



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: Shelley Willow Will

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 section 24.4 of By-law No. 1, a hearing panel of the Prairie Regional Council (“Hearing Panel”) of the MFDA should accept the settlement agreement (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and Shelley Willow Will (“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. Between May 27, 2014 and December 31, 2015, the Respondent was registered in Saskatchewan, Alberta and British Columbia as a mutual fund dealing representative with Sterling Mutuals Inc. (“Sterling”), a Member of the MFDA.

7. Between June 30, 2004 and May 27, 2014, the Respondent was registered in Saskatchewan, Alberta and British Columbia as a mutual fund dealing representative (formerly a mutual fund salesperson) with HollisWealth Advisory Services Inc. (“HollisWealth”), a Member of the MFDA.

8. The Respondent is not currently registered in the securities industry in any capacity.
9. At all material times, the Respondent conducted business in the North Battleford Saskatchewan area.

The Gold Strategy

10. Between about November 5, 2004 and January 31, 2013, the Respondent recommended an investment strategy to all of her clients whereby the clients would purchase precious metals (predominantly, gold) sector mutual funds (the “Gold Strategy”).

11. In the course of recommending the Gold Strategy to clients, the Respondent represented that, among other things, as a result of government monetary and debt policies in Canada and the United States:

- a) the price of gold and other precious metals was poised to increase dramatically;
and
- b) investing in gold and precious metals sector funds was a relatively safe investment.

12. The Gold Strategy resulted in the clients holding investments which were concentrated in precious metals sector funds. The Respondent serviced the accounts of approximately 264 clients. As of December 31, 2013:

- a) approximately 14% of the Respondent’s clients held 50% to 100% of their accounts in precious metals sector funds;
- b) approximately 35% of the Respondent’s clients held 20% to 50% of their accounts in precious metals sector funds; and
- c) approximately 51% of the Respondent’s clients held less than 20% of their accounts in precious metals sector funds.

The Respondent Failed to Assess Suitability on a Client-by-Client Basis

13. The Respondent failed to consider, adequately or at all, whether her recommendations to engage in the Gold Strategy were suitable on a client-by-client basis, having regard to the essential KYC factors relevant to each individual client, prior to making the recommendations to the clients.

14. The Respondent engaged in a standard practice of recommending that clients concentrate their investment holdings in precious metals sector funds, without regard to each client's KYC information, based upon her views as to how these funds would perform.

15. The Respondent failed to consider, adequately or at all, whether it was suitable for each client to hold non-diversified investments.

The Respondent Recorded Uniform KYC Information for all Clients

16. In order to implement the Gold Strategy, the Respondent engaged in a practice of recording the following uniform Know-Your-Client ("KYC") information for each of her clients.

- a) a risk tolerance of 100% "high risk";
- b) an investment objective of 100% "aggressive growth"; and
- c) investment knowledge of "good".

17. The Respondent recorded the KYC information described above regardless of whether or not the client genuinely had a high risk tolerance, an aggressive growth investment objective and good investment knowledge.

18. The Respondent engaged in this practice in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would consequently be suitable for each client, and to allow clients

the flexibility to increase their precious metals holdings without having to update the clients' KYC information as they increased their concentration levels over time.

The Respondent Misrepresented the Risks of the Gold Strategy

19. As described above, in the course of recommending the Gold Strategy to clients, the Respondent represented that, among other things, the price of gold and other precious metals were poised to increase dramatically, and investing in gold and precious metals sector funds was a relatively safe investment.

20. The Respondent failed to fully and adequately explain, the risks and benefits of investing in precious metals sector funds, including the risk of holding non-diversified investments and the risk that Gold Strategy would not perform as she represented it would.

21. To the extent that the Respondent explained some of the risks of investing in precious metals sector funds, she failed to provide a balanced presentation of the risks and minimized the risks when she described the funds.

Pre-Signed Account Forms

22. At all material times, Sterling's policies and procedures prohibited its Approved Persons from using pre-signed account forms.

23. Between December 7, 2014 and November 2, 2015, the Respondent obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients. In each case, the client's signature on the form at issue was a photocopy.

24. The 16 pre-signed forms were comprised of:

- a) Two (2) Address Change Forms;

- b) Three (3) Mutual Fund Client Request Forms, used to redeem funds in client accounts; and
- c) 11 Mutual Fund Client Request Forms, used to process switches in client accounts.

Member Response

25. Sterling reviewed all transactions processed by the Respondent between December 7, 2014 and November 2, 2015. The Member did not identify any additional pre-signed or altered forms beyond those noted at paragraph 24 above.

26. No clients complained or advised Sterling that they had not authorized the transactions in their accounts.

Additional Factors

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

28. There is no evidence of client harm in this matter.

29. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct beyond the commissions or fees to which the Respondent would have been ordinarily entitled had the transactions in the clients' accounts been carried out in the proper manner.

30. The Respondent has cooperated fully with Staff during the course of the investigation, and by agreeing to this settlement, has avoided the necessity of a full hearing on the merits.

