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: Roland Lemay

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 Pacific 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 Roland Lemay (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 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

6. The Respondent has been registered in the securities industry since 1981.

7. From June 1, 2004 to December 12, 2014, the Respondent was registered in British Columbia as a mutual fund salesperson (now known as a dealing representative) with HollisWealth Advisory Services Inc. ("HollisWealth"), a Member of the MFDA.

8. From February 9, 2015 to August 31, 2015, the Respondent was registered in British Columbia as a dealing representative with Investia Financial Services Inc. ("Investia"), a

Member of the MFDA. On August 31, 2015, Investia terminated the Respondent as a result of the conduct described below.

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

10. At all material times the Respondent conducted business in Vancouver, British Columbia.

Concentration in Precious Metals Sector Funds

11. While registered with HollisWealth, the Respondent serviced 142 clients with assets under administration totaling approximately $9,000,000. Based upon the Respondent's recommendations, these clients held all, or a substantial portion, of their investment holdings in precious metals sector funds.

12. Approximately 95% of the 142 clients were invested in a single precious metals sector fund, namely the Dynamic Precious Metals Fund (the "DPM Fund"). The DPM Fund primarily holds shares in Canadian and international resource companies, the majority of which produce or explore for gold and other precious metals. The DPM Fund is suitable for investors with a high risk tolerance.

13. The Respondent discussed various investment options with his clients. However, the Respondent recommended precious metals sector funds to all of his clients because he believed that investing in gold based funds involved less risk than investing in the "stock market" which he predicted was going to "crash".

14. The Respondent discussed various investment options with his clients. However, the Respondent did not recommend that clients diversify their investment holdings.

15. As a result of the Respondent's investment recommendations and the instructions provided by the Respondent's clients to the Respondent, the clients' investment holdings were

concentrated in precious metals sector funds, with many clients' investment holdings being concentrated in a single fund, the DPM Fund.

Allegation #1 – The Respondent Failed to Assess Suitability on a Client-by-Client Basis

16. The Respondent did not fully assess the suitability of his recommendations to purchase precious metals sector funds 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.

17. Rather, the Respondent recommended to all clients that they concentrate their investment holdings in precious metals sectors funds, without regard to each client's KYC information, based upon his views as to how these funds would perform.

18. The Respondent limited his suitability assessment to disclosing some of the risks of investing in precious metals sector funds without fulfilling his KYC obligations or applying professional judgment to determine whether precious metals sector funds were a suitable match for the client.

19. The Respondent did not fully assess whether it was suitable for each client to hold non-diversified investments.

20. By virtue of the foregoing, the Respondent recommended to at least 142 clients that the clients concentrate all, or a substantial portion, of their investment holdings in precious metals sector funds, without conducting adequate due diligence to assess the suitability of his investment recommendations on a client-by-client basis having regard to the essential KYC factors relevant to each individual client, including the client's age, risk tolerance, ability to withstand investment losses, and investment knowledge and experience, contrary to MFDA Rule 2.2.1 and 2.1.1.

Allegation #2 – The Respondent Recorded KYC Information to Match his Recommendations

21. The Respondent recorded the risk tolerance of each of his clients as "high" regardless of whether or not the client genuinely had a high risk tolerance. The Respondent did this to ensure the client's KYC information would match the risk profile of his investment recommendations, and his clients' instructions, to concentrate their investment holdings in precious metals sector funds. The Respondent's standard practice was to advise his clients that in order to be eligible for his investment recommendations their KYC information would have to indicate a "high" risk tolerance.

22. As a result of the Respondent's practice, all of the 142 clients serviced by the Respondent were recorded on Member account forms as having high risk tolerance.

23. By engaging in the conduct described above, the Respondent recorded that at least 142 clients had "high" risk tolerance on account forms in order to ensure that the Know-Your-Client information for the clients matched his investment recommendations to concentrate all, or a substantial portion, of the clients' investment holdings in precious metals sector funds, contrary to MFDA Rule 2.2.1 and 2.1.1.

Allegation #3 – The Respondent Misrepresented the Risks of Precious Metals Sector Funds

24. In the course of recommending that the clients invest in precious metals sector funds, the Respondent represented that the clients should invest in these funds for "safety" and that the funds had less risk as compared to investing in the broader "stock market". The Respondent advised clients that, in his opinion, the stock market would "crash at any time" and that gold based funds represented a safer investment alternative.

