



**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: Steven John Hagerman**

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**SETTLEMENT AGREEMENT**

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**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, Steven John Hagerman (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. Commencing in 1997, the Respondent was registered in the mutual fund industry.

7. From 1999 to May 1, 2014, the Respondent was registered in Ontario as a mutual fund salesperson/ dealing representative<sup>1</sup> with Independent Planning Group Inc. (“IPG”).

8. From 2002 to May 1, 2014, IPG was a Member of the MFDA.

9. On May 1, 2014, IPG amalgamated with another Member of the MFDA, IPC Investment Corporation (“IPC”).

10. From May 1, 2014 to June 22, 2018, the Respondent was registered in Ontario as a dealing representative with IPC.

11. The Respondent is not currently registered in the securities industry in any capacity.

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<sup>1</sup> In September 2009, the registration category mutual fund salesperson was changed to “dealing representative” when National Instrument 31-103 came into force.

12. At all material times, the Respondent conducted business in the Kingston, Ontario area.

### **Facilitating Stealth Advising and Failure to Know the Client**

13. At all material times, IPG's policies and procedures stated the following with regard to stealth advising arrangements:

Stealth advising occurs when non-registered individuals engage in securities related business through various arrangements with Approved Persons of MFDA Member firms. Under this type of arrangement, client accounts are set-up at the dealer with a registered Approved Person as the representative on record, and trading activity is processed using the Approved Person's representative code. However, a non-registered individual services the account and this individual provides advice and makes recommendations to clients with respect to securities in the account, directing the Approved Person to place the trades. Commission sharing generally takes place between the licensed and unlicensed individual. This practice is strictly prohibited [...]

[Emphasis in original]

14. At all material times, the Respondent conducted business at the office of a company owned by DH (the "DH Company"). DH is the Respondent's brother. The DH Company provided financial planning, investing and insurance services to its clients.

15. DH was registered as a mutual fund salesperson until September 30, 2010. DH has not been registered in the securities industry in any capacity since that date.

16. At all material times, LW was employed as an administrative assistant at the DH Company.

17. LW has never been registered in the securities industry in any capacity.

### ***RD***

18. In August 2013, RD and her spouse met with DH to discuss investments promoted by DH.

19. On October 15, 2013, RD requested that DH recommend an "investment vehicle" in which RD and her spouse could deposit, among other things, their monthly RESP contributions.

20. DH then spoke to the Respondent about opening an RESP account for RD at IPG. Although the Respondent has never met or communicated with RD, he agreed to open the account.

21. Based on DH's instructions, LW then sent account opening documents in respect of an IPG RESP account (the "Account Opening Documents") to RD for signature.<sup>2</sup>
22. The Account Opening Documents that LW sent to RD did not identify the "Representative" of IPG who would be responsible for servicing RD's account. The relevant fields in the Account Opening Documents that identified the name of the Representative were left blank.
23. On or about October 28, 2013, RD signed the Account Opening Documents, and she returned the Account Opening Documents to LW or DH.
24. Unbeknownst to RD, after she returned the Account Opening Documents to LW or DH, the Respondent signed the Account Opening Documents as the Representative responsible for servicing RD's account. The Account Opening Documents were then submitted to IPG for processing.
25. At the time when the Account Opening Documents were submitted to IPG for processing, the Account Opening Documents contained, among other things, RD's Know-Your-Client ("KYC") information, the names of RD's beneficiaries, investment instructions to create a Pre-Authorized Chequing plan for RD in the amount of \$400 per month, and investment instructions pertaining to RD's education savings grants.
26. The Respondent did not at any time:
- a) discuss or review the Account Opening Documents with RD;
  - b) discuss or review RD's KYC information with RD; or
  - c) receive investment instructions directly from RD.
27. In fact, the Respondent has never met or communicated with RD.
28. On or about November 12, 2013, IPG opened an RESP account for RD, and the Respondent became the Approved Person responsible for servicing the account.

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<sup>2</sup> The Account Opening Documents were in respect of an individual account for RD, and they were not in respect of RD's spouse.

29. Between November 2013 and April 2014, based on the investment instructions contained in the Account Opening Documents, mutual fund purchases in the total amount of approximately \$2,880 were completed in RD's RESP account at IPG.

30. Between March and April 2014, the entire balance in RD's RESP account totaling approximately \$2,947.25 was transferred out of IPG to a segregated fund account serviced by DH. The Respondent had no communication with RD about the transfer and had no role in facilitating the transfer.

