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Canadian Investment
Regulatory
Organization

Organisme canadien
de réglementation
des investissements

Notice of Hearing

File No. 202404

**IN THE MATTER OF
THE MUTUAL FUND DEALER RULESⁱ
and
Franco Caligiuri**

NOTICE OF HEARING

NOTICE is hereby given that a disciplinary proceeding has been commenced by the Canadian Investment Regulatory Organization (“CIRO”) against Franco Caligiuri (the “Respondent”). The first appearance will take place electronically by videoconference before a hearing panel of the Pacific District Hearing Committee of CIRO (the “Hearing Panel”) on April 22, 2024, at 10:00 am (Pacific Time) or as soon thereafter as the hearing can be held. The Hearing on the Merits will take place at a time and venue to be announced. Members of the public who would like to attend the first appearance by videoconference as an observer should contact hearings@ciro.ca to obtain particulars.

DATED this 14th day of February, 2024.

“Michelle Pong”

Michelle Pong
Director, District Hearing Committees,
Mutual Fund Dealer Division

Canadian Investment Regulatory Organization
40 Temperance Street, Suite 2600
Toronto, ON M5H 0B4
Telephone: 416-945-5134
Email: hearings@ciro.ca

NOTICE is further given that CIRO alleges the following violations of the Mutual Fund Dealer Rules¹:

Allegation #1: Between July 2, 2020 and February 7, 2022, the Respondent referred clients to an individual or company that offered for sale exempt securities, and received referral fees for doing so, thereby participating in a referral arrangement to which the Dealer Member was not a party, contrary to the Dealer Member’s policies and procedures, and Mutual Fund Dealer Rules 2.4.2(b), 2.1.1, and 1.1.2 (as it related to 2.5.1) (formerly MFDA Rules 2.4.2(b), 2.1.1, and 1.1.2 and 2.5.1).

Allegation #2: On or about August 4, 2021, the Respondent made a false or misleading statement to the Dealer Member during the course of a sub-branch review, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly 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 CIRO at the hearing:

Registration History

1. Since September 28, 2009, the Respondent has been registered in British Columbia as a dealing representative with Quadrus Investment Services Ltd (“Dealer Member”), a dealer member of the Canadian Investment Regulatory Organization (“CIRO”) (formerly a Member of the MFDA).²
2. At all material times, the Respondent conducted business in the Burnaby, British Columbia area.

¹ At the time of the conduct addressed in this proceeding, MFDA Rules 1.1.2, 2.1.1, 2.4.2 and 2.5.1 were in effect and are now incorporated into Mutual Fund Dealer Rules 1.1.2, 2.1.1, 2.4.2 and 2.5.1 referred to in this proceeding. On December 31, 2021, amendments to MFDA Rule 2.4.2 came into effect. As the conduct addressed in this proceeding occurred both prior to and subsequent to the amendment of the Rule, both versions of the Rule apply to this proceeding. On July 7, 2022, amendments to MFDA Rule 1.1.2 came into effect. As the conduct addressed in this proceeding pre-dated the amendment to that Rule, the version of the Rule in effect between July 2, 2020 and February 7, 2022 apply to this proceeding.

² The Respondent is also registered as a dealing representative in Manitoba and Ontario.

Allegation #1 and #2 - The Respondent Entered into a Prohibited Referral Arrangement and a Made False or Misleading Statement to the Dealer Member

3. At all material times, the Dealer Member's policies and procedures provided that its Approved Persons were prohibited from entering directly into referral arrangements with third parties, and required the Dealer Member to be a party to any referral arrangement.

4. Individual IT was registered as a dealing representative with XX Inc., which was registered as an exempt market dealer that offered private investments including exempt market products.

5. Individual IT was an acquaintance of the Respondent and, in or about 2020, the Respondent began referring clients who were interested in private investments to individual IT.

6. In or about July 2020, the Respondent entered into a verbal referral arrangement with individual IT pursuant to which the Respondent would receive compensation for referring clients to invest with individual IT.

7. The Dealer Member was not aware of, and nor was it a party to, the referral arrangement between the Respondent and individual IT.

8. Between July 2, 2020 and September 22, 2021, the Respondent referred to individual IT, 9 clients who invested a total of approximately \$349,000 in exempt market products offered by XX Inc.

9. Each of the 9 clients were clients of the Dealer Member whose accounts were serviced by the Respondent.

10. For referring clients to invest with Individual IT, Individual IT paid \$1,264 in referral fees to Capital Core Financial Inc. ("CCF"), a company owned and operated by the Respondent and another individual. CCF was a company approved by the Dealer Member through which the Respondent offered financial planning services.

