred \$131,495.36 from the Desjardins RSP account to the B2B RSP account.

15. On September 23, 2009, client DH invested \$120,000 of the monies in the B2B RSP

account by advancing \$120,000 to the Respondent secured by a second mortgage on the Respondent's rental property.

16. The Respondent made the monthly interest payments owing under the terms of the second mortgage but at the end of the one-year term, in September 2010, the Respondent did not repay the principal amount owing. Client DH requested repayment of the principal according to the terms of the mortgage but the Respondent was either unable or unwilling to do so as the Respondent had not yet refinanced or sold the property.

17. On October 7, 2010, the Respondent asked client DH for a 12 month extension to repay the principal owing under the second mortgage. Client DH declined to grant a twelve month extension but, as set out in the October 7, 2010 agreement, did agree to provide the Respondent two additional months (to November 24, 2010) in which to attempt to secure additional financing to pay out client DH's second mortgage (the "Interim Agreement").

18. The Interim Agreement entered into between the Respondent and client DH stipulated, among other things, that should the full amount owing under the second mortgage not be repaid within the two month period, then at least \$75,000 of the principal amount would be repaid by November 24, 2010, with the remaining \$45,000 to be paid in two payments of \$20,000 and \$25,000 due on March 24, 2011 and April 24, 2011 respectively.

19. The Respondent failed to find additional financing to replace the second mortgage and did not personally qualify for additional mortgage funds. Client DH refused to take a third mortgage position and the Respondent missed each of the extended repayment deadlines provided for in the Interim Agreement.

20. On March 30, 2011, client DH, through his legal counsel, sent a letter to the Respondent demanding repayment of the second mortgage. The letter requested that the Respondent contact client DH to arrange for repayment within 14 days of the date of the letter. The letter further advised the Respondent that if full payment was not received within 14 days, then client DH would commence legal action to recover all amounts owing under the second mortgage without

further notice to the Respondent, including accrued interest, legal fees and court costs.

21. The Respondent did not report receipt of client DH's demand letter to Desjardins.

22. On July 4, 2011, client DH sent a letter to the Respondent's Branch Manager at Desjardins advising him of the Respondent's failure to repay the amounts secured by the second mortgage and client DH's subsequent attempts to resolve the matter with the Respondent. Client DH also requested that Desjardins reassign his account to another mutual fund salesperson.

23. On July 11, 2011, Desjardins filed a report in respect of the Respondent's personal financial dealings with client DH through the MFDA's electronic Member Event Tracking System ("METS"), in accordance with MFDA Policy No. 6.

24. On July 19, 2011, the Respondent wrote to client DH requesting that he take no further action to collect his monies if he (the Respondent) was able to repay the outstanding amount on or before August 24, 2011. The Respondent further advised client DH that he would obtain the monies for repayment through the sale of the property. Client DH agreed to allow the Respondent until August 24, 2011 to repay the amount owing under the second mortgage.

25. On August 24, 2011, the Respondent failed to repay amount owing under the second mortgage.

26. On December 15, 2011, the Respondent and client DH agreed to a further extension to April 24, 2012 for the Respondent to repay the amount owing under the second mortgage.

27. On or about February 21, 2012, the Respondent sold his rental property for \$566,000.

28. On March 28, 2012, the Respondent paid client DH \$120,000, plus outstanding fees on account of the second mortgage and client DH signed a statement of discharge in respect of the second mortgage.

29. On March 29, 2012, client DH and the Respondent signed a document acknowledging the repayment in full of the second mortgage and all interest, costs and other obligations between them in the total amount of \$124,510.25.

30. On March 29, 2012, the Respondent also paid out the first mortgage and all associated fees on the rental property in the total amount of \$423,209.75. After paying out both mortgages, the Respondent realized a gain of approximately \$18,250.00 on the sale of the property.

31. During the course of MFDA Staff's investigation, the Respondent acknowledged that it had been necessary for him to sell the rental property in order to repay client DH, that he had realized a gain from the sale of the property and that he was aware that his activities created a conflict or potential conflict of interest between himself and client DH.

