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: Shelley Willow Will

Heard: September 13, 2017 in Saskatoon, Saskatchewan
Decision: September 13, 2017
Reasons for Decision: February 1, 2018

REASONS FOR DECISION

Hearing Panel of the Prairie Regional Council:

Sherri Walsh	Chair
Howard Mix	Industry Representative

Appearances:

David Babin	)	Counsel for the Mutual Fund Dealers Association of Canada
Kristen McDonald	)	Counsel for the Respondent
Shelley Willow Will	)	Respondent, in person

Settlement Hearing

1. The settlement hearing in this matter was held on September 13, 2017 before a Hearing Panel (the "Panel") which consisted of two members, pursuant to the provisions of Section 19.9(b) of By-law No. 1 of the Mutual Fund Dealers Association of Canada ("MFDA").

2. Shelley Willow Will (the "Respondent") appeared in person at the hearing and was accompanied by legal counsel.

3. The Panel granted the motion made by MFDA Staff ("Staff") at the commencement of the hearing, to move the proceedings *in camera* while the Panel considered the Settlement Agreement (the "Agreement"). Settlement hearings generally proceed *in camera* in order to protect the integrity of the process in the event that the Settlement Agreement is not accepted by the Panel. After hearing submissions by counsel for both parties, the Panel accepted the Settlement Agreement and issued an Order to that effect. The Panel's written Reasons for decision are set out below.

Settlement Agreement

4. A copy of the Settlement Agreement dated July 18, 2017 is attached to these Reasons as Schedule 1. The agreed facts are set out in Section IV of the Agreement.

Contraventions

5. In the Agreement, the Respondent admitted that:

a) between about November 5, 2004 and January 31, 2013, she recommended to at least 264 clients that the clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds, without using adequate due diligence to assess the suitability of her investment recommendations on a client-

by-client basis having regard to the essential Know-Your-Client ("KYC") factors relevant to each individual client, including the client's risk tolerance, investment objectives and investment knowledge, contrary to MFDA Rules 2.2.1[1] and 2.1.1;

b) between about November 5, 2004 and January 31, 2013, she recorded on account forms in respect of least 264 clients that the clients had, among other things, "100% high" risk tolerance, "100% aggressive growth" investment objectives, and "good" or better investment knowledge, in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would be suitable for each client, contrary to MFDA Rules 2.2.1 and 2.1.1.

c) between about November 5, 2004 and January 31, 2013, she failed to fully and adequately explain, or omitted to explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that her recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1.

d) between December 7, 2014 and November 2, 2015, she obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients, contrary to MFDA Rule 2.1.1.

Proposed Penalty

6. The Respondent agreed to the following penalty:

a) The Respondent shall be permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

b) The Respondent shall pay a fine in the amount of $10,000 pursuant to section 24.1.1(b) of By-law No. 1;

[1] MFDA Rule 2.2.1 was amended in December 2010 and in February 2013. In this Settlement Agreement, all references to the MFDA Rule 2.2.1 concern the version of the Rule that was in force prior to December 2010.

c) The Respondent shall pay costs in the amount of $5,000 pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;
d) The fine and costs shall be paid in 6 installments, with the first installment of $2,500 to be paid on the date of the settlement hearing, and the remaining 5 installments payable on the last business day of the 5 months following the date of acceptance of the Settlement Agreement by the Hearing Panel; and
e) The Respondent will attend in person, on the date set for the Settlement Hearing.

Analysis

Role of the Panel

7. A Hearing Panel which presides over a Settlement Hearing has only two options – either to accept or reject the Agreement. The Panel has no authority to add, delete or vary the terms which have been agreed to by the parties.

MFDA By-law No. 1, s. 24.4.3

8. Hearing Panels have consistently identified that the role they perform in a Settlement Hearing is different than the role they perform in a Contested Hearing.

