



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: Walter Guiseppe Montana

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Walter Guiseppe Montana (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) in or around January 2013, the Respondent, or his assistant for whom he was responsible, altered information on an account form that had been previously signed by a client and used in a previous transaction in order to process a new transaction in the client's account, contrary to MFDA Rule 2.1.1;
- b) between March 2010 and January 2018, the Respondent, or his assistants for whom he was responsible, altered and used to process transactions, 14 account forms in respect of 9 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 March 2010 and January 2018, the Respondent, or his assistants for whom he was responsible, obtained, possessed, and used to process transactions, 29 pre-signed account forms in respect of 19 clients, contrary to MFDA Rule 2.1.1.

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

- a) the Respondent shall pay a fine in the amount of \$14,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1.(b) of MFDA By-law No. 1;
- b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, 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.

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. Since March 1990, the Respondent has been registered in Alberta as a mutual fund salesperson (now known as a dealing representative) with Sun Life Financial Investment Services (Canada) Inc.¹ (the “Member”), a Member of the MFDA.

8. The Respondent was also registered in British Columbia from various times until April 2008.

9. At all material times, the Respondent conducted business in the Lethbridge, Alberta area.

Re-Used Account Form

10. In or around January 2013, the Respondent, or his assistant for whom he was responsible, altered information on a “direction for payment from a RESP” form that had been previously signed by a client and used in a previous transaction in order to process a new transaction in the client’s account.

Altered Account Forms

11. At all material times, the Member’s policies and procedures prohibited its Approved Persons from obtaining, holding, or using altered account forms.

12. Between March 2010 and January 2018, the Respondent, or his assistants for whom he was responsible, altered 14 account forms in respect of 9 clients by altering information on the account forms without having the clients initial the alterations.

13. The altered account forms consisted of:

- a) 2 direction for payment from a RESP forms;
- b) 1 Know Your Client (“KYC”) form;
- c) 1 limited trade authorization (“LTA”) form;

¹ Commencing March 1990, the Respondent was registered as a mutual fund salesperson with Mutual Investco Inc, which subsequently underwent a name change to Clarica Investco Inc. In June 2007, Clarica Investco Inc. underwent a name change to Sun Life Financial Investment Services (Canada) Inc.

- d) 1 new account application form;
- e) 2 order tickets;
- f) 3 pre-authorized chequing forms;
- g) 3 switch forms; and
- h) 1 transfer authorization form.

14. The alterations to the account forms included alterations to dates, account numbers, fund names, and fund codes.

15. In all instances, the Respondent, or his assistants, submitted the altered forms to the Member for processing.

Pre-Signed Account Forms

16. At all material times, the Member's policies and procedures prohibited its Approved Persons from obtaining, holding, or using pre-signed account forms.

17. Between March 2010 and January 2018, he, or his assistants for whom he was responsible, obtained, possessed, and used to process transactions, 29 pre-signed account forms in respect of 19 clients.

18. The pre-signed account forms consisted of:

- a) 4 banking information change forms;
- b) 1 Canada Education Savings Grant application form;
- c) 2 CRA direct transfer forms;
- d) 5 KYC forms;
- e) 6 LTA forms;
- f) 1 transfer form;
- g) 1 new account application form;
- h) 3 order tickets;
- i) 3 pre-authorized chequing forms;
- j) 1 RESP application form; and
- k) 2 switch forms.

The Member's Investigation

19. In January 2018, the Member identified pre-signed account forms belonging to a client, whose account was serviced by the Respondent. The Member subsequently commenced an investigation and audit of all of the client files maintained by the Respondent and identified the remaining account forms that are the subject of this Settlement Agreement.

20. On or about March 5, 2018, the Member placed the Respondent on close supervision for a period of 6 months.

21. On or about March 31, 2017, the Member sent letters to all of the clients whose accounts were serviced by the Respondent, which included recent transaction statements, in order to determine whether the transactions in the clients' accounts were authorized. The letters also included a summary of the clients' KYC information and the Member requested that the clients review the information to ensure the KYC information was accurate. No clients reported any concerns.

22. On or about July 12, 2018, the Member issued a warning letter to the Respondent for possessing and using re-used, altered and pre-signed account forms, and placed the Respondent on close supervision for an additional two months.

Additional Factors

23. 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.

24. There is no evidence of any client loss or that the transactions were unauthorized.

25. The Respondent has not been the subject of prior MFDA disciplinary proceedings.

26. The Respondent states that he has since corrected his practices going forward and no longer obtains re-used, pre-signed or altered account forms.

27. The Respondent states that in some cases, the account forms as described above were obtained and used by his assistants. The Respondent acknowledges that he is ultimately responsible for the conduct that is the subject of this Settlement Agreement.

28. 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

29. 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.

30. 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.

31. 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.

32. 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 facts and contraventions described in this Settlement Agreement. 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 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.

33. 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.

34. 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.

35. 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 28th day of August, 2019.

“Walter Guiseppe Montana”

Walter Guiseppe Montana

“BJ”

Witness – Signature

BJ

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. 201954



Mutual Fund Dealers Association of Canada
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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: Walter Guiseppe Montana

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 Walter Guiseppe Montana (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:

- a) in or around January 2013, the Respondent, or his assistant for whom he was responsible, altered information on an account form that had been previously signed by a client and used in a previous transaction in order to process a new transaction in the client's account, contrary to MFDA Rule 2.1.1;
- b) between March 2010 and January 2018, the Respondent, or his assistants for whom he was responsible, altered and used to process transactions, 14 account forms in

respect of 9 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 March 2010 and January 2018, the Respondent, or his assistants for whom he was responsible, obtained, possessed, and used to process transactions, 29 pre-signed account forms in respect of 19 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 pay a fine in the amount of \$14,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1.(b) of MFDA By-law No. 1;
- 2. The Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;
- 3. The Respondent shall in the future comply with MFDA Rule 2.1.1; and
- 4. 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]