11. Following the dissolution of CCF, the Respondent incorporated Wealthviser Private Wealth Corporation (“Wealthviser”). Wealthviser was a company owned and operated by the Respondent and was approved by the Dealer Member through which the Respondent offered financial planning services.
12. In July and August 2021, the Dealer Member conducted a review of the sub-branch location where the Respondent operated.
13. On August 3, 2021, as part of the sub-branch review, the Dealer Member asked the Respondent, in writing, whether he had any client referral arrangements for which he was compensated that had not been disclosed to the Dealer Member. On August 5, 2021, the Respondent answered in writing to the Dealer Member’s question: “no”.
14. The Respondent’s answer was false or misleading at the time, as the Respondent was a party to the referral arrangement with individual IT, as described above, and had received referral fees.
15. On or about September 23, 2021, the Respondent and Wealthviser entered into a written referral arrangement with individual IT and XX Inc.
16. This referral arrangement provided that individual IT would pay the Respondent fees consisting of 45 percent of the up-front commission from the gross aggregate proceeds raised in connection with the referral of any referred client after IT was paid by XX Inc.
17. The Dealer Member was not aware of, and was not a party to this referral arrangement.
18. Between September 23, 2021 and November 1, 2021, the Respondent referred to IT four clients who invested \$195,000 in exempt market products offered by XX Inc.
19. Each of the four clients were clients of the Dealer Member whose accounts were serviced by the Respondent.

20. In addition to the referral fee outlined in paragraph 10, individual IT paid Wealthviser an additional \$1,645 in referral fees.

21. In total, between July 2, 2020 and November 1, 2021, the Respondent referred 13 clients to individual IT who invested approximately \$544,000 in exempt market products offered by XX Inc., as described above.

22. The Respondent, through Wealthviser and CCF, received referral fees totaling approximately \$2,909.

23. On or about February 7, 2022 the Respondent terminated the referral arrangement with individual IT and XX Inc.

24. The Respondent did not disclose the referral fees he received, described above, to the Dealer Member, and the referral fees were not recorded in the Dealer Member's books and records.

25. By virtue of the foregoing, the Respondent referred clients to an individual or company that offered for sale exempt securities, and received referral fees for doing so, thereby participating in a referral arrangement to which the Dealer Member was not a party, contrary to the Dealer Member's policies and procedures, and Mutual Fund Dealer Rules 2.4.2(b), 2.1.1, and 1.1.2 (as it related to 2.5.1) (formerly MFDA Rules 2.4.2(b), 2.1.1, and 1.1.2 and 2.5.1).

26. By virtue of the foregoing, the Respondent made a false or misleading statement to the Dealer Member, contrary to Mutual Fund Dealer Rule 2.1.1 (formerly 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 pursuant to Mutual Fund Dealer Rule 1A that any person subject to the jurisdiction of the Mutual Fund Dealers Association of Canada prior to January 1, 2023 remains subject to the jurisdiction of CIRO in respect of any action or matter that occurred while that person was subject to the jurisdiction of the Mutual Fund Dealers Association of Canada at the time of such action or matter.

NOTICE is further given that the Mutual Fund Dealer Rules provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with CIRO;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Dealer Member or of any regulation or policy made pursuant thereto;
- has failed to comply with the provisions of the Mutual Fund Dealer Rules of CIRO;
- has engaged in any business conduct or practice which such Hearing Panel 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 Office of the Corporate Secretary, Mutual Fund Dealer Division within twenty (20) days from the date of service of this Notice of Hearing.

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

Canadian Investment Regulatory Organization
Mutual Fund Dealer Division
255-5th Ave SW
Calgary, AB T2P 3G6
Attention: Jennifer Galarneau
Email: jgalarneau@ciro.ca

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

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

Canadian Investment Regulatory Organization
40 Temperance Street, Suite 2600
Toronto, ON M5H 0B4
Attention: Office of the Corporate Secretary
- (b) transmitting 1 electronic copy of the **Reply** to the Office of the Corporate Secretary, Mutual Fund Dealer Division by e-mail at hearings@ciro.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 CIRO in the Notice of Hearing; or
- (ii) admit the facts alleged and conclusions drawn by CIRO 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 CIRO 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 CIRO in the Notice of Hearing as having been proven and may impose any of the penalties described in the Mutual Fund Dealer Rules.

End.

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.