9. As stated by the MFDA Hearing Panel in *Sterling Mutuals Inc. (Re)* citing the I.D.A. Ontario District Council in *Milewski (Re),* [1999] IDACD No. 17 at p.12:

> "We also note that while in a contested hearing the Panel attempts to determine the correct penalty, in a settlement hearing the Panel
>
> > will tend not to alter a penalty that it considers to be within a reasonable range, taking into account the settlement process and the fact that the parties have agreed. **It will not reject a settlement unless it views the penalty as clearly falling outside a reasonable range of appropriateness**."
>
> *Sterling Mutuals Inc. (Re),* MFDA File No. 200820, Hearing Panel of the Central Regional Council, Decision and Reasons dated August 21, 2008, at para. 37
> [emphasis added]

Factors Concerning Acceptance of a Settlement Agreement

10. Hearing Panels have repeatedly expressed the view that generally, settlement agreements should be accepted bearing in mind the following criteria:

1. That it is in the public interest to do so and that the penalties proposed will be sufficient to protect investors;
2. That the agreement is reasonable and proportionate, having regard to the conduct of the Respondent;
3. That the agreement addresses the issues of both specific and general deterrence;
4. That the agreement is likely to prevent the type of conduct set out in the facts;
5. That the agreement will foster confidence in the integrity of the Canadian capital markets;
6. That the agreement will foster confidence in the integrity of the MFDA; and
7. That the agreement will foster confidence in the regulatory process itself.

Sterling Mutuals Inc. (Re), supra, at para. 36

Appropriateness of the Proposed Penalty

11. Investor protection is the primary goal of all securities regulation.

Pezim v British Columbia (Superintendent of Brokers), [1994] 2 S.C.R. 557 at paras.59 & 68

12. In addition to investor protection, the goals of securities regulation include fostering public confidence in the capital markets and in the securities industry.

Pezim v British Columbia (Superintendent of Brokers), supra, at paras. 59 & 68

13. In determining the appropriateness of a proposed penalty Hearing Panels frequently cite the Panel's decision in *Breckenridge (Re)*, MFDA File No. 200708, Hearing Panel of the Central Regional Council, Decision and Reasons dated November 14, 2007, where the Panel stated that sanctions "… should be preventative, protective and prospective in nature …" taking into account the following:

a) the protection of the investing public;
b) the integrity of the securities markets;
c) specific and general deterrence;
d) the protection of the MFDA's membership; and
e) protection of the integrity of the MFDA's enforcement processes.

Breckenridge (Re), supra, at para. 76

14. In addition to these general considerations the Panel in *Breckenridge (Re)* set out the following factors which a Panel should consider, having regard to the specific circumstances of the case:

a) The seriousness of the allegations proved against the respondent;
b) The respondent's experience in the capital markets;
c) The level of the respondent's activity in the capital markets;
d) The harm suffered by investors as a result of the respondent's activities;
e) The benefits received by the respondent as a result of the improper activity;
f) The risk to investors and the capital markets in the jurisdiction, were the respondent to continue to operate in capital markets in the jurisdiction;
g) The damage caused to the integrity of the capital markets in the jurisdiction by the respondent's improper activities;
h) The need to deter not only those involved in the case being considered, but also any others who participate in the capital markets, from engaging in similar improper activity;

i) The need to alert others to the consequences of inappropriate activities to those who are permitted to participate in capital markets; and

j) Previous decisions made in similar circumstances.

Breckenridge (Re), supra, at para. 77

Application of the Above Factors to the Present Case

15. In speaking to the appropriateness of the proposed penalty, Staff submitted that it would be useful for the Panel to balance the above referenced factors into two camps: aggravating factors and mitigating factors.

16. Overall, Staff submitted, the balancing of those factors in this case leads to a conclusion that the proposed penalties do fall within the range of reasonableness. In particular, Staff submitted that while the facts point to a number of small mitigating factors those factors are overridden by two significant aggravating factors.

17. Dealing first with the mitigating factors:

a) the Respondent has no disciplinary record;

b) the Respondent has obviously recognized the seriousness of the misconduct as evidenced by having entered into a Settlement Agreement with Staff; and

c) there is no evidence of client harm or loss, or of benefits accruing to the Respondent.

18. Staff submitted, however, that while the Respondent's conduct was undertaken with a genuine intention to help her clients that does not balance out the aggravating factors.

19. The aggravating factors in this case, Staff submitted, are: the seriousness of both types of misconduct at issue, relating to - the suitability obligations identified in the first three admissions

made by the Respondent; and the standard of conduct rule identified in the fourth admission made by the Respondent.

