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: Calogero (Charlie) Arcuri

Heard: January 24, 2011, Toronto, Ontario
Reasons for Decision: February 7, 2011

REASONS FOR DECISION

Hearing Panel of the Central Regional Council:

The Hon. Peter Cory, Q.C.	Chair
Jeanne Beverly	Industry Representative

Appearances:

Maria Abate	)	For the Mutual Fund Dealers Association of Canada
Joseph Blumenfeld	)	For the Respondent
Calogero Arcuri	)	In Person

1. The decision in this Disciplinary Hearing has been facilitated by the Agreed Statement of Facts (the "ASF") duly signed by Calogero (Charlie) Arcuri (the "Respondent") and Shaun Devlin, Vice-President, Enforcement of the Mutual Fund Dealers Association of Canada (the "MFDA"). In that document the Respondent admits that he committed the acts of misconduct alleged by the MFDA. Specifically, he admits that he:

a) failed to deal with clients BET and AM 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; and

b) failed to attend to give information as requested by the MFDA, contrary to Section 22.1 section (c) of MFDA By-law No. 1.

2. Further, the Respondent does not contest the penalties suggested by the MFDA. Specifically, the prohibition from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member. Further, the Respondent will be fined the sum of $22,500. The Respondent will also pay the costs of these proceedings fixed at $2,500

3. The Panel, in assessing and fixing the penalties of:

a) The Respondent shall be permanently prohibited from conducting securities related business in any capacity, pursuant to section 24.1.1(e) of MFDA By-law No. 1;

b) The Respondent shall pay a fine in the amount of $22,500 pursuant to s. 24.1.1(b) of MFDA By-law No. 1, as follows:

(i) $5,000 payable upon approval of the settlement;
(ii) $5,000 payable on or before February 28, 2011;
(iii) $5,000 payable on or before April 30, 2011;
(iv) $5,000 payable on or before June 30, 2011; and
(v) $2,500 payable on or before July 31, 2011;

c) The Respondent shall pay costs in the amount of $2,500 pursuant to s. 24.2 of MFDA By-law No. 1, on or before July 31, 2011; and

d) In the event that the Respondent fails to make a payment as per subparagraphs (b) or (c), the fine against the Respondent will automatically increase and the Respondent shall pay the following: (i) a fine in the amount of $50,000 for the violation of MFDA Rule 2.1.1 and Section 22.1(c) of MFDA By-law No. 1;

has taken into account the following factors.

Nature of Misconduct

4. Between June 2005 and October 2005, the Respondent solicited funds from three individuals, two of whom were mutual fund clients of Quadrus Investment Services Inc. ("Quadrus") for the purchase of a six-month GIC issued by Cormax Management Inc. ("Cormax"). The Respondent advised the clients that the Cormax product was associated with the Royal Bank of Canada and that the investment would yield a 15% return. The Respondent personally accepted the funds from each client or individual and provided a receipt confirming their purported investment. When the clients or individuals sought to retrieve their investment funds from the Respondent, he did not assist them and they were unable to retrieve the funds. Clients BET and AM, as well as JM & MT, contacted Quadrus to file complaints and initiate an investigation into the location of their funds.

5. The investigations conducted by Quadrus and London Life were unable to determine the whereabouts of the monies provided by the clients and individuals to the Respondent. Cormax was not an investment product known to or approved for sale by Quadrus and all of the transactions concerning the Cormax GICs occurred without the knowledge or approval of Quadrus and were processed outside the accounts and facilities of Quadrus and London Life. There is no evidence of the existence of Cormax other than the representations made by the Respondent. There is no evidence that the Respondent used any of the monies provided to him for the purchase of a Cormax or other investment on behalf of the clients or individuals and the Respondent has never returned or otherwise accounted for the monies. Quadrus and London Life have provided compensation to the clients.

6. The Respondent has also failed to cooperate with requests for information by the investigations department of the MFDA.

