



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: Zeleen Mitha

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 Central 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 the Respondent, Zeleen Mitha (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 section 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 History

6. From June 19, 2014 to March 15, 2019, the Respondent was registered in Ontario as a dealing representative with Royal Mutual Funds Inc. (the “Member”), a Member of the MFDA.

7. From September 22, 2017 to November 1, 2018, the Member designated the Respondent as a branch manager.

8. At all material times, the Respondent was also an employee of the Member’s bank affiliate (the “Bank”).

9. On March 1, 2019, the Respondent submitted her resignation from the Member and the Bank effective March 15, 2019.

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

11. At all material times, the Respondent conducted business at a branch of the Member in Toronto, Ontario.

Overview

12. The Respondent submitted her resignation to the Member on March 1, 2019. Prior to resigning, the Respondent was seeking new employment, and on or about February 4, 2019, attended an interview for a position with another financial institution. As described below, during

the process of interviewing for this position, the Respondent provided the other financial institution with an electronic version of a 2018 performance review document pertaining to the Respondent (the “Performance Review”) on which the Respondent had altered her manager’s written assessment of the Respondent, and inserted the electronic initials of her manager and Regional Vice President on the Performance Review.

13. In addition, as described below, on the day prior to submitting her resignation to the Member on March 1, 2019, the Respondent sent emails from her business address to her personal email address that included, among other things, personal and financial information about clients of the Member.

Sending Client Information to the Respondent’s Personal Email Address

14. At all material times, Approved Persons of the Member were required to adhere to a Code of Conduct and privacy and risk management policies, which, among other things, prohibited Approved Persons from sending client information to an Approved Person’s personal email address.

15. On February 28, 2019, the day prior to submitting her resignation from the Member on March 1, 2019, the Respondent sent emails from her business email address to her personal email address attaching documents containing personal and financial information relating to clients of the Member, as follows:

Document No.	Date of Email¹	Name of Document	Type of Information in Document
1.	February 28, 2019	2018 Mortgage book.xlsx	Client information including client names, account numbers, mortgage amounts, and mortgage closing dates.
2.	February 28, 2019	HOBf List 2018.xml	Client information including client names, ages, account numbers, amounts held in mutual funds, assets held at the Bank, estimated other assets, liabilities held at the Bank, and estimated other liabilities.

¹ The Respondent sent two emails on February 28, 2019. Documents #1 and 2 were attached to the first email sent on February 28, 2019, and documents #3 and 4 were attached to the second email sent on February 28, 2019.

Document No.	Date of Email¹	Name of Document	Type of Information in Document
3.	February 28, 2019	ONE RBC INTRO Sept 10-14.mht	Client information including client names, proposed investment amounts, and names of advisors assigned to clients.
4.	February 28, 2019	One RBC Sept 10-14.mht	Client information including client names, mortgage application numbers, and names of advisors assigned to clients.

16. The Respondent had not informed the Member or the clients and had not obtained the consent of the affected clients to send confidential client information from her business e-mail address to her personal e-mail address.

17. By emailing personal and financial information of clients to her own personal e-mail address, the Respondent:

- a) put herself in a position to benefit from access to that client information, for example, if she was able to find future employment at another Member or financial institution; and
- b) potentially affected the Member's ability to safeguard the confidentiality of the client information that she sent to her personal e-mail address.

18. In addition to the documents described above, between February 2, 2019 and February 28, 2019, the Respondent emailed to her personal email address documents containing confidential information relating to the business performance of the branch at which she conducted business, and a document containing information relating to the termination of another Approved Person from the Member.

19. The Respondent did not obtain authorization or approval to send confidential business performance information concerning the branch or confidential information about a former Approved Person of the Member from her business e-mail address to her personal e-mail address.

20. The Respondent states that she did not disclose the documents containing client information as described above to a third party, and there is no evidence to the contrary.

21. As described below, the Respondent provided to another financial institution in support of her application for employment with the other financial institution, a document that she emailed to her personal e-mail address showing the performance of her branch.

22. The Respondent has signed a declaration stating that she has deleted all the documents she emailed to her personal email address as described above. The Respondent states that she deleted these documents immediately after being contacted by her manager.

23. By sending emails to her personal email address containing documents with information relating to clients of the Member as described in the table above, the Respondent failed to keep the documents in confidence, and engaged in conduct that was contrary to the Member's policies and procedures.

Altered Performance Review

24. Among other things, the Performance Review document described above at paragraph 12, contained a section where the Respondent's manager could provide comments about the Respondent's quarterly work performance, and provide an assessment of the Respondent's quarterly performance using the following assessment levels: "Meeting"; "Developing"; or "Does Not Meet".

25. As described above at paragraph 12, in or about February 2019, without the knowledge or authorization of the Member, the Respondent submitted to another financial institution in support of her application for employment with the financial institution, an electronic version of the Performance Review where the Respondent:

- a) added an assessment level by her Manager of the Respondent's second quarter performance that indicated that the Respondent was "Meeting" the required standard, when the assessment her manager had actually provided of her performance for the second quarter was "DNM" (i.e. Does Not Meet);
- b) did not include her manager's comments about her second quarter performance;
- c) inserted the word "Meeting" as her assessment level for the third quarter to indicate that she was meeting the required standard, when in fact her manager had not previously recorded any assessment level for the third quarter;

- d) inserted the word “Meeting” as her assessment level for the fourth quarter to indicate that she was meeting the required standard, when in fact her manager had not previously recorded any assessment level for the fourth quarter; and
- e) inserted electronic initials of her manager and Regional Vice President on the Performance Review without their knowledge or authorization, thereby making the document appear to be a formal evaluation of her work performance that had been approved by her superiors.

