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: Serge Luc Robichaud

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. The Mutual Fund Dealers Association of Canada (the "MFDA") will announce that it proposes to hold a hearing to consider whether, pursuant to s. 24.4 of MFDA By-law No. 1 ("By-law No. 1"), a hearing panel of the Atlantic Regional Council of the MFDA (the "Hearing Panel") should accept the settlement agreement entered into between Staff of the MFDA ("Staff") and the Respondent, Serge Luc Robichaud ("Settlement Agreement").

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. The Respondent has been registered as a mutual fund salesperson (now known as a dealing representative) since April 2004.

7. From September 23, 2010 to August 6, 2015, the Respondent was registered in New Brunswick as a dealing representative (then known as a mutual fund salesperson) with BMO Investments Inc. ("BMO Investments"), a Member of the MFDA.

8. Since February 5, 2016, the Respondent has been registered in New Brunswick as a dealing representative with Quadrus Investment Services Ltd. ("Quadrus"), a Member of the MFDA.

9. The Respondent is also licensed to sell insurance.

10. At all material times, the Respondent carried on business from a branch location in Dieppe, New Brunswick.

Admission #1 – Referral Arrangement Outside the Facilities of the Member

BMO Investments Policies and Procedures

11. At all materials times, BMO Investments had a program which permitted its Approved Persons to enter into referral arrangements with various partners within the BMO group of companies ("BMO Group"), including registered representatives of BMO Investment's IIROC affiliate, BMO Nesbitt Burns. These referral arrangements (known as "cross selling") permitted Approved Persons to refer clients to the BMO Group partner and receive compensation for the referrals.

12. At all material times, BMO Investments maintained policies and procedures requiring that Approved Persons, including the Respondent, fulfill specific conditions when entering into referral fee arrangements which included the payment of monies from BMO Group partners. In order to engage in referral fee arrangements, the BMO Investments' policies and procedures required that the following conditions be met:

- "Cross-selling" was permitted so long as such activities were conducted without undue pressure and were in the client's best interest;
- a BMO Investments Approved Person was required to notify their branch compliance officer ("BCO") of the proposed referral fee arrangement;
- the BCO was then required to fax a written draft of the proposed referral fee arrangement to BMO Investments Compliance for review and approval;
- if approved, BMO Investments Compliance would forward the conditions relating to the referral fee arrangement to the appropriate BCO;

- a referral fee (a fee paid for directing a client or potential client to a partner, such as an registered representative at BMO Nesbitt Burns) was permitted to be paid provided that the amount paid was not directly tied to the amount of the sales generated by the referral;
- each referral arrangement was required to be the subject of a written agreement, and was required to be under the name of BMO Investments; and
- a referral fee agreement was required to be reviewed and approved by the Chief Compliance Officer, and any remuneration from referral arrangements was required to be made payable to BMO Investments and not directly to the Approved Person.

The Referral Arrangement

13. The Respondent states that in early 2015, the Respondent was approached by RR, then a registered representative of BMO Nesbitt Burns. RR proposed an oral referral arrangement to the Respondent, whereby the Respondent agreed to refer some clients that he serviced at BMO Investments to RR. The Respondent and RR agreed that RR would make cash payments to the Respondent of $2,000 to $2,500 for every $1 million of client investment assets referred to RR.

14. Between February and March 2015, the Respondent, together with RR, met with the clients he intended to refer to RR under the referral arrangement and obtained instructions from the clients to transfer their accounts to RR at BMO Nesbitt Burns.

15. Between February and April 2015, the Respondent, acting under the terms of the referral arrangement with RR, referred the clients listed below to RR and the clients transferred their accounts from BMO Investments to RR at BMO Nesbitt Burns:

#	Client	Date Account Transferred
1	MB	March 24, 2015
2	DC	-
3	LC	March 30, 2015 April 13, 2015

#	Client	Date Account Transferred
4	MEC	April 9, 2015
5	MC	March 19, 2015 March 26, 2015
6	RC	March 19, 2015
7	MPG	April 7, 2015
8	RG	March 24, 2015
9	JL	-
10	ER	February 20, 2015
11	CT	March 27, 2015

16. On February 27, 2015, RR made a cash payment in the amount of $2,500 to the Respondent under the terms of the referral arrangement, which the Respondent deposited into his bank account.