20. Staff submitted that the suitability obligations and the standard of conduct requirements, are cornerstones of securities regulation, particularly within the mutual fund industry.

Suitability

21. MFDA Rule 2.2.1 states, in part:

> "2.2.1 'Know-Your-Client'
>
> Each Member and Approved Person shall use due diligence:
>
> a) to learn the essential facts relative to each client and to each order or account accepted;
> b) to ensure that the acceptance of any order for any account is within the bounds of good business practice;
> c) to ensure that each order accepted or recommendation made, including recommendations to borrow to invest, for any account of a client is suitable for the client based on the essential facts relative to the client and any investments within the account."
>
> *MFDA Rule 2.2.1*

22. In its submission, Staff referred the Panel to decisions of other MFDA Panels and other securities regulators which have discussed the significance of the rules relating to suitability and which stress that the "Know-Your-Client" and "suitability" obligations have consistently been recognized as an "essential component of consumer protection and a basic obligation of a registrant, and a course of conduct by a registrant involving a failure to comply with them is an extremely serious matter".

> *Pretty (Re)*, MFDA File No. 201128, Hearing Panel of the Atlantic Regional Council, Decision and Reasons dated January 30, 2014, at para. 89

23. Staff also pointed to what it described as the "foundational case" in this area – *Lamoureux (Re)* – a decision of the Alberta Securities Commission where the tribunal referred to the know-your-client rule as the "cardinal rule" and the cornerstone obligation of an Approved Person's dealings with clients.

> *Lamoureux (Re)*, [2001] A.S.C.D. No. 613 (A.S.C.), at p. 14

24. This type of misconduct, Staff submitted, will always be viewed as serious because it goes straight to the heart of protecting investors and ensuring that suitable investments are being made on their behalf.

25. Further, in this particular case, Staff submitted, the aggravating nature of the Respondent's conduct is enhanced by virtue of the scope and scale of the number of clients affected, the time period involved and the near uniform application of the suitability breaches. This case involved 264 clients for whom the Respondent documented uniform know-your-client information regardless of whether the information was in fact an accurate reflection of the clients' risk tolerance, investment objective and investment knowledge.

26. Further, as per the Respondent's admissions in the Settlement Agreement, the Respondent also breached the suitability obligation because she failed to fully and adequately explain or omitted to explain to her clients, the risks and benefits of investing in precious metals sectors funds.

Standard of Conduct

27. MFDA Rule 2.1.1. states:

> "Each Member and each Approved Person of a Member shall:
>
> a) deal fairly, honestly, and in good faith with its clients;
> b) observe high standards of ethics and conduct in the transaction of business;
> c) not engage in any business conduct or practice which is unbecoming or detrimental to the public interest; and

d) be of such character and business repute and have such experience and training as is consistent with the standards described in this Rule 2.1.1, or as may be prescribed by the Corporation.

MFDA Rule 2.1.1

28. This Rule sets the standard of conduct to be followed by all Approved Persons, and is designed to protect the public interest by requiring Approved Persons to adhere to a high standard of ethical conduct. It has been interpreted and applied in a purposive manner in a wide range of circumstances. As stated by the MFDA Hearing Panel in *Breckenridge (Re)*: "The Rule articulates the most fundamental obligations of all registrants in the securities industry."

Breckenridge (Re), supra, at para. 71

See also: *Price (Re)*, MFDA File No. 200814, Hearing Panel of the Central Regional Council, Decision and Reasons dated April 18, 2011, at paras. 118-121

29. Since October 31, 2007, the MFDA has made it clear to Approved Persons, that possessing and using pre-signed forms is contrary to the obligations of Rule 2.1.1.

Member Staff Notice 0066: Pre-Signed Forms, dated October 31, 2007

30. The MFDA Hearing Panel in *Price (Re)* identified the dangers posed by pre-signed forms as follows:

a) pre-signed forms present a legitimate risk that they may be used by an Approved Person to engage in discretionary trading;
b) at worst, pre-signed forms create a mechanism for an Approved Person to engage in acts of fraud, theft or other harmful conduct towards a client;
c) pre-signed forms subvert the ability of a Member to properly supervise trading activity.

Price (Re), supra, at paras. 122-124

31. Hearing Panels of the MFDA, IIROC and provincial securities commissions have also confirmed that the possession and use of pre-signed forms is prohibited.