V. RESPONDENT'S POSITION

31. The Respondent states that, in November 2010, HollisWealth created an Acknowledge and Release form which asked clients to release and save HollisWealth harmless from any losses or damages arising from the Gold Strategy.¹

32. HollisWealth instructed the Respondent to have all new and existing clients complete the form. When the Respondent transferred her registration to Sterling in 2014, Sterling adopted and instructed the Respondent to use the same Acknowledgement and Release.

33. The Respondent further states that she did not obtain, possess and use any of the above noted pre-signed forms for any ulterior purposes. In each case, the Respondent had limited trading authority with respect to the accounts in issue, and the Respondent recognizes that she could have undertaken the same transactions using her limited trading authority, but opted to use the pre-signed forms for the sake of client convenience.

VI. CONTRAVENTIONS

34. The Respondent admits that:

- a) between about November 5, 2004 and January 31, 2013, she recommended to at least 264 clients that the clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds, without using adequate due diligence to assess the suitability of her investment recommendations on a client-by-client basis having regard to the essential Know-Your-Client (“KYC”) factors

¹ As part of MFDA File No. 2016116, HollisWealth entered into a Settlement Agreement with Staff, in which it admitted that the creation and dissemination of the Acknowledgement and Release to the clients of the Respondent contravened MFDA Rules 2.2.1, 2.1.2 and 2.1.1. The Settlement Agreement was approved by a Hearing Panel of the Central Regional Council on March 27, 2017.

relevant to each individual client, including the client's risk tolerance, investment objectives and investment knowledge, contrary to MFDA Rules 2.2.1² and 2.1.1;

- b) between about November 5, 2004 and January 31, 2013, she recorded on account forms in respect of least 264 clients that the clients had, among other things, "100% high" risk tolerance, "100% aggressive growth" investment objectives, and "good" or better investment knowledge, in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would be suitable for each client, contrary to MFDA Rules 2.2.1 and 2.1.1;
- c) between about November 5, 2004 and January 31, 2013, she failed to fully and adequately explain, or omitted to explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that her recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1;
- d) between December 7, 2014 and November 2, 2015, she obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients, contrary to MFDA Rule 2.1.1.

VII. TERMS OF SETTLEMENT

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

- a) the Respondent shall be permanently prohibited 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 MFDA By-law No. 1;

²MFDA Rule 2.2.1 was amended in December 2010 and in February 2013. In this Settlement Agreement, all references to the MFDA Rule 2.2.1 concern the version of the Rule that was in force prior to December 2010.

- b) the Respondent shall pay a fine in the amount of \$10,000 pursuant to section 24.1.1(b) of By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$5,000 pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;
- d) the fine and costs shall be paid in 6 installments, with the first installment of \$2,500 to be paid on the date of the settlement hearing, and the remaining 5 installments payable on the last business day of the 5 months following the date of acceptance of the Settlement Agreement by the Hearing Panel; and
- e) The Respondent will attend in person, on the date set for the Settlement Hearing.

VIII. STAFF COMMITMENT

36. 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.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

37. 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.

38. 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 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.

39. 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. 24.1.1 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.

40. 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.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

41. 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

42. 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.

43. 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.

XII. DISCLOSURE OF AGREEMENT

44. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 18th day of July, 2017.

“Shelley Will”

Shelley Will

“KM”

Witness – Signature

KM

Witness – Print Name

“Shaun Devlin”

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
PURSUANT TO SECTION 24.4 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Shelley Willow Will

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada ("MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Shelley Willow Will ("Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] ("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:

- a) between about November 5, 2004 and January 31, 2013, she recommended to at least 264 clients that the clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds, without using adequate due diligence to assess the suitability of her investment recommendations on a client-by-client basis having regard to the essential Know-Your-Client ("KYC") factors

relevant to each individual client, including the client's risk tolerance, investment objectives and investment knowledge, contrary to MFDA Rules 2.2.1 and 2.1.1;

- b) between about November 5, 2004 and January 31, 2013, she recorded on account forms in respect of least 264 clients that the clients had, among other things, "100% high" risk tolerance, "100% aggressive growth" investment objectives, and "good" or better investment knowledge, in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would be suitable for each client;
- c) between about November 5, 2004 and January 31, 2013, she failed to fully and adequately explain, or omitted to explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that her recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and
- d) between December 7, 2014 and November 2, 2015, she obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients, 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 be permanently prohibited 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 MFDA By-law No. 1;
2. the Respondent shall pay a fine in the amount of \$10,000 pursuant to section 24.1.1(b) of By-law No. 1;

3. the Respondent shall pay costs in the amount of \$5,000 pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;

4. the fine and costs shall be paid in 6 installments, with the first installment of \$2,500 to be paid on the date of the settlement hearing, and the remaining 5 installments payable on the last business day of the 5 months following the date of acceptance of the Settlement Agreement by the Hearing Panel; and

5. if at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the MFDA Privacy Policy, 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 personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

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

Name,
Chair

Name,
Industry Representative

Name,
Industry Representative