17. On or about March 28, 2015, RR made a second cash payment in the amount of $2,500 to the Respondent under the terms of the referral arrangement, which the Respondent deposited into his bank account.

18. On April 16, 2015, the Respondent withdrew the $5,000 received from RR from the Respondent's bank account and repaid the monies to RR.

19. Referrals were a permitted BMO Investments practice, so long as they were conducted through, and in compliance with, the Member's recognized program.

20. The impugned referrals were suitable and legal, and actually stood to benefit the clients as they might receive lower fees on the IIROC platform.

21. There is no evidence of any client complaints or losses in this matter.

22. Notwithstanding that the Respondent could have entered into a referral arrangement to refer clients to RR at BMO Nesbitt Burns through BMO Investments' 'cross selling' program, the Respondent circumvented the program and contravened BMO Investments' policies and procedures when he:

- entered into a referral arrangement with RR without disclosure to and approval from the Member;
- entered into a referral arrangement with RR that was verbal only, and not committed to writing;
- entered into a referral arrangement with RR whereby the amount paid was tied to the amount of the sales generated by the referral; and
- received remuneration from the referral arrangement directly from RR, rather than by remuneration through the Member, as required.

Admission #2 – Respondent Misled BMO Investments and MFDA Staff

The Respondent Misled BMO Investments

23. At no time did the Respondent disclose his referral arrangement activities to BMO Investments, as he felt he was under pressure from RR not to disclose the arrangement.

24. On or about June 12, 2015, BMO Investments became aware of the Respondent's referral arrangement activities and commenced an investigation. Among other things, BMO Investments became aware that the Respondent had deposited or withdrawn some cash amounts from his bank account.

25. In June 2015 and July 2015, BMO Investments interviewed the Respondent as part of its investigation. The Respondent denied to BMO Investments that he had given monies to, or received monies from, RR.

Respondent Misled MFDA Staff

26. On or about September 30, 2015, Staff wrote to the Respondent requesting a written response regarding the referral arrangement the Respondent had entered into with RR.

27. On or about November 2, 2015, the Respondent responded to Staff, and advised, among other things, that during the BMO Investments investigation, he had originally denied receiving

monies from RR, but that he had "ultimately admitted it" when confronted by his branch manager. However, as stated above, during both the June and July 2015 BMO Investments investigation interviews, the Respondent had falsely denied to BMO Investments that he had given monies to, or received monies from, RR.

Admission #3 – Respondent Obtained and Maintained Pre-Signed Account Forms

28. At all material times, BMO Investments' policies and procedures prohibited its Approved Persons from obtaining or maintaining blank or partially completed pre-signed account forms for clients.

29. Between about September 2010 and August 6, 2015, the Respondent obtained and maintained 22 blank or partially completed pre-signed account forms in respect of seven clients. The account forms included account application forms and account transfer forms.

30. BMO Investments detected the pre-signed account forms described above during the course of its investigation into the Respondent's conduct, which included a review of the client files that he maintained at the Dieppe branch.

31. There is no evidence that any of the pre-signed forms were ever used. The Member wrote to each of the seven clients requesting that they respond with any noted discrepancies regarding the forms and received no responses.

V. RESPONDENT'S POSITION

32. The Respondent has no previous MFDA disciplinary history.

33. Although he accepted $5,000 from RR regarding the referral fee arrangement, the Respondent returned the full amount to RR approximately one month later.

34. The Respondent did not profit in any way as a result of his actions.

35. There is no evidence the pre-signed forms were used by the Respondent.

36. The Respondent has worked cooperatively with Staff to bring this matter to a resolution.

37. Since October 2, 2016, the Respondent has also been licensed to sell insurance. At the time the Respondent's insurance license was issued, it was subject to the term and condition of close supervision, which has remained in place to present.

38. From in or about December 15, 2017 to February 1, 2018, the Respondent's insurance license was being reviewed by the Financial and Consumer Services Commission and was not active.[1] Accordingly, the Respondent did not transact any insurance business during this period, and likewise, did not transact any mutual fund business. The Respondent states that this period of approximately seven weeks of business inactivity had significant financial and personal consequences for him.