The Respondent's Past Conduct and Level of Activity in the Capital Markets

7. The Respondent had been registered as an Approved Person with Quadrus in Ontario from March 5, 2002 to March 15, 2007. On March 15, 2007, the Respondent was terminated as an Approved Person by Quadrus as a result of the misconduct resulting in these disciplinary proceedings. The Respondent has not previously been disciplined by the MFDA.

The Respondent's Recognition of the Seriousness of his Misconduct

8. The Respondent has participated in the disciplinary proceeding being conducted against him and has entered into a settlement agreement. Among the terms of settlement agreed to and accepted by the Respondent is a permanent prohibition. A permanent prohibition is the gravest and most severe penalty applicable to an individual employed in a self-regulated profession. The relative youthful age of the Respondent makes this a severe penalty indeed as he will be prohibited from gaining employment in the financial services industry, and most likely the insurance industry, for the rest of his life.

Client Harm, Risk to Investors and Capital Markets

9. In the present case, both the clients and the Respondent's Member have suffered financial harm. The clients have suffered losses of approximately $70,000 and the Member has suffered a corresponding loss as it has compensated the victims.

10. The importance of Approved Persons cooperating with their Members and SROs to ensure compliance with regulatory requirements and their ability to monitor their own behavior for actual and possible violations cannot be underestimated. If a Member cannot rely on the integrity, truthfulness and cooperation of their Approved Persons, its ability to ensure regulatory compliance, as well as safe, secure and honest business operations, is impeded.

11. The Respondent's failure to exercise responsible business judgment and his participation in prohibited activities, as well as his failure to participate in all efforts of the Member or regulatory body to investigate and resolve this matter, suggest that he poses a significant risk to investors and the reputation of the capital markets. Staff submits that the Respondent is unable to supervise himself and that the conduct previously described supports acceptance of the settlement agreement and the permanent prohibition of the Respondent.

Previous Decisions Made in Similar Circumstances

12. The penalties proposed are generally consistent with previous decisions made in similar circumstances.

a) *Parkinson (Re)*, [2005] Hearing Panel of the Ontario Regional Council, MFDA File No. 200501, Panel Decision dated April 29, 2005 ("*Parkinson*"), MFDA Book of Authorities at Tab 11.
b) *Brick (Re)*, [2007] Hearing Panel of the Ontario Regional Council, MFDA File No. 200705, Panel Decision dated October 29, 2005 ("*Brick*"), MFDA Book of Authorities at Tab 15.
c) *Quigley (Re)*, [2007] Hearing Panel of the Ontario Regional Council, MFDA File No. 200703, Panel Decision dated July 12, 2007 ("*Quigley*"), MFDA Book of Authorities at Tab 16.

13. In each of the aforementioned matters, the Respondents required the MFDA to conduct a full disciplinary hearing and did not participate in settlement negotiations or express a desire to reach settlement. The Hearing Panels found misconduct in each case and the Respondents received a permanent prohibition and fines comparable to the amounts found to have been misappropriated. In the present case, the Respondent has expressed a desire to and cooperated in reaching an appropriate settlement saving the expense and time of conducting a full disciplinary hearing. Moreover, the Respondent has agreed to pay a fine and has also accepted a permanent bar to any future employment in the mutual fund industry.

14. The Respondent admits that the facts set out in the ASF constitute misconduct for which he may be penalized on the exercise of the discretion of a Hearing Panel. The Respondent does

not contest MFDA Staff's submission that the penalties sought herein are appropriate.

15. The imposition against the Respondent of a permanent prohibition from conducting securities related business in any capacity while in the employ of or associated with any MFDA Member will prevent the Respondent from participating in the industry and will deter others from engaging in similar activity.

16. The proposed penalties are in keeping with the purpose of the MFDA to enhance investor protection and strengthen public confidence in the Canadian mutual fund industry by ensuring high standards of conduct by Members and Approved Persons.

17. The Panel has therefore assessed and fixed the penalties and costs as set out above.

DATED this 7th day of February, 2011.

"Peter Cory"
The Hon. Peter Cory, Q.C.
Chair

"Jeanne Beverly"
Jeanne Beverly,
Industry Representative

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