



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: Adrian Craig Kotze

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Adrian Craig Kotze (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 Mutual Fund Dealers Association of Canada (“MFDA”):

Between approximately June 2013 and January 2017, the Respondent obtained and possessed 5 pre-signed account forms in respect of 3 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 \$13,000 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 successfully complete the Ethics and Professional Conduct Course offered by the IFSE Institute, or an industry course acceptable to Staff of the MFDA, within 6 months of the acceptance of the Settlement Agreement, pursuant to section 24.1.1(f) of By-law No. 1;
 - d) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
 - e) 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 2008, the Respondent has been registered in British Columbia as a dealing representative with Quadrus Investment Services Ltd. (the “Member”), a Member of the MFDA.
8. At all material times, the Respondent conducted business in the Langley, British Columbia area.

Pre-Signed Account Forms

9. At all material times, the Member’s policies and procedures prohibited the use of pre-signed forms.
10. Between approximately June 2013 and January 2017, the Respondent obtained and possessed 5 pre-signed account forms in respect of 3 clients
11. The pre-signed account forms included: 2 Redemption Forms, 2 Automatic Withdrawal or Registered Investment Fund Payment Forms and 1 Agent of Record Transfer Form.

Prior Use of Pre-Signed Account Forms

12. Between 2001 and 2009, while the Respondent was registered with the Member, the Respondent obtained and possessed 23 pre-signed account forms.

13. On February 14, 2013, the Member issued a warning letter to the Respondent in respect of his use of pre-signed account forms.

14. The Respondent obtained and possessed the pre-signed account forms that are the subject of this Settlement Agreement in the period after the Member issued the warning letter to him on February 14, 2013.

The Member's Investigation

15. In December 2019, the Member received a client complaint which alleged that the Respondent had used pre-signed account forms. The Member commenced an investigation into the Respondent's conduct and discovered pre-signed account forms in the client files maintained by the Respondent.

16. In December 2019, the Member sent audit letters to all clients whose accounts were serviced by the Respondent and included portfolio summaries. In the letters, the Member requested that clients advise the Member if any investments were made by the Respondent on behalf of the client which were not contained within the portfolio summary or if any transactions contained within the portfolio summary were not authorized by the client. No clients responded to the Member's letter with any concerns about the transactions within their account.

17. On December 19, 2019, the Member issued a disciplinary letter to the Respondent in respect of the pre-signed forms account forms described above.

18. On December 23, 2019, the Member placed the Respondent under close supervision. The Respondent remains under close supervision and has paid a total of \$2,800 to the Member in respect of the close supervision.

19. The Member also required the Respondent to complete training in respect of pre-signed account forms, and required the Respondent to review its policies and procedures manual pertaining to the prohibitions against using pre-signed account forms.

20. In January 2020, the Member conducted an audit of all of the client files maintained by the Respondent and discovered additional pre-signed account forms that are described above.

21. In January 2020, the Member sent a follow up letter to all clients whose accounts were serviced by the Respondent who had not responded to the December 2019 letter. In the letters, the Member requested clients advise the Member if any investments were made by the Respondent on behalf of the client which were not contained within the portfolio summary, or if any transactions contained within the portfolio summary were not authorized by the client. No clients responded to the Member's second letter with any concerns about the transactions within their account.

Additional Factors

22. 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.

23. There is no evidence of client loss or lack of authorization.

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

25. 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

26. 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.

27. 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.

28. 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.

29. 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 agrees to waive any rights to a full hearing, a review hearing or appeal 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.

30. 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.

31. 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.

32. 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 31st day of August, 2021.

“Adrian Craig Kotze”

Adrian Craig Kotze

“LK”

Witness – Signature

LK

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement



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Re: Adrian Craig Kotze

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 Adrian Craig Kotze (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 the Hearing Panel is of the opinion that between approximately June 2013 and January 2017, the Respondent obtained and possessed 5 pre-signed account forms in respect of 3 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 \$13,000 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 successfully complete the Ethics and Professional Conduct Course offered by the IFSE Institute, or an industry course acceptable to Staff of the MFDA, within 6 months of the acceptance of the Settlement Agreement, pursuant to section 24.1.1(f) of By-law No. 1;
4. The Respondent shall in the future comply with MFDA Rule 2.1.1; 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 846836