Re Puzara

IN THE MATTER OF:

The Mutual Fund Dealer Rules

and

Karen Elisabeth Puzara

2024 CIRO 80

Canadian Investment Regulatory Organization
Hearing Panel (Ontario District)

Heard: November 8, 2024 in Toronto, Ontario (via videoconference)
Decision: November 8, 2024
Reasons for Decision: November 13, 2024

Hearing Panel:
The Honorable Peter B. Hambly, Chair
Christopher Hill, Industry Representative
Natalie Coutu, Industry Representative

Appearances:
Paul Blasiak, Senior Enforcement Counsel
Rafal Szymanski, Counsel for the Respondent
Karen Elisabeth Puzara, the Respondent

REASONS FOR DECISION ON ACCEPTANCE OF SETTLEMENT

INTRODUCTION

¶ 1 This was a settlement hearing conducted electronically pursuant to Mutual Fund Dealer Rule 7.4.4.3 which required the panel to either accept or reject the proposed settlement agreement. After the settlement hearing the panel accepted the proposed settlement. These are our reasons.

¶ 2 The Respondent is a Dealing Representative with lnvestia Financial Services Inc. ("lnvestia"), a former Member of the MFDA and current Dealer Member of the Canadian Investment Regulatory Organization (“CIRO”).

¶ 3 The Respondent admits to the following violation of MFDA Rules:

Between October 2016 and July 2022, the Respondent borrowed monies from a client and thereafter was indebted to the client, which gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Dealer Member or otherwise ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rule 2.1.4.

¶ 4 Staff of CIRO and the Respondent agreed and consented to the following terms of settlement:

(a) The Respondent shall be suspended from conducting securities related business in any capacity while in the employ of or associated with any CIRO Dealer Member for a period of three months,

commencing on the date that this Settlement Agreement is accepted by a Hearing Panel, pursuant to Mutual Fund Dealer Rule 7.4.1.1(c);

(b) The Respondent shall pay a fine in the amount of $25,000, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b), 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 $5,000, pursuant to Mutual Fund Dealer Rule 7.4.2, which shall be payable in certified funds on the date that this Settlement Agreement is accepted by a Hearing Panel.

Facts

¶ 5 In October 2016, the Respondent approached client DG and asked him for a loan of $60,000. The Respondent informed client DG that she would repay the principal amount of the loan plus 5% interest by making monthly installment payments to him of $1,500 over the course of 42 months.

¶ 6 At that time, client DG was a client of the Dealer Member whose accounts were serviced by an Approved Person other than the Respondent.

¶ 7 Client DG was 83 years old and was retired. The Respondent and client DG were family friends.

¶ 8 In October 2016, the Respondent obtained the $60,000 loan from client DG (the "DG Loan").

¶ 9 The Respondent failed to disclose the DG Loan to the Dealer Member.

¶ 10 The Respondent deposited the monies that she borrowed from client DG into a joint bank account that she held with her spouse, and used the monies to make payments toward her debts.

¶ 11 Between October 2016 and April 2018, the Respondent made periodic repayments to client DG in respect of the DG Loan.

¶ 12 In April 2018, the Respondent started servicing client DG's account at the Dealer Member. At that time, the Respondent still owed approximately $37,500 plus interest to client DG in respect of the DG Loan.

¶ 13 Between April 2018 and January 2022, the Respondent made periodic payments to client DG in respect of the DG Loan, and as at January 2022, the Respondent still owed approximately $8,000 plus interest to client DG in respect of the DG Loan. Between January 2022 and July 2022, the Respondent did not make any further payments to client DG.

¶ 14 In July 2022, client DG's daughter complained to the Dealer Member that the Respondent had borrowed monies from client DG.

¶ 15 The Dealer Member then instructed the Respondent not to make any further payments to client DG in respect of the DG Loan until a final balance owing was determined.

¶ 16 In July 2022, at or around the time when client DG's daughter complained to the Dealer Member as described above, client DG transferred his investment accounts from the Dealer Member to another financial institution and ceased to be a client of the Dealer Member.