> *Price (Re)*, *supra*, at para. 135

32. The prohibition on the use of pre-signed account forms applies regardless of whether the client was aware of or authorized the use of the pre-signed forms, or whether the forms were actually used by the Approved Person for discretionary trading or other improper purposes.

> *Wellman (Re)*, MFDA File No. 201529, Hearing Panel of the Central Regional Council, Decision and Reasons dated December 21, 2015, at para. 10

33. In summary, therefore, Staff submitted that the two major aggravating factors reflected in the seriousness of the Respondent's misconduct overwhelm the mitigating factors, particularly in light of the sustained time period, scope and scale of the misconduct in this case.

34. Staff went on to discuss the other matters for the Panel to consider in determining the appropriateness of the penalty, namely - deterrence, the MFDA Penalty Guidelines, and decisions in similar cases.

35. With respect to deterrence, the Supreme Court of Canada and MFDA Hearing Panels have consistently held that deterrence is an appropriate factor to take into consideration when determining penalty.

> *Cartaway Resources Corp. (Re)*, [2004] 1 S.C.R. 672, at paras. 52-62

36. As Staff identified in its written submission, the "effect of general deterrence should advance the goal of protecting investors":

> "… A penalty that is meant to deter generally is a penalty that is designed to keep an occurrence from happening; it discourages similar wrongdoing in others. In a word, a general deterrent is preventative. It is therefore reasonable to consider general deterrence as a factor, albeit not the only one, in imposing a sanction …"

Cartaway Resources Corp. (Re), supra, at para. 61

37. Staff submitted that in this case the proposed penalties are entirely appropriate because they send the general deterrent message to the industry that this type of misconduct should not be pursued by other Approved Persons.

38. The penalty of a permanent prohibition from returning to the industry also provides an effective specific deterrent.

39. With respect to the MFDA Penalty Guidelines, Staff pointed out that these Guidelines are non-binding and are meant to provide additional guidance where necessary. In this case, Staff submitted that the monetary fine being requested is in line with the Guidelines' recommended minimum fines for suitability and know-your-client breaches and the agreement to a permanent prohibition, while larger than generally recommended penalties, is warranted in the present case given the seriousness of the misconduct, including its scope and nature.

40. Finally, with respect to similar cases, Staff referred the Panel to a number of decisions, the most relevant of which was *Lemay (Re)*, MFDA File 201634, Hearing Panel of the Pacific Regional Council, Decision and Reasons dated February 28, 2017.

41. In that decision, the accepted Settlement Agreement identified similar facts: the Respondent breached the know-your-client obligations by recommending a concentration of investment holdings in precious metals sector funds without conducting adequate due diligence to assess the suitability of those recommendations. The penalty in that case included a permanent prohibition, a fine of $5,000 and costs of $2,500.

42. Staff pointed out that in *Lemay* the scale of the clients at issue was much smaller than the scale in this case. Further, there was no allegation in *Lemay* that the Respondent had engaged in the second type of misconduct that is being put forward in this case, namely the use of pre-signed forms.

43. Overall, Staff submitted, therefore, the proposed penalty in this case is in line with penalties accepted or ordered in other decisions, regarding similar circumstances.

44. It should be noted that with respect to the issue of concentration, in response to questions from the Panel, Staff confirmed that the issue of concentration became a matter of concern in this case in the context of the Respondent's breach of her know-your-client and suitability obligations. That is, Staff was not submitting that concentrating positions can never be suitable but rather that satisfying the suitability obligation must precede such recommendations and be followed thoroughly - something which did not happen in this case.

Respondent's Position

45. The Respondent's counsel stated that the Respondent believed she had been doing her job to the best of her ability and in accordance with her firmly and honestly held beliefs.

46. Her counsel also submitted that it was important for the Panel, when considering whether to accept the proposed penalty, to understand the supervision context in which the Respondent conducted herself.

47. The Respondent's position in this regard is articulated in Section V of the Settlement Agreement.

48. Specifically, the Respondent stated that in November 2010, the Member for whom she worked - HollisWealth - created an Acknowledgement and Release Form which asked clients to release and save HollisWealth harmless from any losses or damages arising from the gold strategy she was recommending.

