



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: MD Shakirul Alam

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, MD Shakirul Alam (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 MFDA 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 IX) 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. From April 2017 to April 2018, the Respondent was registered in Ontario as a dealing representative (formerly known as a mutual fund salesperson) with CIBC Securities Inc. (the “Member”), a Member of the MFDA.

7. On April 11, 2018, the Respondent was terminated by the Member.

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 Greater Toronto Area, Ontario.

Personal Financial Dealings with Client SH

10. At all material times, Approved Persons of the Member were required to adhere to a Code of Conduct and “Managing Conflicts of Interest Policy” which, among other things, prohibited them from borrowing from clients.

11. At all material times, client SH was a client of the Member whose accounts were serviced by the Respondent and other Approved Persons of the Member. The Respondent also provided

banking services to clients of the bank affiliated with the Member (the “Bank”) in his capacity as an employee of the Bank. Client SH held bank accounts at the Bank and the Respondent sometimes provided banking services to client SH.

12. On February 14, 2018, the Respondent met with client SH. During the meeting, the Respondent:

- a) solicited and borrowed \$15,000 from client SH (the “SH Loan”); and
- b) engaged in a transaction with client SH (the “SH Transaction”) whereby client SH paid \$17,000 to the Respondent and at approximately the same time, a third party individual who the Respondent was acquainted with paid the equivalent of \$17,000 CAD to client SH’s brother outside of Canada.

13. In order to fund the SH Loan, client SH agreed to transfer \$15,000 from a line of credit that he held at the Bank to the Respondent’s personal bank account. The Respondent processed the money transfer to fund the SH Loan during the February 14, 2018 meeting with client SH described above.

14. In order to fund the SH Transaction, client SH agreed to transfer \$17,000 from a different line of credit that he held at the Bank to the Respondent’s personal bank account. The Respondent processed the money transfer to fund the SH Transaction during the February 14, 2018 meeting with client SH described above.

15. The solicitation of the SH Loan and SH Transaction gave rise to a conflict or potential conflict of interest.

16. The Respondent did not provide any disclosure in writing to client SH informing client SH that the solicitation of the SH Loan or SH Transaction gave rise to a conflict or potential conflict of interest.

17. The Respondent did not document the terms of the SH Loan or SH Transaction in writing and the Respondent did not provide any collateral to client SH to secure repayment of the amounts that were provided to him by client SH.

18. The Respondent did not disclose to the Member that he had solicited and accepted money from client SH by means of the SH Loan or the SH Transaction.

19. As noted in paragraph 12(b) of this Settlement Agreement, at approximately the same time or shortly after \$17,000 was provided to the Respondent in respect of the SH Transaction, a third party acquaintance of the Respondent paid an equivalent amount to client SH's brother in a foreign country.

20. Between February 20, 2018 and July 2018, the Respondent repaid all of the principal amount of the SH Loan to client SH and interest totaling approximately \$200.

21. As a result of the fact that the Respondent arranged for the amounts advanced to him by way of the SH Transaction and the SH Loan to be paid back to client SH and his brother with interest, there is no evidence that any client harm resulted from the Respondent's conduct.

Additional Factors

22. Client SH did not make a complaint with regard to the Respondent's conduct, and he advised Staff that the SH Loan and the SH Transaction were repaid to his satisfaction.

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

24. 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.

V. CONTRAVENTIONS

25. The Respondent admits that on February 14, 2018, he engaged in personal financial dealings with a client by:

- a) soliciting and borrowing \$15,000 from the client; and
- b) engaging in a transaction with the client whereby the client paid \$17,000 to the Respondent and at approximately the same time a third party paid the equivalent of \$17,000 CAD to the client's brother outside of Canada;

and that this conduct gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Member or address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.4, 2.1.1, 2.10, 2.5.1 and 1.1.2.

VI. TERMS OF SETTLEMENT

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

- i) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 6 months from the date that this Settlement Agreement is accepted by a Hearing Panel, pursuant to section 24.1.1(e) of MFDA By-law No.1;
- ii) the Respondent shall pay a fine in the amount of \$7,500, pursuant to s. 24.1.1(b) of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;
- iii) the Respondent shall pay costs in the amount of \$3,750, pursuant to s. 24.2 of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;
- iv) the Respondent shall in the future comply with MFDA Rules 2.1.4, 2.1.1, 2.10, 2.5.1 and 1.1.2; and
- v) the Respondent will attend in person on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

27. 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 Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part 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

28. 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. 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.

29. 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 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.

30. 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 MFDA By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of MFDA By-law No. 1.

31. 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.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

32. 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 MFDA By-law No. 1 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

33. 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 MFDA By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

34. 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

35. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 16th day of February, 2020.

“MD Shakirul Alam”

MD Shakirul Alam

SC

Witness – Signature

SC

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement

Schedule “A”

Order

File No. 202016



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: MD Shakirul Alam

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 MFDA By-law No. 1 in respect of MD Shakirul Alam (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 MFDA By-law No. 1;

AND WHEREAS on the basis of the facts admitted in Part IV of the Settlement Agreement and the contraventions admitted in Part V of the Settlement Agreement, the Hearing Panel is of the opinion that on February 14, 2018, the Respondent engaged in personal financial dealings with a client by:

- a) soliciting and borrowing \$15,000 from the client; and

- b) engaging in a transaction with the client whereby the client paid \$17,000 to the Respondent and at approximately the same time a third party paid the equivalent of \$17,000 CAD to the client's brother outside of Canada;

and that this conduct gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Member or address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.4, 2.1.1, 2.10, 2.5.1 and 1.1.2;

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

1. The Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 6 months, pursuant to section 24.1.1(e) of MFDA By-law No. 1;
2. The Respondent shall pay a fine in the amount of \$7,500, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
3. The Respondent shall pay costs in the amount of \$3,750, pursuant to s. 24.2 of MFDA By-law No. 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]

DM 752827