Relevant Legislation and Rules

¶ 17 On January 1, 2023, the Investment Industry Regulatory Organization of Canada ("IIROC") and the Mutual Fund Dealers Association of Canada (the "MFDA") were consolidated into a single self-regulatory organization recognized under applicable securities legislation that is called CIRO. CIRO adopted interim rules that incorporate the pre- amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the "Interim Rules"). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Unless otherwise indicated in these submissions, the wording of the by-law, rules, and policies of the MFDA that were in force at the time of the misconduct have been

incorporated into the Mutual Fund Dealer Rules and Enforcement Staff have referenced the relevant section of the Mutual Fund Dealer Rules in allegations against the Respondent in proceedings commenced after January 1, 2023.

MFDA Rules

RULE NO. 2 – BUSINESS CONDUCT

2.1.4 (2) Identifying, addressing and disclosing material conflicts of interest – Approved Person

(a) An Approved Person must take reasonable steps to identify existing material conflicts of interest, and material conflicts of interest that are reasonably foreseeable, between the Approved Person and the client.

(b) If an Approved Person identifies a material conflict of interest under Rule 2.1.4(2)(a), the Approved Person must promptly report that conflict of interest to their Member

(c) An Approved Person must address all material conflicts of interest between the client and the Approved Person in the best interest of the client.

(d) An Approved Person must avoid any material conflict of interest between a client and the Approved Person if the conflict is not, or cannot be, otherwise addressed in the best interest of the client.

(e) An Approved Person must not engage in any trading or advising activity in connection with a material conflict of interest identified by the Approved Person under Rule 2.1.4(2)(a) unless

(i) the conflict has been addressed in the best interest of the client, and

(ii) the Approved Person's Member has given the Approved Person its consent to proceed with the activity.

MFDA Staff Notice dated October 3. 2005 stated the following:

Borrowing from Clients

¶ 18 Borrowing from a client by either the Member or Approved Person raises a significant and direct conflict that in almost all cases will be impossible to resolve in favour of the client. While such activity is not explicitly prohibited under MFDA Rules, MFDA staff are unaware of any circumstances where Members or Approved Persons proposing to enter into any such arrangements would be able to demonstrate that the conflict has been properly dealt with.

Case Law

¶ 19 In *Alam (Re)*, [2020] Hearing Panel of the Central Regional Council MFDA File No. 202016, Panel Decision dated July 24, 2020, a dealing representative of a dealer member borrowed $15,000 from a client and entered into a transaction in which the client paid $17,000 to the Respondent and at approximately the same time a third party paid the equivalent of $17,000 CAD to the client's brother outside Canada thereby giving rise to a conflict of interest by the dealing member that he failed to disclose to the Member or address by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to the policies and procedures of the Member and MFDA Rules 2.1.4, 2.1.1, 2.10, 2.5.1 and 1.1.2. He was terminated by the member. He repaid the loan. A hearing panel approved a settlement in which the dealing representative was prohibited from conducting securities related business for 6 months, paid a fine of $7,500 and costs of $3,750. It held that "the penalty agreed to in this case clearly falls *within* 'a reasonable range of appropriateness.'"

¶ 20 In *Davidson (Re)*, [2021] Hearing Panel of the Central Regional Council, MFDA File No. 202018, Panel Decision dated June 29, 2021, a dealing representative of a dealing member borrowed $18,000 from 2 clients. In 3 annual compliance questionnaires he denied having ever borrowed from a client. He filed a consumer

proposal which he did not disclose. The clients suffered a loss of $12,000. The panel imposed a penalty in which it permanently prohibited him from conducting security related business, required that he pay a fine of $25,000 and costs of $7,500.

¶ 21 In *Boker (Re)*, [2022] Hearing Panel of the Central Regional Council, MFDA File No.202179, Panel Decision dated May 11, 2022, the respondent was registered as a dealing representative of a dealing member. Between December 2009 and November 2009, he was a branch manager. On November 27, 2019, he resigned. He is not currently registered in securities industry. Between 2010 and 2018 he borrowed $177,908 from 12 clients. He failed to disclose the loans to the dealing member. He repaid the loans in full. The panel approved a settlement in which it imposed a penalty that prohibited him from conducting securities related business for 7 years, permanently prohibited him from being a branch manager and required that he pay a fine of $22,000 and costs of $5,000. The panel commented that it thought that the 7-year prohibition was at the low end of appropriateness.

DISCUSSION

¶ 22 It is well established that a hearing panel will not lightly interfere with a settlement agreement entered into between staff and a respondent. Its role is to determine whether the settlement agreement falls within a reasonable range of appropriateness having regard to the respondent's misconduct, previous decisions and the need to provide specific and general deterrence. *Sterling Mutuals Inc. (Re)*, LNCMFDA 16 at para. 37; *Boker*, *supra*, at paras. 17 and 18.

