



**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: Shahin Golestani**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (“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 (“Hearing Panel”) of the MFDA should accept the settlement agreement (“Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and Shahin Golestani, (“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. ACKNOWLEDGMENT**

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part IX) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

### **IV. AGREED FACTS**

#### **Registration History**

6. From September 28, 2009 to June 5, 2012, the Respondent was registered in British Columbia as a mutual fund salesperson (now known as a dealing representative) with Sun Life Investment Services (Canada) Inc., a Member of the MFDA.

7. From September 29, 2014 to April 27, 2016, the Respondent was registered in British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Quebec, Ontario, and Saskatchewan as a mutual fund salesperson with HSBC Investment Funds (Canada) Inc. (“HSBC”), a Member of the MFDA.

8. HSBC terminated the Respondent's employment on April 27, 2016 as a result of the conduct described below.

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

10. At all material times, the Respondent conducted business from an HSBC call center located in the Burnaby, British Columbia area (the "Call Centre").

### **Background**

11. The Call Centre permitted clients to contact HSBC by telephone and request mutual fund transactions in their accounts. The Respondent's role at the Call Centre included answering telephone calls from clients and processing mutual fund transactions requested by them.

12. At all material times, HSBC's policies and procedures required its Approved Persons to use due diligence to learn and accurately record or update client Know-Your-Client ("KYC") information prior to processing a transaction in the client's investment account.

13. Prior to proceeding with a transaction requested by a client, the Respondent was required by HSBC to ask the client a series of questions to determine, verify and/or update the client's risk tolerance KYC information (the "KYC Questions") and record the KYC information provided by the client on HSBC's back office system.

14. The Respondent was also required to obtain or verify the KYC information of a client caller before accepting instructions concerning transactions to be processed in the client's accounts.

15. HSBC records the telephone conversation conducted at the Call Centre, and maintains the recordings as a record of the discussions that occurred and the client information and instructions communicated during the calls.

16. The Respondent received a salary of \$40,000 per annum from HSBC without bonuses or commissions for transactions.

17. The Respondent has not been employed in the securities industry since his termination from HSBC on April 27, 2016.

**The Respondent Failed To Use Due Diligence To Learn And Accurately Record Client Risk Tolerance KYC Information**

18. Between September 29, 2014 and April 27, 2016, the Respondent prompted, coached or otherwise influenced at least 21 clients who contacted the Call Centre to select certain responses to the KYC Questions, regarding the client's risk tolerance, in order to make the clients' existing mutual fund investments, appear to be consistent with the clients' risk tolerance in their KYC profile and suitable.

19. At all material times, the Respondent failed to learn and record accurately 21 clients' risk tolerance KYC information before assessing the suitability of the clients' existing investment holdings, or accepting investment instructions from the clients.

20. In some instances, the Respondent's conduct caused the client's risk tolerance to be overstated.

21. In some instances where the client provided responses to the KYC Questions which indicated the client's existing investments holdings were not consistent with the client's actual KYC profile, the Respondent instructed or coached the client to select a different response to certain KYC Questions to alter the KYC profile. The Respondent engaged in this conduct so that the client's existing investment holdings, would appear to be suitable for the client.

22. The Respondent received no financial benefit from the transactions.

## **V. CONTRAVENTIONS**

23. The Respondent admits that, between November 7, 2014 to May 6, 2015, the Respondent failed to use due diligence to learn and accurately record KYC information, for 21 client accounts and ensure that each order accepted and recommendation made for the accounts of clients was suitable for the client, contrary to MFDA Rules 2.2.1 and 2.1.1.

## **VI. TERMS OF SETTLEMENT**

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

- a) the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 2 years, commencing from the date of the Hearing Panel's 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 pursuant to section 24.1.1(b) of By-law No. 1;
- c) the Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of By-law No. 1; and
- d) the Respondent will attend the Settlement Hearing in person.

## **VII. STAFF COMMITMENT**

25. 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 V of this Settlement Agreement, subject to the provisions of Part IX below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in Parts IV and V 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 V, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

## **VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT**

26. 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. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at [www.mfda.ca](http://www.mfda.ca).

27. 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.

28. 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 and/or 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.

29. 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**

30. 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**

31. 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.

32. 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**

33. 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.

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

**XII. EXECUTION OF SETTLEMENT AGREEMENT**

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

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

**DATED** this 25<sup>th</sup> day of April, 2018.

“Shahin Golestani”  
\_\_\_\_\_  
Shahin Golestani

“SH”  
\_\_\_\_\_  
Witness – Signature

SH  
\_\_\_\_\_  
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. 201797**



**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  
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**Re: Shahin Golestani**

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**ORDER**

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

- a) between November 7, 2014 to May 6, 2015, the Respondent failed to use due diligence to learn and accurately record Know-Your-Client (“KYC”) information for 21 client accounts and ensure that each order accepted for the accounts of clients was suitable for the client, contrary to MFDA Rules 2.2.1 and 2.1.1.

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

1. the Respondent shall be prohibited from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member for a period of 2 years, commencing from the date of the Hearing Panel’s 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 pursuant to section 24.1.1(b) of By-law No. 1;

3. the Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of By-law No. 1; and

4. if at any time a non-party to this proceeding, with the exception of the bodies set out in section 23 of MFDA By-law No. 1, requests production of or access to exhibits in this proceeding that contain personal information as defined by the MFDA Privacy Policy, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

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

Per: \_\_\_\_\_  
[Name of Public Representative], Chair

Per: \_\_\_\_\_  
[Name of Industry Representative]

Per: \_\_\_\_\_  
[Name of Industry Representative]

DM 619630