Information Reporting Requirements

32. MFDA Rule 1.2.2(b) and subsections 4.1(a) and (b)(v) of MFDA Policy No. 6 provide that an Approved Person must report to the Member, within two business days, when the Approved Person is, among other things, the subject of a client complaint in writing and when the Approved Person is aware of any complaint (in any form) against him or her involving allegations of, among other things, personal financial dealings with clients.

33. The Respondent failed to notify Desjardins at any time of his personal financial dealings with client DH, of client DH's demands for repayment of the principal amount owing under the second mortgage and, in particular, failed to report his receipt of the March 30, 2011 demand letter from counsel for client DH.

34. Desjardins was not made aware of the existence of the personal financial dealings between the Respondent and client DH until client DH wrote directly to the Respondent's Branch Manager by way of letter dated July 4, 2011.

V. THE RESPONDENT'S POSITION

35. The Respondent states that he and client DH were friends and over the course of their friendship they had a number of discussions about investing in real estate.

36. In September 2009, the Respondent paid for client DH to obtain independent legal advice for the purposes of completing the mortgage transaction with the Respondent. At the suggestion of legal counsel, the parties agreed on a higher interest rate of 7.8% than the 5% initially proposed by the Respondent.

37. On or about March 30, 2011, after receiving the demand letter from client DH's legal counsel requesting immediate payment of the outstanding \$120,000, the Respondent states that he contacted client DH and advised client DH that he would continue to take steps to find financing to pay client DH's second mortgage out in full. On this basis, the Respondent states that client DH told him that he could ignore the demand letter.

38. The Respondent states he failed to pay out client DH's second mortgage by August 24, 2011, as agreed, because he was unable to sell the property. After relisting the property on or about December 2011, the Respondent was able to sell the property on February 21, 2012.

VI. CONTRAVENTIONS

39. Between August 2009 and March 2012, the Respondent engaged in personal financial dealings with client DH by recommending and facilitating an investment by client DH in the amount of \$120,000 in a rental property owned by the Respondent by way of a second mortgage secured against the property, thereby creating a conflict or potential conflict of interest between the interests of the Respondent and the interests of client DH which the Respondent failed to ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rules 2.1.4 and 2.1.1.

40. Between at least March 30, 2011 and July 4, 2011, the Respondent failed to comply with

his reporting obligations to the Member in respect of complaints made by client DH concerning his investment in the Respondent's rental property, contrary to MFDA Rule 1.2.2 and subsections 4.1(a) and (b)(v) of MFDA Policy No. 6.

VII. TERMS OF SETTLEMENT

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

(a) a fine in the amount of \$20,000;

(b) costs of \$5,000;

(c) the Respondent shall in the future comply with all applicable MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations that the Respondent has agreed he breached in relation to this Settlement Agreement; and

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

VIII. STAFF COMMITMENT

42. 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 contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part XI 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 Part IV of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Part IV, 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

43. 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.

44. 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.

45. 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.

46. 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 him.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

47. 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 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.

XI. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

48. 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.

49. 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

50. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 27th day of February, 2014.

“Dawn Addison”
Witness – Signature

Dawn Addison
Witness – Print name

“Blair Addison”
Blair Addison

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



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**IN THE MATTER OF A SETTLEMENT HEARING
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Re: Blair Addison

ORDER

WHEREAS on August 20, 2013 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 Blair Addison (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated February 27th, 2014 (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 engaged in personal financial dealings with a client, thereby creating a conflict or potential conflict of interest between the interests of the Respondent and the interests of the client which the Respondent failed to ensure was addressed by the exercise of responsible business judgment

influenced only by the best interests of the client and that the Respondent failed to comply with his reporting obligations to the Member in respect of client complaints;

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

1. the Respondent shall pay a fine in the amount of \$20,000;
2. the Respondent shall pay costs of \$5,000.
3. the Respondent shall in the future comply with all applicable MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations that the Respondent has agreed he breached in relation to this Settlement Agreement; and
4. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

DATED this [day] day of [month], 20[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]