¶ 23 The Respondent has no prior record of disciplinary history. The client suffered no loss. The Respondent had accepted responsibility for her conduct and has saved CIRO from preparing for a contested hearing. The dealing member placed the Respondent on interim suspension for 3 months and strict supervision for 6 months and required her to complete an ethics and professional conduct course.

CONCLUSION

¶ 24 We conclude that the proposed sanction is proportionate and falls within a reasonable range of appropriateness, having regard to the Respondent's conduct and previous cases.

¶ 25 We accept the settlement agreement.

DATED at Toronto, Ontario this 13th day of November 2024.

"Peter Hambly"
The Honourable Peter Hambly, Chair
"Christopher Hill"
Christopher Hill, Industry Representative
"Natalie Coutu"
Natalie Coutu, Industry Representative

Appendix 'A'

Settlement Agreement

IN THE MATTER OF:

The Mutual Fund Dealer Rules[i]

and

Karen Elisabeth Puzara

SETTLEMENT AGREEMENT

INTRODUCTION

¶ 1 The Canadian Investment Regulatory Organization, a consolidation of IIROC and the MFDA ("CIRO") will announce that it proposes to hold a hearing (the "Settlement Hearing") to consider whether, pursuant to Mutual Fund Dealer Rule 7.4.4.3, a hearing panel of the Ontario District Hearing Committee (the "Hearing Panel") of CIRO should accept the settlement agreement (the "Settlement Agreement") entered into between Staff of CIRO ("Staff") and Karen Elisabeth Puzara (the "Respondent").

¶ 2 Staff and the Respondent, consent and agree to the terms of this Settlement Agreement.

¶ 3 Staff and the Respondent jointly recommend that the Hearing Panel accept the Settlement Agreement.

CONTRAVENTIONS

¶ 4 The Respondent admits to the following violation of MFDA Rules:

Between October 2016 and July 2022, the Respondent borrowed monies from a client and thereafter was indebted to the client, which gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Dealer Member or otherwise ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client, contrary to MFDA Rule 2.1.4[1].

TERMS OF SETTLEMENT

¶ 5 Staff and the Respondent agree and consent to the following terms of settlement:

(a) The Respondent shall be suspended from conducting securities related business in any capacity while in the employ of or associated with any CIRO Dealer Member for a period of three months, commencing on the date that this Settlement Agreement is accepted by a Hearing Panel, pursuant to Mutual Fund Dealer Rule 7.4.1.1(c);

(b) The Respondent shall pay a fine in the amount of $25,000, pursuant to Mutual Fund Dealer Rule 7.4.1.1(b), 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 $5,000, pursuant to Mutual Fund Dealer Rule 7.4.2, which shall be payable in certified funds on the date that this Settlement Agreement is

[1] At the time of the conduct addressed in this proceeding, MFDA Rule 2.1.4 was in effect. On June 30, 2021, amendments to MFDA Rule 2.1.4 came into effect. As the conduct addressed in this proceeding occurred before and after the amendments to the Rule, the versions of this Rule that were in effect between February 27, 2006 and June 30, 2021, and between June 30, 2021 and December 31, 2022 are applicable to this proceeding.

accepted by a Hearing Panel;

(d) The Respondent shall in the future comply with Mutual Fund Dealer Rule 2.1.4; and

(e) The Respondent shall attend on the date set for the Settlement Hearing.

¶ 6 The Respondent consents to the Hearing Panel making a confidentiality order on the following terms:

If at any time a non-party to this proceeding, with the exception of the bodies set out in Mutual Fund Dealer Rule 6.3, requests production of or access to exhibits in this proceeding that contain personal information as defined by CIRO's Privacy Policy, then the CIRO Hearing Office, Mutual Fund Dealer Division of CIRO shall not provide copies of or access to the requested exhibits to the non-party without first redacting from them any and all intimate financial and personal information, pursuant to Rules 1.8(2) and (5) of the Mutual Fund Dealer Rules of Procedure.

¶ 7 Staff and the Respondent agree to the settlement on the basis of the facts set out in this Settlement Agreement herein.

AGREED FACTS

Registration History

¶ 8 The Respondent was registered in the securities industry commencing in 1990.

