



Notice of Hearing

File No. 200801

**IN THE MATTER OF A DISCIPLINARY HEARING
PURSUANT TO SECTIONS 20 AND 24 OF BY-LAW NO. 1
OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Calogero (Charlie) Arcuri

NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a Hearing Panel of the Regional Council of the Central Region of the Mutual Fund Dealers Association of Canada (the "MFDA"), in the hearing room located at 121 King Street West, Suite #1000, Toronto, Ontario on Thursday, March 13, 2008, at 10:00 a.m. (Eastern) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Calogero (Charlie) Arcuri (the "Respondent").

DATED at Toronto this 5th day of February 2008.

"Gregory J. Ljubic"

Gregory J. Ljubic
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: (416) 943-5836
Fax: (416) 361-9781
E-mail: corporatesecretary@mfd.ca

NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between June 2005 and September 2005, the Respondent solicited and accepted a total of \$45,000 from three individuals, one of whom was a client, which he failed to repay or otherwise account for, contrary to MFDA Rule 2.1.1.

Allegation #2: Commencing May 3, 2007, the Respondent failed to attend and give information to the MFDA during the course of an investigation, contrary to section 22.1(c) of MFDA By-law No. 1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. From March 5, 2002 to March 15, 2007, the Respondent was registered in Ontario as a mutual fund salesperson with Quadrus Investment Services Ltd. (“Quadrus”).
2. From January 18, 2002 to March 15, 2007, the Respondent was also registered as an agent with London Life Insurance Company (“London Life”).
3. The Respondent was terminated as an Approved Person by Quadrus and as an agent by London Life on March 15, 2007 as a result of the events described herein. The Respondent is no longer registered in any capacity in the securities industry.
4. Quadrus has been a Member of the MFDA since March 8, 2002.

Allegation #1

5. BET was a client of Quadrus. The Respondent was the mutual fund salesperson responsible for BET's account. In June 2005, the Respondent accepted approximately \$25,000 from BET for the purchase of an investment for BET's account.
6. The Respondent led BET to believe that he would invest the \$25,000 received from her in a six-month GIC issued by Cormax Management Inc. ("Cormax"). The Respondent advised BET that Cormax was associated with the Royal Bank of Canada and that the investment would yield a 15% return. The Respondent provided BET with a receipt purportedly confirming her investment.
7. In September 2005, the Respondent accepted \$20,000 from London Life clients JM and MT to be invested in a Cormax GIC. JM and MT provided the Respondent with 2 cheques made payable to the Respondent for the purchase of a six-month Cormax GIC that would yield a 15% return. The Respondent provided JM and MT with a receipt purportedly confirming their investment.
8. In March 2006, approximately two months after BET's Cormax GIC had purportedly matured, the Respondent paid BET \$3,788 in cash, purportedly representing the interest earned on her Cormax GIC, and persuaded BET to reinvest her principal of \$25,000 in a "Series II" six-month Cormax GIC, again yielding 15%. The Respondent provided BET with a receipt purportedly confirming her investment in the Series II Cormax GIC.
9. Between October 2006 and March 2007, BET did not receive any further interest payments or return of her principal. In March 2007, after repeated calls by BET, the Respondent agreed to meet with BET and provided her with the name and

- telephone number of a purported representative of Cormax. BET telephoned the purported representative, who advised BET that she would receive her monies shortly.
10. In March 2007, BET filed a complaint with London Life concerning her investment in the Cormax GIC. Quadrus and London Life commenced investigations. On March 15, 2007, Quadrus and London Life terminated the Respondent based on the results of their investigations.
 11. In April 2007, JM and MT filed a complaint with London Life, alleging that they had not received any interest payments or return of principal with respect to their investment in the Cormax GIC.
 12. Cormax was not an investment product known to or approved for sale by Quadrus (or London Life). There is no evidence of the existence of Cormax other than the representations made by the Respondent to BET, JM and MT.
 13. The investigations conducted by Quadrus and London Life were unable to determine the whereabouts of the monies provided by BET, JM and MT to the Respondent. All of the transactions concerning the Cormax GIC's occurred without the knowledge or approval of Quadrus and London Life and were processed outside the accounts and facilities of Quadrus and London Life.
 14. There is no evidence that the Respondent used any of the monies he received from BET, JM and MT to purchase Cormax GIC's or any other investments on their behalf. The Respondent has never returned or otherwise accounted for their monies, apart from the purported interest payment made to BET, as described above. Quadrus and London Life have provided compensation to BET, JM and MT in settlement of their respective claims.

