



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: Michael Lawrence Dunn

Heard: November 20, 2013 in Toronto, Ontario
Reasons for Decision: December 17, 2013

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

Terrance A. Sweeney)	Chair
Terrence Bourne)	Industry Representative
Greg Juby)	Industry Representative

Appearances:

Lyla Simon)	For the Mutual Fund Dealers Association of
)	Canada ("MFDA")
)	
Daniela Capozzolo)	Investigator, MFDA
)	
)	
Michael Lawrence Dunn)	In person
)	

BACKGROUND

1. The MFDA issued a Notice of Settlement Hearing dated September 16, 2013,¹ in which it set a date of November 20, 2013 to consider a settlement agreement dated August 23, 2013 (the “Settlement Agreement”) between the MFDA and Michael Lawrence Dunn (the “Respondent”). The proposed Settlement Agreement is dated September 3, 2013² and concerns allegations that the Respondent, from October 18, 2010 to February 21, 2011, obtained and used six blank or partially completed pre-signed forms to complete transactions for five clients, all of which was known to and authorized by the clients, contrary to MFDA Rule 2.1.1.

2. We were constituted as a Hearing Panel of the Central Regional Council of the MFDA to consider the Settlement Agreement.

3. At the commencement of the hearing, we ordered that the proceedings be moved *in camera*. We then considered the Settlement Agreement and heard from Counsel as to the principles to be applied in determining whether we should accept the Settlement Agreement and, if so, what the appropriate penalty might be.

4. We unanimously agreed that we should accept the Settlement Agreement and ordered that the hearing continue in public session.

SUBMISSIONS

5. The Respondent has been registered in Ontario as a mutual fund salesperson with the same Member since 1985.

6. The Respondent has no prior disciplinary record and did not benefit financially from his misconduct. Moreover, there was no unauthorized trading, misappropriation, client harm or complaint.

¹ Exhibit 1

² Exhibit 2

7. The Respondent admitted that, from October 18, 2010 to February 21, 2011, he obtained and used six blank or partially completed pre-signed forms to complete transactions for five clients, all of which was known to and authorized by the clients, contrary to MFDA Rule 2.1.1.

8. Counsel referred to the relevant MFDA Rules and, in particular, to MFDA Member Staff Notice 0066³, which prohibits the use of pre-signed forms. The Notice reads, in part, as follows:

Even in cases where there is no evidence of intent to use a pre-signed form for the purpose of discretionary trading, the use of such forms destroys the integrity of the audit trail for activity in the relevant client's account.

9. She referred to four similar cases of previous hearing panels⁴ to provide guidance to the Hearing Panel. She also directed our attention to the MFDA Penalty Guidelines with which we are familiar.

DECISION AND REASONS

10. The Hearing Panel has carefully considered the facts, law, Staff Notice 0066 and Counsel's submissions. We took special note of the Respondent's cooperation with MFDA which shows that he takes responsibility for his actions. We also relied on the other facts set out in paragraph 6, above.

11. Our decision seeks to punish the Respondent and deter him from similarly acting in the future. More importantly, it is meant to deter others in the industry who might be tempted to take "short cuts" which breach MFDA Rules.

12. In all, we feel that the Settlement Agreement is reasonable and appropriate and in line with previous hearing panel decisions. Accordingly, the Hearing Panel issues the following Order:

³ Exhibit 3 dated October 31, 2007

⁴ *Bestard (Re)*, 2011 LNCMFDA 78; *Peer (Re)*, 2012 LNCMFDA 78; *Mason (Re)*, 2012 LNCMFDA 34; *Golden (Re)*, 2013 LNCMFDA 26

- a) The Respondent shall pay a fine in the amount of \$2,500, 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, pursuant to s. 24.2 of MFDA By-law No. 1;
- c) The Respondent shall in future comply with Rule 2.1.1; and
- d) If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to, the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA *Rules of Procedure*.

13. At the conclusion of the hearing, the Chair formally chastised the Respondent for his foolish conduct. He warned the Respondent that any future transgressions of MFDA Rules could jeopardize his livelihood.

DATED this 17th day of December, 2013.

“Terrance A. Sweeney”

Terrance A. Sweeney,
Chair

“Terrence Bourne”

Terrence Bourne,
Industry Representative

“Greg Juby”

Greg Juby,
Industry Representative