¶ 9 Since 2004, the Respondent has been registered in Ontario as a dealing representative with HollisWealth Advisory Services Inc. ("Hollis"), a former Member of the MFDA, and its successor Investia Financial Services Inc. ("Investia"), a former Member of the MFDA and current Dealer Member of CIRO (Hollis and Investia are referred to herein collectively as the "Dealer Member").[2]

¶ 10 At all material times, the Respondent conducted business in the London, Ontario area.

Borrowing from a Client

¶ 11 At all material times, the Dealer Member's policies and procedures prohibited its Approved Persons from borrowing from clients.

¶ 12 In October 2016, the Respondent approached client DG and asked him for a loan of $60,000. The Respondent informed client DG that she would repay the principal amount of the loan plus 5% interest by making monthly installment payments to him of $1,500 over the course of 42 months.

¶ 13 At that time, client DG was a client of the Dealer Member whose accounts were serviced by an Approved Person other than the Respondent.

¶ 14 Client DG was 83 years old and was retired. The Respondent and client DG were family friends.

¶ 15 In October 2016, the Respondent obtained the $60,000 loan from client DG (the "DG Loan").

¶ 16 The Respondent failed to disclose the DG Loan to the Dealer Member.

¶ 17 The Respondent deposited the monies that she borrowed from client DG into a joint bank account that she held with her spouse, and used the monies to make payments toward her debts.

¶ 18 Between October 2016 and April 2018, the Respondent made periodic repayments to client DG in respect of the DG Loan.

¶ 19 In April 2018, the Respondent started servicing client DG's account at the Dealer Member. At that time, the Respondent still owed approximately $37,500 plus interest to client DG in respect of the DG Loan.

¶ 20 Between April 2018 and January 2022, the Respondent made periodic payments to client DG in respect

[2] Hollis and Investia amalgamated on August 4, 2017, and following the amalgamation, the continuing Dealer Member has been known as Investia.

of the DG Loan, and as at January 2022, the Respondent still owed approximately $8,000 plus interest to client DG in respect of the DG Loan. Between January 2022 and July 2022, the Respondent did not make any further payments to client DG.

¶ 21 In July 2022, client DG's daughter complained to the Dealer Member that the Respondent had borrowed monies from client DG.

¶ 22 The Dealer Member then instructed the Respondent not to make any further payments to client DG in respect of the DG Loan until a final balance owing was determined.

¶ 23 In July 2022, at or around the time when client DG's daughter complained to the Dealer Member as described above, client DG transferred his investment accounts from the Dealer Member to another financial institution and ceased to be a client of the Dealer Member.

¶ 24 In March 2023, client DG's spouse advised the Dealer Member that $8,000 in principal and $3,000 in interest remained owing by the Respondent to client DG in respect of the DG Loan.

¶ 25 On April 17, 2023, at the direction of the Dealer Member, the Respondent paid $11,000 to client DG, thereby repaying all the amounts owed under the DG Loan.

¶ 26 Borrowing monies from and thereafter being indebted to client DG gave rise to a conflict or potential conflict of interest that the Respondent failed to disclose to the Dealer Member or otherwise ensure was addressed by the exercise of responsible business judgment influenced only by the best interests of the client.

¶ 27 On March 3, 2022, the Respondent submitted to the Dealer Member an "Annual Review of Professional Activity" questionnaire (the "Annual Review Questionnaire").

¶ 28 On the Annual Review Questionnaire, the Respondent answered "No" to the following question:

> *"Are you currently or have you ever been involved in personal financial dealing(s) with your client(s) or any other conflicts of interest described in [... the Dealer Member's policies and procedures manual]? (Personal financial dealings may include borrowing from or lending to clients, involvement in private investment schemes or business dealings with clients)."*

¶ 29 The Respondent's response was false or misleading because, as described above, she had borrowed $60,000 from client DG in October 2016 and monies remained owing to client DG.

The Dealer Member's Investigation

¶ 30 The Dealer Member commenced an investigation into the Respondent's conduct after receiving the complaint from client DG's daughter in July 2022 as described above.

¶ 31 During the Dealer Member's investigation, the Respondent admitted to the Dealer Member that she had borrowed $60,000 from client DG in October 2016.