49. HollisWealth then instructed the Respondent to have all new and existing clients complete the form. When the Respondent transferred her registration to Sterling Mutual in 2014,

that firm adopted and instructed the Respondent to use the same Acknowledgement and Release form.

50. The Settlement Agreement in a footnote, goes on to identify that HollisWealth entered into a Settlement Agreement with Staff in which it admitted that the creation and dissemination of the Acknowledgement and Release form to the Respondent's clients contravened MFDA Rules 2.2.1, 2.1.2 and 2.1.1. That Settlement Agreement was approved by a Hearing Panel of the Central Regional Council on March 27, 2017.

> *HolllisWealth Advisory Services Inc. (Re), MFDA File No. 2016116, Hearing Panel of the Central Regional Council, Decision dated March 27, 2017*

51. The Respondent's counsel also referenced the fact that the Respondent's immediate supervisor and Branch Manager was the subject of a disciplinary hearing which took place on September 7, 2017 regarding, among other things, his failure to adequately supervise her activities.

52. In this regard, the Panel notes that on December 6, 2017 an MFDA Hearing Panel determined, among other things, that the Respondent's supervisor had failed to adequately supervise her activities when she recommended that clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds contrary to MFDA Rules 2.2.1, 2.1.1 and 2.5.5.

> *Re Boyd Dean Yahn*, MFDA File No. 201746, Hearing Panel of the Prairie Regional Council, December 6, 2017

Acceptance of the Settlement Agreement in this Case

53. Having reviewed the written submission of Staff and having heard oral submissions from both Staff and counsel for the Respondent, the Panel is satisfied, based on the totality of the evidence, that the proposed penalty which has been agreed upon by the parties and set out in the

Settlement Agreement, falls within a reasonable range of appropriateness and should be accepted.

54. The Panel finds that the proposed penalty: satisfies the primary goal of securities regulation to protect investors; is reasonable and proportionate; and appropriately addresses issues of both specific and general deterrence.

55. Accordingly, the Panel accepts the Settlement Agreement.

DATED this 1st day of February, 2018.

"Sherri Walsh"

Sherri Walsh
Chair

" Howard Mix"

Howard Mix
Industry Representative

DM 596096

Schedule 1

Settlement Agreement

File No. 201763

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: Shelley Willow Will

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada ("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 Prairie Regional Council ("Hearing Panel") of the MFDA should accept the settlement agreement ("Settlement Agreement") entered into between Staff of the MFDA ("Staff") and Shelley Willow Will ("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 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 X) 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. Between May 27, 2014 and December 31, 2015, the Respondent was registered in Saskatchewan, Alberta and British Columbia as a mutual fund dealing representative with Sterling Mutuals Inc. ("Sterling"), a Member of the MFDA.

7. Between June 30, 2004 and May 27, 2014, the Respondent was registered in Saskatchewan, Alberta and British Columbia as a mutual fund dealing representative (formerly a mutual fund salesperson) with HollisWealth Advisory Services Inc. ("HollisWealth"), a Member of the MFDA.

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 North Battleford Saskatchewan area.

The Gold Strategy

10. Between about November 5, 2004 and January 31, 2013, the Respondent recommended an investment strategy to all of her clients whereby the clients would purchase precious metals (predominantly, gold) sector mutual funds (the "Gold Strategy").

11. In the course of recommending the Gold Strategy to clients, the Respondent represented that, among other things, as a result of government monetary and debt policies in Canada and the United States:

a) the price of gold and other precious metals was poised to increase dramatically; and
b) investing in gold and precious metals sector funds was a relatively safe investment.

12. The Gold Strategy resulted in the clients holding investments which were concentrated in precious metals sector funds. The Respondent serviced the accounts of approximately 264 clients. As of December 31, 2013:

a) approximately 14% of the Respondent's clients held 50% to 100% of their accounts in precious metals sector funds;
b) approximately 35% of the Respondent's clients held 20% to 50% of their accounts in precious metals sector funds; and
c) approximately 51% of the Respondent's clients held less than 20% of their accounts in precious metals sector funds.

The Respondent Failed to Assess Suitability on a Client-by-Client Basis

13. The Respondent failed to consider, adequately or at all, whether her recommendations to engage in the Gold Strategy were suitable on a client-by-client basis, having regard to the essential KYC factors relevant to each individual client, prior to making the recommendations to the clients.

