



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: Michael William Kant

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 Prairie 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, Michael William Kant (the “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 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

Registration History

6. Since November 25, 1993, the Respondent has been employed with PFSL Investments Canada Ltd. ("PFSL").¹ The Respondent has been registered as a mutual fund sales person with PFSL in Alberta since March 14, 2003 and in British Columbia since February 7, 2003. Since January 14, 2005, the Respondent has been registered as a Branch Manager in Alberta with PFSL.

7. At all material times, the Respondent conducted business out of a branch office located in Edmonton, Alberta.

¹ PFSL has been a Member of the MFDA since January 31, 2002.

Respondent's misconduct

8. At all material times, PFSL's policies and procedures required its Approved Persons, including the Respondent, to ensure that account forms or other documents are completed in full before a client, signs them.

9. During an audit of the Respondent's branch office conducted on or about June 20, 2012, PFSL discovered irregularities with respect to client signatures on account forms in client files maintained by the Respondent.

10. In response to further review of the signature irregularities by PFSL, the Respondent admitted to PFSL that he photocopied and altered account forms which had been previously signed by clients. In most instances, the Respondent photocopied and altered accounts forms which had been previously-used to process transactions in client accounts. In some instances, the Respondent arranged for clients to complete one account form (that had not been previously-used) which he photocopied and altered to allow him to process multiple transactions in the clients' accounts at PFSL. After altering photocopies of previously-signed account forms, the Respondent submitted the account forms to PFSL in order to process transactions in the clients' accounts.

11. In a written statement to the MFDA dated October 22, 2012, the Respondent again admitted that he engaged in the practice described in paragraph 10 above.

12. As described in greater detail below, between April 2006 and July 2012, the Respondent photocopied and altered 49 previously-signed account forms in respect of 16 client accounts in order to process transactions in client accounts. In particular, the Respondent:

- a) photocopied 22 Redemption Request Forms involving 11 client accounts which had been previously-used to process transactions, and altered the fund codes, redemption amounts, and/or the dates on the forms;
- b) photocopied 11 Customer Service Forms (Change Address) involving 4 client

- accounts, and altered the account numbers on the forms;
- c) photocopied 1 Customer Service Form (PAC Change) involving 1 client account, and altered the pre-authorized contribution instructions on the form;
 - d) photocopied 2 Change of Dealer or Representative Request Forms involving 1 client account which had been previously-used to process transactions, and altered the account numbers on the form; and
 - e) photocopied 1 Exchange Request Form involving 1 client account which had been previously-used to process transactions, and altered the fund codes and transaction amounts on the form.

13. The Respondent states, and Staff is aware of no evidence to the contrary, that all of the transactions processed using the previously-signed account forms were authorized by the clients. In some (but not all) instances, the Respondent maintained notes of the instructions he states he received from the clients.

14. The Respondent states and Staff is aware of no evidence to the contrary that according to the Respondent, he engaged in the practice described above for the convenience of the clients where:

- a) the clients lived far away, were ill, or were otherwise unable to attend at his office to execute the account forms;
- b) the clients required funds from their accounts on short notice for extenuating circumstances; and/or
- c) the Respondent was altering information and dates on account forms in order to process transactions to assist the clients in implementing tax strategies.

15. On or about September 28, 2012, PFSL sent letters, including copies of transaction histories, to the clients whose accounts were affected by the Respondent's conduct to determine whether the clients had authorized the transactions processed by the Respondent. None of the clients responded to PFSL with any questions or concerns regarding the activity in their accounts.

16. The Respondent states, and Staff is aware of no evidence to the contrary, that:
- a) the Respondent received no financial or other personal benefit from the conduct described above;
 - b) the Respondent did not process any trades or changes to client information without the knowledge or authorization of his clients
 - c) no clients suffered any financial or other harm as a result of the Respondent's conduct; and
 - d) no clients have complained about the Respondent's conduct;
 - e) all of the transactions processed by the forms were solicited or instructed by the clients.
17. The Respondent has no prior disciplinary history with the MFDA and he fully cooperated with Staff during the course of the investigation.

V. CONTRAVENTIONS

18. The Respondent admits that, between April 2006 and July 2012, he photocopied and altered 49 previously-signed account forms in respect of 16 client accounts in order to process transactions in client accounts, contrary to MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

19. The Respondent agrees to the following terms of settlement:
- a) the Respondent shall pay a fine in amount of \$7,500 pursuant to section 24.1.1 of MFDA By-law No. 1;
 - b) the Respondent shall pay costs in the amount of \$2,500 pursuant to s. 24.2 of MFDA By-law No. 1;
 - c) the Respondent shall in the future comply with MFDA Rule 2.1.1; and

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

VII. STAFF COMMITMENT

20. 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 V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in Parts IV and V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Parts IV and V, 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

21. Acceptance of this Settlement Agreement shall be sought at a hearing of the Prairie Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

22. 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.

23. 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.

24. 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.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

25. 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

26. 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.

27. 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.

XI. DISCLOSURE OF AGREEMENT

28. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

Dated this 13th day of December, 2013.

“C. Whymer”

Witness – Signature

“Michael William Kant”

Michael William Kant

C. Whymer

Witness – Print name

“Shaun Devlin”

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



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Re: Michael William Kant

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 Michael William Kant (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, between April 2006 and July 2012, photocopied and altered 49 previously signed account forms in respect of 16 client accounts in order to process transactions in client accounts, contrary to MFDA Rule 2.1.1.

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 \$7,500, pursuant to section 24.1.1 of By-law No. 1;
2. the Respondent shall pay \$2,500 in respect of the costs of the investigation and settlement of this matter pursuant to section 24.2 of By-law No.1;
3. the Respondent shall in the future comply with all MFDA By-laws, Rules and Policies, and all applicable securities legislation and regulations made thereunder, including MFDA Rules 2.1.1; 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]