31. From the time that RD's RESP account at IPG was opened until it was transferred out of IPG by DH, the Respondent failed to contact, meet or communicate with RD to service the account.

32. By opening an RESP account at IPG for RD, submitting essential facts relative to the account (i.e.; KYC information) and processing trades in the account without communicating with RD, the Respondent contravened his obligations to ensure that:

- a) the KYC information recorded for the account was accurate;
- b) the account and the investments purchased were suitable; and
- c) the trades were properly authorized by the client;

contrary to MFDA Rules 2.2.1 and 2.1.1.

33. By processing securities related business in respect of an IPG account on the basis of advice and instructions provided by an unregistered individual who was not an employee or agent of IPG, the Respondent engaged in conduct that was contrary to the policies and procedures of the Member regarding stealth advising and MFDA Rules 2.2.1 and 2.1.1.

### **RD's Complaint and Action Taken by the Member**

34. In 2018, RD submitted a complaint against DH to the Financial Services Commission of Ontario. During the course of preparing the complaint, RD reviewed documents related to her RESP account at IPG and observed that the Respondent was identified on the documents as the Approved Person responsible for servicing her RESP account at IPG.

35. As noted above, RD had never met with or communicated with the Respondent about her RESP account so she submitted a complaint against the Respondent to IPC and to the MFDA.

36. On June 22, 2018, after receiving and investigating RD's complaint, IPC terminated the Respondent's registration.

37. In July 2018, IPC sent letters to all clients other than RD whose accounts the Respondent serviced at the time of his termination to determine whether anyone other than the Respondent provided the clients with securities related advice with regard to their IPC accounts.<sup>3</sup> No clients (other than RD) reported that they had received advice concerning securities related business in their IPG or IPC investment accounts from individuals other than the Respondent.

### **Additional Factors**

38. During the time that RD's RESP account was held at IPG, the value of the investments in the account increased by approximately \$67.25. There is no evidence that clients (including RD) suffered a financial loss as a consequence of the conduct of the Respondent that is described in this Settlement Agreement.

39. The Respondent received service fees in the total amount of approximately \$2.39 in his capacity as the Approved Person responsible for servicing RD's RESP account at IPG. There is no evidence that the Respondent received any material financial benefit from engaging in the conduct described in this Settlement Agreement.

40. The Respondent cooperated with the MFDA investigation, and he readily admitted to the conduct described in this Settlement Agreement.

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

42. 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.

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<sup>3</sup> At the time of his termination, the Respondent serviced the accounts of 128 clients.

## **V. CONTRAVENTIONS**

43. The Respondent admits that between October 2013 and April 2014, he opened an account and processed trades in an account for a client that he had never met or communicated with on the basis of advice and instructions provided by an unregistered individual, and failed to use due diligence to learn the essential facts relative to the client and to ensure that each order accepted was suitable, contrary to the policies and procedures of the Member regarding stealth advising and MFDA Rules 2.2.1 and 2.1.1.

## **VI. TERMS OF SETTLEMENT**

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

- a) 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 4 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;
- b) 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;
- c) the Respondent shall pay costs in the amount of \$5,000, 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;
- d) the Respondent shall in the future comply with MFDA Rules 2.2.1 and 2.1.1; and
- e) the Respondent will attend in person or by videoconference on the date set for the Settlement Hearing.

## **VII. STAFF COMMITMENT**

45. 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**

46. 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](http://www.mfda.ca).

47. 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.

48. 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.

49. 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**

50. 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**

51. 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.

52. 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**

53. 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.

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

**XII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

**DATED** this 14<sup>th</sup> day of April, 2020.

“Steven John Hagerman”  
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Steven John Hagerman

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Witness – Signature

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Witness – Print Name

“Charles Toth”  
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Staff of the MFDA  
Per: Charles Toth  
Vice-President, Enforcement

Schedule "A"

Order

File No. 202021



**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: Steven John Hagerman**

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**ORDER**

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**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 Steven John Hagerman (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 between October 2013 and April 2014, the Respondent opened an account and processed trades in an account for a client that he had never met or communicated with on the basis of advice and instructions provided by an unregistered individual, and failed to use due diligence to learn the essential facts relative to the client and to ensure that each order accepted

was suitable, contrary to the policies and procedures of the Member regarding stealth advising and MFDA Rules 2.2.1 and 2.1.1.

**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 4 months from the date of this Order, 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 on the date of this Order, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;
3. The Respondent shall pay costs in the amount of \$5,000 on the date of this Order, 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]