14. The Respondent engaged in a standard practice of recommending that clients concentrate their investment holdings in precious metals sector funds, without regard to each client's KYC information, based upon her views as to how these funds would perform.

15. The Respondent failed to consider, adequately or at all, whether it was suitable for each client to hold non-diversified investments.

The Respondent Recorded Uniform KYC Information for all Clients

16. In order to implement the Gold Strategy, the Respondent engaged in a practice of recording the following uniform Know-Your-Client ("KYC") information for each of her clients.

a) a risk tolerance of 100% "high risk";
b) an investment objective of 100% "aggressive growth"; and
c) investment knowledge of "good".

17. The Respondent recorded the KYC information described above regardless of whether or not the client genuinely had a high risk tolerance, an aggressive growth investment objective and good investment knowledge.

18. The Respondent engaged in this practice in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would consequently be suitable for each client, and to allow clients

the flexibility to increase their precious metals holdings without having to update the clients' KYC information as they increased their concentration levels over time.

The Respondent Misrepresented the Risks of the Gold Strategy

19. As described above, in the course of recommending the Gold Strategy to clients, the Respondent represented that, among other things, the price of gold and other precious metals were poised to increase dramatically, and investing in gold and precious metals sector funds was a relatively safe investment.

20. The Respondent failed to fully and adequately explain, the risks and benefits of investing in precious metals sector funds, including the risk of holding non-diversified investments and the risk that Gold Strategy would not perform as she represented it would.

21. To the extent that the Respondent explained some of the risks of investing in precious metals sector funds, she failed to provide a balanced presentation of the risks and minimized the risks when she described the funds.

Pre-Signed Account Forms

22. At all material times, Sterling's policies and procedures prohibited its Approved Persons from using pre-signed account forms.

23. Between December 7, 2014 and November 2, 2015, the Respondent obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients. In each case, the client's signature on the form at issue was a photocopy.

24. The 16 pre-signed forms were comprised of:

a) Two (2) Address Change Forms;

b) Three (3) Mutual Fund Client Request Forms, used to redeem funds in client accounts; and

c) 11 Mutual Fund Client Request Forms, used to process switches in client accounts.

Member Response

25. Sterling reviewed all transactions processed by the Respondent between December 7, 2014 and November 2, 2015. The Member did not identify any additional pre-signed or altered forms beyond those noted at paragraph 24 above.

26. No clients complained or advised Sterling that they had not authorized the transactions in their accounts.

Additional Factors

27. The Respondent has no prior disciplinary history with the MFDA.

28. There is no evidence of client harm in this matter.

29. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct beyond the commissions or fees to which the Respondent would have been ordinarily entitled had the transactions in the clients' accounts been carried out in the proper manner.

30. The Respondent has cooperated fully with Staff during the course of the investigation, and by agreeing to this settlement, has avoided the necessity of a full hearing on the merits.

V. RESPONDENT'S POSITION

31. The Respondent states that, in November 2010, HollisWealth created an Acknowledge and Release form which asked clients to release and save HollisWealth harmless from any losses or damages arising from the Gold Strategy.[2].

32. HollisWealth instructed the Respondent to have all new and existing clients complete the form. When the Respondent transferred her registration to Sterling in 2014, Sterling adopted and instructed the Respondent to use the same Acknowledgement and Release.

33. The Respondent further states that she did not obtain, possess and use any of the above noted pre-signed forms for any ulterior purposes. In each case, the Respondent had limited trading authority with respect to the accounts in issue, and the Respondent recognizes that she could have undertaken the same transactions using her limited trading authority, but opted to use the pre-signed forms for the sake of client convenience.