26. With respect to the alterations that the Respondent made pertaining to the third and fourth quarter described above at subparagraphs 25(c) and (d), the Respondent’s manager did not record any assessment levels of the Respondent’s performance in the third and fourth quarters on the true version of the Performance Review completed by the manager because the Respondent was on leave during that period.

27. The Respondent states that she made the alterations and insertions of information and manager initials to the Performance Review described above at paragraph 25 in support of an application for employment with another financial institution, and that she used an electronic copy of a Performance Review that she had prepared for the purpose of making self-evaluations of her performance prior to in-person performance reviews with her manager. Neither the Member or her managers were aware that the Respondent made the alterations or insertions of information and initials described in paragraph 25.

28. The Respondent provided the altered Performance Review containing the alterations described above at paragraph 25, as well as a document showing the performance of her branch to another financial institution in support of her application for employment with the other financial institution. The Respondent was not ultimately hired by the other financial institution.

Additional Factors

29. The Respondent states that during the period that she sent the emails to her personal email address as described above, she was experiencing stress and anxiety.

30. The Respondent’s conduct put her in a position to benefit personally, however, there is no evidence that she ultimately received any financial benefit from her conduct.

31. There is no evidence of client financial loss as a result of the Respondent’s conduct.

32. No complaints have been received by the Member from clients whose confidential information was sent to the Respondent's personal e-mail address.
33. The Respondent has not previously been the subject of MFDA disciplinary proceedings.
34. The Respondent has fully cooperated with MFDA Staff during its investigation.
35. 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.

V. CONTRAVENTIONS

36. The Respondent admits that on February 28, 2019, she sent emails from her business email address to her personal email address attaching documents containing confidential information of clients of the Member without the consent of the clients, thereby failing to maintain in confidence all information received by the Member relating to clients, contrary to the Member's policies and procedures and MFDA Rules 2.1.3, 2.1.1, 1.1.2 and 2.5.1.
37. The Respondent admits that in or about February 2019, she altered her manager's written assessment of her performance on a performance review document, inserted the electronic initials of her manager and Regional Vice President on the performance review document without their knowledge or approval, and submitted the performance review to another financial institution in support of an application for employment, contrary to MFDA Rule 2.1.1.

VI. TERMS OF SETTLEMENT

38. The Respondent agrees to the following terms of settlement:
 - a) the Respondent shall be prohibited for a period of 12 months from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 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 MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;
 - c) the Respondent shall pay costs in the amount of \$2,500, pursuant to section 24.2 of MFDA By-law No. 1, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel;

- d) the Respondent shall in the future comply with MFDA Rules 2.1.3, 2.1.1, 2.5.1 and 1.1.2; and
- e) the Respondent will attend by videoconference on the date set for the Settlement Hearing.

VII. STAFF COMMITMENT

39. 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 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 contraventions that are not set out in Part V of this Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the contraventions set out in Part 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

40. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central 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.

41. 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 any rights to a full hearing, a review hearing or appeal 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.

42. 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 section 24.1.1 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with section 24.5 of By-law No. 1.

43. 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.

IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT

44. 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

45. 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.

46. 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.

XI. DISCLOSURE OF AGREEMENT

47. 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.

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

XII. EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED this 28th day of January 2021.

“Zeleen Mitha”

Zeleen Mitha

“HM”

Witness – Signature

HM

Witness – Print Name

“Charles Toth”

Staff of the MFDA

Per: Charles Toth

Vice-President, Enforcement



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: Zeleen Mitha

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 Zeleen Mitha (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 sections 20 and 24.1 of MFDA By-law No. 1;

AND WHEREAS based upon the admissions of the Respondent, the Hearing Panel is of the opinion that:

- a) On February 28, 2019, the Respondent sent emails from her business email address to her personal email address attaching documents containing confidential information of clients of the Member without the consent of the clients, thereby failing to maintain in confidence all information received by the Member relating to clients, contrary to the Member's policies and procedures and MFDA Rules 2.1.3, 2.1.1, 1.1.2 and 2.5.1; and

- b) In or about February 2019, the Respondent altered her manager's written assessment of her performance on a performance review document, inserted the electronic initials of her manager and Regional Vice President on the performance review document without their knowledge or approval, and submitted the performance review to another financial institution in support of an application for employment, 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 prohibited for a period of 12 months from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member, pursuant to section 24.1.1(e) of MFDA By-law No.1;
2. The Respondent shall pay a fine in the amount of \$5,000 on the date of this Order, pursuant to section 24.1.1(b) of MFDA By-law No. 1;
3. The Respondent shall pay costs in the amount of \$2,500 on the date of this Order, pursuant to section 24.2 of MFDA 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]

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