25. The Respondent failed to fully 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 based funds would not perform as he represented they likely would.

26. To the extent that the Respondent explained the risks of investing in precious metals sector funds, he failed to provide a balanced presentation of the risks when he described the funds as being a safer investment alternative, in his opinion.

27. By virtue of the foregoing, the Respondent failed to fully explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that his recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1.

Allegations #4 and 5 - Suitability of the Respondent's Investment Recommendations to Clients DH and FH

28. From November 30, 2010 to January 2015, clients DH and FH were clients of HollisWealth and the Respondent was the Approved Person responsible for servicing their investment accounts at HollisWealth.

29. Clients DH and FH were married. On November 30, 2010, client DH was 76 years old and client FH was 82 years old. The clients were both retired and received limited annual incomes of $17,000 per year for client DH and $28,000 per year for client FH. The clients had limited investment knowledge and experience. From 2010 to April 2013 when he passed away, client FH was in a long-term care facility being treated for dementia. The Respondent states he provided investment advice to DH and FH for the purpose of, in part, providing income for FH's ongoing care.

30. The Respondent prepared a New Account Application Form for clients DH and FH ("NAAF") dated November 30, 2010 to open a non-registered joint account for the clients, which recorded the following KYC information:

a. Investment Objective: 100% Growth;
b. Risk Tolerance: 100% High Risk;
c. Time Horizon: Long Term (Greater than 7 years); and

d. Investment Knowledge: Good.

31. The age, health and limited income of clients DH and FH was inconsistent with a long term time horizon, a high risk tolerance and a 100% growth objective. Furthermore, client DH described herself as risk averse and she had limited investment knowledge and experience. By recording the KYC information that was set out on the November 30, 2010 NAAF, the Respondent either failed to use due diligence to obtain accurate KYC information or failed to accurately record the KYC information of DH and FH, contrary to MFDA Rules 2.2.1(a) and 2.1.1.

32. On or about July 2011, clients DH and FH sold their home and purchased a condominium. From the proceeds of the sale of their home, clients DH and FH had $200,000 available to invest. Client DH required the money and any income that it generated to pay substantial monthly costs of care for client FH. The Respondent discussed various investment options with client DH and advised client DH to invest all of the money exclusively in the DPM Fund.

33. Based upon the Respondent's recommendation, on July 13, 2011, client DH placed an order for a $200,000 purchase in the DPM Fund. The Respondent did not advise client DH to purchase any investment other than the DPM Fund in her portfolio.

34. The Respondent failed to provide clients DH and FH with a fair and balanced explanation of the risks associated with the DPM Fund or the risks of an asset allocation model that was concentrated in a single sector based mutual fund and failed to recommend that they diversify their mutual fund portfolio, contrary to MFDA Rules 2.2.1(c) and 2.1.1.

35. On March 15, 2015, DH submitted a complaint to HollisWealth alleging that the investment recommendations that she had received from the Respondent were unsuitable. At the time, client DH was 80 years old.

36. As a result of the Respondent's unsuitable investment recommendation, DH incurred losses totaling approximately $75,700. HollisWealth subsequently reached a settlement with client DH in respect of her complaint and paid compensation in respect of her investment losses.

37. By recommending to clients DH and FH that they invest 100% of their $200,000 investment in the high risk DPM Fund, the Respondent failed to ensure that the recommendation that he made and the order that he accepted was suitable for clients DH and FH and in keeping with their investment objectives, contrary to MFDA Rule 2.2.1(c) and 2.1.1.

Additional Factors

38. The Respondent is 79 years old and retired.

39. The Respondent states that he does not own a home or car and has limited financial assets. The Respondent states he is living on a fixed income of $1,400 per month.