¶ 32 On July 22, 2022, the Dealer Member placed the Respondent on internal suspension for approximately three months, during which it prohibited the Respondent from dealing with clients or accessing the Dealer Member's systems.

¶ 33 On November 1, 2022, the Dealer Member:

(a) lifted the Respondent's internal suspension;

(b) placed the Respondent under strict supervision for a period of 6 months;

(c) issued a warning letter to the Respondent; and

(d) required the Respondent to complete the Ethics and Professional Conduct Course offered by IFSE by no later than January 31, 2023, which the Respondent has completed.

¶ 34 Also on November 1, 2022, the Dealer Member sent letters to all clients whose accounts were serviced by the Respondent. The Dealer Member enclosed a three-year transaction history with the letters and, among

other things, asked the clients to review their transaction history for accuracy and to contact the Dealer Member if any inconsistencies existed or if they had any financial dealings with the Respondent. No clients raised any concerns or reported any financial dealings with the Respondent.

Additional Factors

¶ 35 The Respondent has not previously been the subject of MFDA or CIRO disciplinary proceedings.

¶ 36 By entering into the Settlement Agreement, the Respondent has saved CIRO the time, resources, and expenses associated with conducting a contested hearing of the allegations.

ADDITIONAL TERMS OF SETTLEMENT

¶ 37 This settlement is agreed upon in accordance with Mutual Fund Dealer Rule 7.4.4 and Rules 14 and 15 of the Mutual Fund Dealer Rules of Procedure.

¶ 38 The Settlement Agreement is subject to acceptance by the Hearing Panel. At or following the conclusion of the Settlement Hearing, the Hearing Panel may either accept or reject the Settlement Agreement. Settlement Hearings are typically held in the absence of the public pursuant to Mutual Fund Dealer Rule 7.3.5 and Rule 15.2(2) of the Mutual Fund Dealer 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.ciro.ca.

¶ 39 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 agreed, 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.

¶ 40 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 at the settlement hearing, subject to Rule 15.3 of the Mutual Fund Dealer Rules of Procedure;

(b) the Respondent agrees to waive any rights to a full hearing, a review hearing or appeal, including before the Board of Directors of CIRO 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) except for any proceedings commenced to address an alleged failure to comply with this Settlement Agreement, Staff will not initiate any proceeding under the Mutual Fund Dealer Rules 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, 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;

(d) the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to Mutual Fund Dealer Rule 7.4.1.1 for the purpose of giving notice to the public thereof in accordance with Mutual Fund Dealer Rule 7.4.5; 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.

¶ 41 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 Mutual Fund Dealer Rule 7.4.3 against the Respondent based on, but not limited to, the facts

set out in this 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.

¶ 42 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 Mutual Fund Dealer Rules 7.3 and 7.4, unaffected by the Settlement Agreement or the settlement negotiations.

¶ 43 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. The terms of the Settlement Agreement will be released to the public if and when the Settlement Agreement is accepted by the Hearing Panel.

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

DATED this 12th day of September, 2024.

"Karen Elisabeth Puzara"
Karen Elisabeth Puzara

"Witness"
Witness - Signature

"Witness"
Witness - Print name

"Paul Blasiak"
Paul Blasiak
Staff of the Canadian Investment Regulatory Organization
Paul Blasiak, Senior Enforcement Counsel

[i] On January 1, 2023, the Investment Industry Regulatory Organization of Canada ("IIROC") and the Mutual Fund Dealers Association of Canada (the "MFDA") were consolidated into a single self-regulatory organization recognized under applicable securities legislation that is called the Canadian Investment Regulatory Organization (referred to herein as "CIRO"). CIRO adopted interim rules that incorporate the pre-amalgamation regulatory requirements contained in the rules and policies of IIROC and the by-law, rules and policies of the MFDA (the "Interim Rules"). The Interim Rules include (i) the Investment Dealer and Partially Consolidated Rules, (ii) the UMIR and (iii) the Mutual Fund Dealer Rules. These rules are largely based on the rules of IIROC and certain by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation. Where the rules of IIROC and the by-laws, rules and policies of the MFDA that were in force immediately prior to amalgamation have been incorporated into the Interim Rules, Enforcement Staff have referenced the relevant section of the Interim Rules. Pursuant to Mutual Fund Dealer Rule 1A and s.14.6 of By-Law No. 1 of CIRO, contraventions of former MFDA regulatory requirements may be enforced by CIRO.