



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

**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 Central Regional Council (the “Hearing Panel”) 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 a January 25, 2010 at 9:00 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”). The Hearing on the Merits will take place in Toronto, Ontario at a time and venue to be announced.

DATED: October 23, 2009.

“J. D. Bennett”

Jason D. Bennett
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King Street West, Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: 416-943-7431
Facsimile: 416-361-9781
Email: 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: In October 2005, the Respondent solicited and accepted \$25,000 from client AM, which he failed to invest, repay or otherwise account for, contrary to MFDA Rule 2.1.1.

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 by Quadrus and London Life on March 15, 2007 and is no longer registered in the securities industry in any capacity.
4. Quadrus has been a Member of the MFDA since March 8, 2002.
5. By Notice of Hearing dated February 5, 2008, the MFDA commenced another disciplinary proceeding against the Respondent concerning allegations of misconduct similar to the allegations described in this Notice of Hearing.¹

¹ MFDA Case No. 200801, *In the Matter of Calogero (Charlie) Arcuri*.

Standard of Conduct

6. AM was a client of Quadrus. The Respondent was the mutual fund salesperson responsible for AM's account. In October 2005, the Respondent solicited AM and recommended a new investment product offered by Cormax Management Inc. ("Cormax").

7. The Respondent led AM to believe that the Respondent would invest \$25,000 to be provided by AM in a six-month investment product issued by Cormax. The Respondent advised AM that the Cormax investment would yield a guaranteed return of 15% over a 6 month term. AM agreed to invest \$25,000 in the Cormax investment for his account.

8. On October 14, 2005, in accordance with the Respondent's directions, AM provided the Respondent with a \$25,000 bank draft payable to the Respondent personally for the purpose of purchasing the Cormax investment.

9. On November 1, 2005, the Respondent provided AM with a receipt purportedly confirming AM's investment. Thereafter, AM and the Respondent maintained regular contact regarding AM's investment.

10. At some time in 2008, AM spoke to the Respondent requesting an interest payment from his investment in Cormax. The Respondent informed AM that he was entitled to receive an interest payment from his investment but never provided one to AM. After repeated attempts by AM to obtain the interest payment were ignored by the Respondent, AM became suspicious and consulted a lawyer, who directed him to contact the MFDA. AM also contacted the Metro Toronto Police.

11. 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 AM and other individuals.

12. Investigations conducted by Quadrus and London Life were unable to determine the whereabouts of the money provided by AM to the Respondent. All of the transactions concerning the Cormax investment product occurred without the knowledge or approval of Quadrus (or London Life) and were processed outside the accounts and facilities of Quadrus.

13. There is no evidence that the Respondent used any of the money he received from AM to purchase Cormax investment products or any other investment for AM's account or benefit. The Respondent has never returned or otherwise accounted for the money provided to him by AM. As alleged in the aforementioned Notice of Hearing, dated February 5, 2008, commencing May 3, 2007, the Respondent has failed to attend and give information to the MFDA during the course of its investigation of this matter, contrary to section 22.1(c) of MFDA By-law No. 1.

14. By engaging in the conduct described above, the Respondent failed to deal fairly, honestly and in good faith with client AM, contrary to MFDA Rule 2.1.1.

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, Ontario
M5H 3T9
Attention: Maria L. Abate
Facsimile: 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, Ontario
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.