VI. CONTRAVENTIONS

34. The Respondent admits that:

a) between about November 5, 2004 and January 31, 2013, she recommended to at least 264 clients that the clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds, without using adequate due diligence to assess the suitability of her investment recommendations on a client-by-client basis having regard to the essential Know-Your-Client ("KYC") factors

[2] As part of MFDA File No. 2016116, HollisWealth entered into a Settlement Agreement with Staff, in which it admitted that the creation and dissemination of the Acknowledgement and Release to the clients of the Respondent contravened MFDA Rules 2.2.1, 2.1.2 and 2.1.1. The Settlement Agreement was approved by a Hearing Panel of the Central Regional Council on March 27, 2017.

relevant to each individual client, including the client's risk tolerance, investment objectives and investment knowledge, contrary to MFDA Rules 2.2.1[3] and 2.1.1;

b) between about November 5, 2004 and January 31, 2013, she recorded on account forms in respect of least 264 clients that the clients had, among other things, "100% high" risk tolerance, "100% aggressive growth" investment objectives, and "good" or better investment knowledge, in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would be suitable for each client, contrary to MFDA Rules 2.2.1 and 2.1.1;

c) between about November 5, 2004 and January 31, 2013, she failed to fully and adequately explain, or omitted to explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that her recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1;

d) between December 7, 2014 and November 2, 2015, she obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 clients, contrary to MFDA Rule 2.1.1.

VII. TERMS OF SETTLEMENT

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

a) the Respondent shall be permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

b) the Respondent shall pay a fine in the amount of $10,000 pursuant to section 24.1.1(b) of By-law No. 1;

c) the Respondent shall pay costs in the amount of $5,000 pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;

[3]MFDA Rule 2.2.1 was amended in December 2010 and in February 2013. In this Settlement Agreement, all references to the MFDA Rule 2.2.1 concern the version of the Rule that was in force prior to December 2010.

d) the fine and costs shall be paid in 6 installments, with the first installment of $2,500 to be paid on the date of the settlement hearing, and the remaining 5 installments payable on the last business day of the 5 months following the date of acceptance of the Settlement Agreement by the Hearing Panel; and

e) The Respondent will attend in person, on the date set for the Settlement Hearing.

VIII. STAFF COMMITMENT

36. 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 facts set out in Part IV and the contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part X below. 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 Parts IV and VI of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and VI, 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.

IX. PROCEDURE FOR APPROVAL OF SETTLEMENT

37. Acceptance of this Settlement Agreement shall be sought at a hearing of the Prairie Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

38. 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 her 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.

39. 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 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.

40. 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 her.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

41. 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 the By-laws of the MFDA 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.

XI. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

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

43. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that she 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.

XII. DISCLOSURE OF AGREEMENT

44. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 18th day of July, 2017.

"Shelley Will"
Shelley Will

"KM"
Witness – Signature

KM
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.

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: Shelley Willow Will

ORDER

WHEREAS on [date], the Mutual Fund Dealers Association of Canada ("MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Shelley Willow Will ("Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] ("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 about November 5, 2004 and January 31, 2013, she recommended to at least 264 clients that the clients concentrate all or a substantial portion of their investment holdings in precious metals sector funds, without using adequate due

diligence to assess the suitability of her investment recommendations on a client-by-client basis having regard to the essential Know-Your-Client ("KYC") factors relevant to each individual client, including the client's risk tolerance, investment objectives and investment knowledge, contrary to MFDA Rules 2.2.1 and 2.1.1;

b) between about November 5, 2004 and January 31, 2013, she recorded on account forms in respect of least 264 clients that the clients had, among other things, "100% high" risk tolerance, "100% aggressive growth" investment objectives, and "good" or better investment knowledge, in order to ensure that her investment recommendations to concentrate all or a substantial portion of the clients' investment holdings in precious metals sector funds would be suitable for each client;

c) between about November 5, 2004 and January 31, 2013, she failed to fully and adequately explain, or omitted to explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that her recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1; and

d) between December 7, 2014 and November 2, 2015, she obtained, possessed and in some cases, used to process transactions, 16 pre-signed client account forms in respect of 9 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 be permanently prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

2. the Respondent shall pay a fine in the amount of $10,000 pursuant to section 24.1.1(b) of By-law No. 1;

3. the Respondent shall pay costs in the amount of $5,000 pursuant to section 24.2 of By-law No. 1 upon acceptance of this Settlement Agreement;

4. the fine and costs shall be paid in 6 installments, with the first installment of $2,500 to be paid on the date of the settlement hearing, and the remaining 5 installments payable on the last business day of the 5 months following the date of acceptance of the Settlement Agreement by the Hearing Panel; 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[ ].

Name,
Chair

Name,
Industry Representative

Name,
Industry Representative