



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: Timothy Donald Warr

SETTLEMENT AGREEMENT

I. INTRODUCTION

1. Staff of the Mutual Fund Dealers Association of Canada (“Staff”) and the Respondent, Timothy Donald Warr (the “Respondent”), consent and agree to settlement of this matter by way of this agreement (the “Settlement Agreement”).
2. Staff conducted an investigation of the Respondent’s activities which disclosed activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No. 1.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.
4. The Respondent admits to the following violations of the By-laws, Rules or Policies of the MFDA:

- a) between January 2018 and September 2018, the Respondent altered and used to process transactions, 4 account forms in respect of 4 clients by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and
 - b) between December 2017 and October 2018, the Respondent obtained, possessed, and used to process transactions, 26 pre-signed account forms in respect of 16 clients, contrary to MFDA Rule 2.1.1.
5. Staff and the Respondent agree and consent to the following terms of settlement:
- a) the Respondent shall pay a fine in the amount of \$14,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1.(b) of MFDA By-law No. 1;
 - b) the Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;
 - c) the Respondent shall in the future comply with MFDA Rule 2.1.1; and
 - d) the Respondent will attend in person or via video-conference, on the date set for the Settlement Hearing.
6. Staff and the Respondent agree to the settlement on the basis of the facts set out in Part III herein and consent to the making of an Order in the form attached as Schedule “A”.

III. AGREED FACTS

Registration History

7. Since August 1998, the Respondent has been registered in the securities industry.
8. Since December 2017, the Respondent has been registered in Newfoundland and Labrador as a mutual fund salesperson (now known as a dealing representative) with Peak Investment Services Ltd. (the “Member”), a Member of the MFDA. The Respondent is also currently registered as a dealing representative in Alberta, New Brunswick, and Ontario.

9. From October 2000 until December 2017, the Respondent was registered as a mutual fund salesperson with a different member of the MFDA (the “Prior Member”). The Respondent states that he transferred approximately 300 client accounts from the Prior Member to the Member.

10. At all material times, the Respondent conducted business in the St. John’s, Newfoundland and Labrador area.

Altered Account Forms

11. Between January 2018 and September 2018, the Respondent altered and used to process transactions, 4 account forms in respect of 4 clients by altering information on the account forms without having the clients initial the alterations.

12. The altered account forms consisted of Know Your Client (“KYC”) forms, and the alterations the Respondent made to the account forms included alterations to clients’ risk tolerance, net worth, and employment information.

13. The Respondent states that three of the four altered account forms related to clients serviced by the Respondent at the Prior Member, and they were prepared in the context of the transfer of client accounts to the Member.

Pre-Signed Account Forms

14. At all material times, the Member’s policies and procedures prohibited its Approved Persons from obtaining, holding, or using blank signed account forms.

15. Between December 2017 and October 2018, the Respondent obtained, possessed, and used to process transactions, 26 pre-signed account forms in respect of 16 clients.

16. The pre-signed account forms consisted of:

- a) 18 KYC forms;
- b) 6 new account application forms (“NAAFs”); and
- c) 2 dealer representative change forms.

17. The Respondent states that all of the pre-signed account forms related to clients serviced by the Respondent at the Prior Member, and they were prepared in the context of the transfer of client accounts to the Member.

The Member's Investigation

18. In December 2018, MFDA staff identified pre-signed account forms in client files that were serviced by the Respondent as a result of a MFDA compliance examination. MFDA Staff subsequently commenced a review of all of the client files maintained by the Respondent and identified the remaining altered and pre-signed account forms that are the subject of this Settlement Agreement. MFDA Staff subsequently reported their findings to the Member.

19. On or about January 29, 2019, the Member conducted a branch audit of the Respondent's branch, and did not identify any additional altered or pre-signed account forms in the client files maintained by the Respondent.

20. Commencing in May 2019, the Member required the Respondent to meet with all clients whose accounts he serviced, including those clients where the Respondent used altered and pre-signed account forms, in order to complete new KYC forms. The Member also required the Respondent to complete investment profile questionnaires for each client to ensure the accuracy of the KYC information. The Member conducted periodic reviews, including reviewing updated KYC forms, to ensure the forms were being completed properly.