VI. CONTRAVENTIONS

39. The Respondent admits:

a) Between January and April 2015, the Respondent entered into a referral arrangement with a third party, referred at least 11 clients to the third party and received compensation from the third party, all of which occurred outside the facilities of the Member, thereby engaging in conduct contrary to the Member's policies and procedures, MFDA Rules 1.1.2, 2.5.1, 2.4.2, and 2.1.1, and sections 13.7 and 13.8 of National Instrument 31-103;

b) Between about June 2015 and January 2016, the Respondent provided false or misleading statements to a Member during the course of its investigation into his conduct, thereby interfering with the Member's ability to supervise and investigate

[1] The Respondent's insurance license was re-issued and made active on February 2, 2018.

the Respondent's conduct, and to MFDA Staff during the course of its investigation into his conduct, contrary to MFDA Rule 2.1.1; and

c) Between about September 2010 and August 6, 2015, the Respondent obtained and maintained 22 blank or partially completed pre-signed account forms in respect of seven clients, contrary to the Member's policies and procedures and MFDA Rules 1.1.2, 2.5.1 and 2.1.1.

VII. TERMS OF SETTLEMENT

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

i. the Respondent shall be suspended for a period of eight weeks from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member commencing from the date of the final Order herein, pursuant to s. 24.1.1(c) of By-law No. 1;

ii. the Respondent shall pay a fine in the amount of $20,000, pursuant to s. 24.1.1(b) of By-law No. 1;

iii. the Respondent shall pay costs in the amount of $5,000, pursuant to s. 24.2 of By-law No. 1; and

iv. the Respondent shall attend in person on the date scheduled for the MFDA settlement hearing.

VIII. STAFF COMMITMENT

41. 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 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 contraventions that are not set out in this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in herein, 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

42. Acceptance of this Settlement Agreement shall be sought at a hearing of the Atlantic 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 s. 20.5 of 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.

43. 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.

44. 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 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.

45. 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.

X. FAILURE TO HONOUR SETTLEMENT AGREEMENT

46. 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 s. 24.3 of 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.

XI. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT

47. 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 ss. 20 and 24 of By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

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

XII. DISCLOSURE OF AGREEMENT

49. 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.

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

XIII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 23rd day of October, 2018.

"Serge Luc Robichaud"
Serge Luc Robichaud

"BA"
Witness – Signature

BA
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. 201780

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: Serge Luc Robichaud

ORDER

WHEREAS on November 15, 2017, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Hearing pursuant to sections 20 and 24 of MFDA By-law No. 1 ("By-law No. 1") in respect of Serge Luc Robichaud (the "Respondent");

AND WHEREAS the Respondent entered into a settlement agreement with Staff of the MFDA, dated October____, 2018 (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to sections 20 and 24.1 of By-law No. 1;

AND WHEREAS the Hearing Panel is of the opinion that the Respondent:

a) Between January and April 2015, the Respondent entered into a referral arrangement with a third party, referred at least 11 clients to the third party and received compensation from the third party, all of which occurred outside the

facilities of the Member, thereby engaging in conduct contrary to the Member's policies and procedures, MFDA Rules 1.1.2, 2.5.1, 2.4.2, and 2.1.1, and sections 13.7 and 13.8 of National Instrument 31-103;

b) Between about June 2015 and January 2016, the Respondent provided false or misleading statements to a Member during the course of its investigation into his conduct, thereby interfering with the Member's ability to supervise and investigate the Respondent's conduct, and to MFDA Staff during the course of its investigation into his conduct, contrary to MFDA Rule 2.1.1; and

c) Between about September 2010 and August 6, 2015, the Respondent obtained and maintained 22 blank or partially completed pre-signed account forms in respect of seven clients, contrary to the Member's policies and procedures and MFDA Rules 1.1.2, 2.5.1 and 2.1.1.

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

1. the Respondent shall be suspended for a period of eight weeks from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member commencing from the date of the final Order herein, pursuant to s. 24.1.1(c) of By-law No. 1;

2. the Respondent shall pay a fine in the amount of $20,000, pursuant to s. 24.1.1(b) of By-law No. 1; and

3. the Respondent shall pay costs in the amount of $5,000, pursuant to s. 24.2 of By-law No. 1.

DATED this [day] day of [month], 20[ ].

Per: _____

[Name of Public Representative], Chair

Per: _____

[Name of Industry Representative]

Per: _____

[Name of Industry Representative]

DM 644432