15. By virtue of the conduct described above, the Respondent failed to deal with client BET fairly, honestly and in good faith and engaged in conduct which was unbecoming and detrimental to the public interest with respect to JM and MT, contrary to MFDA Rules 2.1.1(a) and (c) respectively.

Allegation #2

16. By letter dated May 3, 2007, sent via registered and regular mail to the Respondent, the MFDA requested that the Respondent provide information pertaining to his termination from Quadrus. The Respondent accepted and signed for the registered letter on May 9, 2007 but did not respond to the letter.
17. By letter dated May 22, 2007, sent via registered mail to the Respondent, the MFDA sent a second request for information pertaining to his termination from Quadrus. The letter was accepted and signed for on May 24, 2007 but the Respondent did not respond to the letter.
18. By letter dated June 7, 2007, sent to the Respondent via registered mail, the MFDA sent a third request for information pertaining to his termination from Quadrus. The letter was accepted and signed for on June 8, 2007 but the Respondent did not respond to the letter.
19. To date, the Respondent has failed to attend at an interview and give information as requested by the MFDA, contrary to Section 22.1 section (c) of MFDA By-Law No. 1.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be represented by counsel or agent at the hearing and to make submissions, present evidence and call, examine and cross-examine witnesses.

NOTICE is further given that MFDA By-laws provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with the MFDA;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto;
- has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- has engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- is otherwise not qualified whether by integrity, solvency, training or experience,

the Hearing Panel has the power to impose any one or more of the following penalties:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$5,000,000.00 per offence; and
 - (ii) an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation;
- (c) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;
- (d) revocation of the authority of such person to conduct securities related business;

- (e) prohibition of the authority of the person to conduct securities related business in any capacity for any period of time;
- (f) such conditions of authority to conduct securities related business as may be considered appropriate by the Hearing Panel;

NOTICE is further given that the Hearing Panel may, in its discretion, require that the Respondent pay the whole or any portion of the costs of the proceedings before the Hearing Panel and any investigation relating thereto.

NOTICE is further given that the Respondent must **serve** a **Reply** on Enforcement Counsel and **file** a **Reply** with the Corporate Secretary within twenty (20) days from the date of service of this Notice of Hearing.

A **Reply** shall be **served** upon Enforcement Counsel at:

Mutual Fund Dealers Association of Canada
121 King Street West
Suite 1000
Toronto, ON M5H 3T9

Attention: Maria L. Abate

Fax: (416) 361 - 9073
Email: mabate@mfd.ca

A **Reply** shall be **filed** by:

- (a) providing 4 copies of the **Reply** to the Corporate Secretary by personal delivery, mail or courier to:

The Mutual Fund Dealers Association of Canada
121 King Street West
Suite 1000
Toronto, ON M5H 3T9
Attention: Office of the Corporate Secretary; or

- (b) transmitting 1 copy of the **Reply** to the Corporate Secretary by fax to fax number (416) 361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Corporate Secretary permits otherwise; or
- (c) transmitting 1 electronic copy of the **Reply** to the Corporate Secretary by e-mail at CorporateSecretary@mfd.ca.

A **Reply** may either:

- (i) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on the alleged facts) any or all of the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing; or
- (ii) admit the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that the Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the MFDA in the Notice of Hearing that are not specifically denied in the **Reply**.

NOTICE is further given that if the Respondent fails:

- (a) to **serve** and **file** a **Reply**; or
- (b) attend at the hearing specified in the Notice of Hearing, notwithstanding that a **Reply** may have been served,

the Hearing Panel may proceed with the hearing of the matter on the date and the time and place set out in the Notice of Hearing (or on any subsequent date, at any time and place), without any further notice to and in the absence of the Respondent, and the

Hearing Panel may accept the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing as having been proven and may impose any of the penalties described in the By-Laws.

End.

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