21. The Respondent states that commencing in January 2019, the Respondent updated the KYC documentation for all of the clients he serviced, including those clients identified by the audit findings, as described above in paragraph 18. The Member subsequently conducted reviews of the updated KYC documentation completed by the Respondent with the clients, and did not identify any additional altered and pre-signed account forms.

22. On or about September 5, 2019, the Member conducted a follow up inspection of the Respondent's practice and did not identify any additional altered or pre-signed account forms, or other deficiencies with respect to KYC forms.

23. On or about September 11, 2019, the Member issued a warning letter to the Respondent for the conduct that is the subject of this Settlement Agreement.

Additional Factors

24. There is no evidence that the Respondent received any financial benefit from engaging in the misconduct described above beyond any commissions and fees that he would ordinarily be entitled to receive had the transactions been carried out in the proper manner.

25. There is no evidence of any client loss, complaints, or that any transactions were unauthorized.

26. The Respondent states that he has changed his business practices going forward and no longer obtains, possesses, or uses altered or pre-signed account forms.

27. The Respondent has not been the subject of prior MFDA disciplinary proceedings.

28. By entering into this Settlement Agreement, the Respondent has saved the MFDA the time, resources, and expenses associated with conducting a full hearing of the allegations.

IV. ADDITIONAL TERMS OF SETTLEMENT

29. This settlement is agreed upon in accordance with section 24.4 of MFDA By-law No. 1 and Rules 14 and 15 of the MFDA Rules of Procedure.

30. The Settlement Agreement is subject to acceptance by the Hearing Panel which shall be sought at a hearing (the “Settlement Hearing”). At, or following the conclusion of, the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. MFDA Settlement Hearings are typically held in the absence of the public pursuant to section 20.5 of MFDA By-law No. 1 and Rule 15.2(2) of the MFDA Rules of Procedure. If the Hearing Panel accepts the Settlement Agreement, then the proceeding will become open to the public and a copy of the decision of the Hearing Panel and the Settlement Agreement will be made available at www.mfda.ca.

31. The Settlement Agreement shall become effective and binding upon the Respondent and Staff as of the date of its acceptance by the Hearing Panel. Unless otherwise stated, any monetary penalties and costs imposed upon the Respondent are payable immediately, and any suspensions, revocations, prohibitions, conditions or other terms of the Settlement Agreement shall commence, upon the effective date of the Settlement Agreement.

32. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel:

- a) the Settlement Agreement will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter;
- b) the Respondent waives any 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;
- c) Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts and contraventions described in this Settlement Agreement. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in this Settlement Agreement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations;
- d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1; and
- e) neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against the Respondent.

33. If, for any reason, this Settlement Agreement is not accepted by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges,

including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by the Settlement Agreement or the settlement negotiations.

34. Staff and the Respondent agree that the terms of the Settlement Agreement, including the attached Schedule “A”, will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

35. The Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement. A facsimile copy of any signature shall be effective as an original signature.

DATED this 16th day of July, 2020.

“Timothy Donald Warr”

Timothy Donald Warr

“AS”

Witness – Signature

AS

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement

Schedule “A”

Order

File No. 202037



Mutual Fund Dealers Association of Canada
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**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: Timothy Donald Warr

ORDER

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

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

AND WHEREAS the Hearing Panel is of the opinion that:

- a) between January 2018 and September 2018, the Respondent altered and used to process transactions, 4 account forms in respect of 4 clients by altering information on the account forms without having the clients initial the alterations, contrary to MFDA Rule 2.1.1; and

- b) between December 2017 and October 2018, the Respondent obtained, possessed, and used to process transactions, 26 pre-signed account forms in respect of 16 clients, contrary to MFDA Rule 2.1.1.

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

1. The Respondent shall pay a fine in the amount of \$14,000 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.1.1.(b) of MFDA By-law No. 1;
2. The Respondent shall pay costs in the amount of \$2,500 in certified funds upon acceptance of the Settlement Agreement, pursuant to s. 24.2 of MFDA By-law No. 1;
3. The Respondent shall in the future comply with MFDA Rule 2.1.1; 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]