40. The Respondent has not previously been the subject of MFDA disciplinary proceeding.

V. CONTRAVENTIONS

41. The Respondent admits that:

a. between January 2007 and December 30, 2014, the Respondent recommended to at least 142 clients that the clients concentrate all, or a substantial portion, of their investment holdings in precious metals sector funds, without conducting adequate due diligence to assess the suitability of his 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 age, risk tolerance, ability to withstand investment losses, and investment knowledge and experience, contrary to MFDA Rule 2.2.1 and 2.1.1;

b. between January 2007 and December 30, 2014, the Respondent recorded that at least 142 clients had "high" risk tolerance on account forms in order to ensure that the KYC information for the clients matched his investment recommendations to concentrate all, or a substantial portion, of the clients' investment holdings in precious metals sector funds, contrary to MFDA Rule 2.2.1 and 2.1.1;

c. between January 2007 and December 30, 2014, the Respondent failed to fully explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that his 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 January 2007 and December 30, 2014, the Respondent failed to use due diligence to learn and accurately record the essential KYC factors relative to clients DH and FH prior to making investment recommendations and accepting investment orders from clients DH and FH, contrary to MFDA Rule 2.2.1 and 2.1.1; and

e. between January 2007 and December 30, 2014, the Respondent failed to use due diligence to ensure that each order accepted and recommendation made to clients DH and FH was suitable for the clients and in keeping with their investment objectives when recommended that the clients concentrate all of their investment holdings in a single precious metals sector fund, contrary to MFDA Rule 2.2.1 and 2.1.1.

VI. TERMS OF SETTLEMENT

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

(a) the Respondent shall be permanently prohibited from conducting securities related business while in the employ of or associated with any MFDA Member,

commencing from the date of the Order, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

(b) the Respondent shall pay a fine in the amount of $5,000 within 6 month from the date of the Order, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 upon acceptance of this Settlement Agreement;

(c) the Respondent shall pay costs in the amount of $2,500 pursuant to s. 24.2 of MFDA By-law No. 1 upon acceptance of this Settlement Agreement; and

(d) the Respondent will attend in person, on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

43. 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 VII 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 facts and contraventions that are not set out in Parts IV and VII 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 VII, 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

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

45. 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.

46. 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. 24.1.2 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.

47. 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

48. 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.

X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

49. 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.

50. 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

51. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 12th day of January, 2017.

"Roland Lemay"
Roland Lemay

"RL"	RL
Witness – Signature	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. 201634

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: Roland Lemay

ORDER

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

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated [date] (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that,

a) between January 2007 and December 30, 2014, the Respondent recommended to at least 142 clients that the clients concentrate all, or a substantial portion, of their investment holdings in precious metals sector funds, without conducting adequate due

b) diligence to assess the suitability of his 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 age, risk tolerance, ability to withstand investment losses, and investment knowledge and experience, contrary to MFDA Rule 2.2.1 and 2.1.1;

c) between January 2007 and December 30, 2014, the Respondent recorded that at least 142 clients had "high" risk tolerance on account forms in order to ensure that the KYC information for the clients matched his investment recommendations to concentrate all, or a substantial portion, of the clients' investment holdings in precious metals sector funds, contrary to MFDA Rule 2.2.1 and 2.1.1;

d) between January 2007 and December 30, 2014, the Respondent failed to fully explain the risks and benefits of investing in precious metals sector funds, thereby failing to ensure that his recommendations were suitable for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1;

e) between January 2007 and December 30, 2014, the Respondent failed to use due diligence to learn and accurately record the essential KYC factors relative to clients DH and FH prior to making investment recommendations and accepting investment orders from clients DH and FH, contrary to MFDA Rule 2.2.1 and 2.1.1; and

f) between January 2007 and December 30, 2014, the Respondent failed to use due diligence to ensure that each order accepted and recommendation made to clients DH and FH was suitable for the clients and in keeping with their investment objectives when recommended that the clients concentrate all of their investment holdings in a single precious metals sector fund, contrary to MFDA Rule 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 permanently prohibited from conducting securities related business while in the employ of or associated with any MFDA Member, commencing from the date of the Order, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

2. the Respondent shall pay a fine in the amount of $5,000 within 6 months from the date of the Order, pursuant to s. 24.1.1(b) of MFDA By-law No. 1 upon acceptance of this Settlement Agreement;

3. the Respondent shall pay costs in the amount of $2,500 pursuant to s. 24.2 of MFDA By-law No. 1 upon acceptance of this Settlement Agreement; 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]

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