



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: Robert Douglas Johnston

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and Robert Douglas Johnston, (the “Respondent”), consent and agree to settlement of this matter by way of this agreement (the “Settlement Agreement”).
2. Staff conducted an investigation of the Respondent’s activities which disclosed 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.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.
4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

- a) between August 2014 and April 2015, the Respondent obtained, possessed, and used to process transactions, 7 pre-signed account forms in respect of 4 clients, contrary to MFDA Rule 2.1.1;
- b) between October 2012 and February 2016, the Respondent altered and used to process transactions, 14 client forms in respect of 12 clients, by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and
- c) between September 2010 and March 2016, the Respondent:
 - i. directed his assistant, for whom he was responsible, to falsely indicate that she had witnessed client signatures on two Limited Trade Authorization forms; and
 - ii. submitted one client Limited Trading Authorization form to the Member for processing that did not meet the Member's signature verification requirements.thereby failing to comply with the Member's policies and procedures, contrary to MFDA Rules 2.5.1, 1.1.2, and 2.1.1.

5. Staff and the Respondent agree and consent to the following terms of settlement:

- a) the Respondent shall be suspended from conducting securities related business in any capacity while in the employ or associated with any Member of the MFDA for a period of six months from the date of the settlement hearing, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
- b) the Respondent shall pay a fine in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to section 24.1.1(b) of By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to section 24.2 of By-law No. 1;
- d) the Respondent shall in the future comply with MFDA Rules 1.1.2, 2.1.1 and 2.5.1; and
- e) the Respondent will attend the Settlement Hearing in person.

6. Staff and the Respondent agree to the settlement on the basis of the facts set out in Part III herein and consent to the making of an Order in the form attached as Schedule “A”.

III. AGREED FACTS

Registration History

7. The Respondent has been registered as a mutual fund salesperson (now known as a dealing representative) since November 2007.

8. From May 2010 to September 2016, the Respondent was registered in Manitoba as a dealing representative with Sun Life Financial Investment Services (Canada) Inc. (“Sun Life”), a Member of the MFDA. The Respondent resigned from Sun Life on September 10, 2016.

9. Since October 6, 2016, the Respondent has been registered in Saskatchewan as a dealing representative with Sterling Mutuals Inc., a Member of the MFDA.

10. At all material times, the Respondent carried on business in the Thompson, Manitoba area.

Pre-Signed Account Forms

11. At all material times, Sun Life’s policies and procedures prohibited its Approved Persons, including the Respondent, from holding, obtaining, or using pre-signed account forms.

12. Between August 2014 and April 2015, the Respondent obtained, possessed, and used to process transactions, 7 pre-signed account forms in respect of 4 clients.

13. The pre-signed account forms consisted of Pre-authorized chequing, Account Application, and Know-Your-Client forms.

Altered Account Forms

14. At all material times, Sun Life’s policies and procedures prohibited its Approved Persons, including the Respondent, from holding, obtaining, or using falsified account forms.

15. Between October 2012 and December 2014, the Respondent altered and used to process transactions, 14 client forms in respect of 12 clients, by altering information on the account forms without having the clients initial the alterations.

16. The altered forms consisted of Pre-authorized chequing and Order ticket forms.

Failure to Witness Client Signatures and Obtain Signature Guarantees for Limited Trading Authorization Forms

17. At all material times, Sun Life's policies and procedures required that its Approved Persons:

- a) meet face to face with a client when completing a Limited Trading Authorization form ("LTA") and witness the client's signature; or
- b) if sending an LTA by mail to a client, ensure the client's signature is witnessed and guaranteed with a stamp by a bank, trust company, notary, or commissioner of oaths.

18. In September 2010, the Respondent directed his assistant, for whom he was responsible, to falsely indicate that she had witnessed client signatures on two LTA forms, when she did not meet in person with the client to witness the clients' signatures. The Respondent then submitted the LTA forms to Sun Life for processing.

19. In March 2016, the Respondent submitted the faxed copy of a LTA form to Sun Life without ensuring that the client signature was witnessed and guaranteed with a stamp by the appropriate person, as required by Sun Life's policies and procedures.

Sun Life's Investigation

20. In February 2017, Sun Life identified one of the altered forms that are the subject of this Settlement Agreement during an onsite branch review. Sun Life subsequently commenced a review of all of the client files serviced by the Respondent and identified the remaining pre-signed and altered account forms that are the subject of this Settlement Agreement.

Previous Use of Pre-Signed Account Forms

21. In January 2012, Sun Life placed the Respondent under close supervision for 12 months after it identified 12 pre-signed account forms in client files serviced by the Respondent.
22. On June 15, 2012, Sun Life issued a warning letter to the Respondent.
23. All the pre-signed and altered forms that are the subject of this Settlement Agreement were obtained, possessed, or used, after the Respondent was warned by Sun Life in June 2012.

Additional Factors

24. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond any commissions and fees that he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.
25. The Respondent states that he is impecunious and unable to contribute any additional amounts towards a fine in this matter. The Respondent acknowledges that absent his limited ability to pay, it would have been appropriate for him to be subject to a penalty that included a greater fine due to the conduct that is the subject of this Settlement Agreement.
26. There is no evidence of any client loss or that the transactions were unauthorized.
27. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

28. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the MFDA Rules of Procedure.
29. The Settlement Agreement is subject to acceptance by the Hearing Panel which shall be sought at a hearing (the "Settlement Hearing"). At, or following the conclusion of, the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel

accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

30. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

31. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter;
- b) the Respondent waives any 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;
- c) Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any contraventions that are not set out in this Settlement Agreement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;
- d) 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; and
- e) 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 the Respondent.

32. If, for any reason, this Settlement Agreement is not accepted 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 the Settlement Agreement or the settlement negotiations.

33. Staff and the Respondent agree that the terms of the 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.

34. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile copy of any signature shall be effective as an original signature.

DATED this 27th day of June, 2019.

“Robert Douglas Johnston”

Robert Douglas Johnston

“JJ”

Witness – Signature

JJ

Witness – Print Name

“Shaun Devlin”

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

Schedule “A”

Order

File No. 201938



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: Robert Douglas Johnston

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 Robert Douglas Johnston (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:

- a) between August 2014 and April 2015, the Respondent obtained, possessed, and used to process transactions, 7 pre-signed account forms in respect of 4 clients, contrary to MFDA Rule 2.1.1;
- b) between October 2012 and February 2016, the Respondent altered and used to process transactions, 14 client forms in respect of 12 clients, by altering information

on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and

- c) between September 2010 and March 2016, the Respondent:
- i. directed his assistant, for whom he was responsible, to falsely indicate that she had witnessed client signatures on two Limited Trade Authorization forms; and
 - ii. submitted one client Limited Trading Authorization form to the Member for processing that did not meet the Member's signature verification requirements,
thereby failing to comply with the Member's policies and procedures, contrary to MFDA Rules 1.1.2, 2.1.1 and 2.5.1.

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

1. The Respondent shall be suspended from conducting securities related business in any capacity while in the employ or associated with any Member of the MFDA for a period of three months from the date of the settlement hearing, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
2. The Respondent shall pay a fine in the amount of \$2,500 in certified funds, pursuant to section 24.1.1(b) of By-law No. 1;
3. The Respondent shall pay costs in the amount of \$2,500 in certified funds, pursuant to section 24.2 of By-law No. 1;
4. The Respondent shall in the future comply with MFDA Rules 1.1.2, 2.1.1 and 2.5.1; 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[].

Per: _____
[Name of Public Representative], Chair

Per: _____
[Name of Industry Representative]

Per: _____
[Name of Industry Representative]

DM 707883