



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: Thomas G. Arseneau

ORDER

WHEREAS on December 22, 2011, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to section 20.1 of MFDA By-law No. 1 in respect of Thomas G. Arseneau (the “Respondent”);

AND WHEREAS the Respondent did not file a Reply to the Notice of Hearing;

AND WHEREAS on February 17, 2012, a first appearance in this proceeding took place by teleconference before a hearing panel of the Atlantic Regional Council of the MFDA (the “Hearing Panel”), during which a hearing of the matters as described in the Notice of Hearing (the “Hearing on the Merits”) was scheduled for June 26, 27 and 28, 2012 in Fredericton, New Brunswick;

AND WHEREAS the Respondent did not attend or otherwise participate in the first appearance;

AND WHEREAS on March 6, 2012, the Respondent sent a letter, by facsimile, to MFDA Staff confirming that he had received the Notice of Hearing and advising that he did not

intend to take any further part in the MFDA's disciplinary proceeding;

AND WHEREAS on March 9, 2012, an interim appearance took place by teleconference before the Hearing Panel;

AND WHEREAS the Respondent did not attend or otherwise participate in the interim appearance;

AND WHEREAS on March 13, 2012 and June 4, 2012, MFDA Staff sent letters to the Respondent advising of, among other things, the dates, time and location of the Hearing on the Merits;

AND WHEREAS on June 26 and 27, 2012 and July 31, 2012, the Hearing Panel conducted the Hearing on the Merits;

AND WHEREAS the Respondent did not attend or otherwise participate in the Hearing on the Merits;

AND WHEREAS in the opinion of the Hearing Panel:

(a) in about May 2007, the Respondent failed to observe high standards of ethics and conduct in the transaction of business and be of such character and business repute as is consistent with the standards prescribed by MFDA Rule 2.1.1 when he falsely reported on a loan application, which he submitted to a lender, that client KA owned a cottage property which she did not in fact own in order to increase the likelihood that the lender would provide an investment loan to client KA;

(b) between 2004 and 2007, the Respondent misrepresented, or failed to fully and adequately explain, the risks and benefits of leveraged investment recommendations that he made to at least 20 clients, thereby failing to ensure that the leveraged investment recommendations were suitable and appropriate for clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1;

(c) between 2004 and 2007, the Respondent failed to ensure that his leveraged investment recommendations were suitable and appropriate for the clients and in keeping with their investment objectives, contrary to MFDA Rules 2.2.1 and 2.1.1, when he made leveraged investment recommendations to: (i) at least 12 clients which were not suitable and appropriate having regard to the relevant “Know Your Client” factors including, but not limited to, the clients’ ability to afford the costs associated with the investment loans; and (ii) at least 12 clients which were not suitable and appropriate having regard to the requirements regarding the use of leveraging set out in the Member’s policies and procedures; and

(d) between 2004 and 2008, the Respondent relied upon the lender’s decision to approve the investment loans for 120 clients as the determination that the leveraging recommendations were suitable for those clients, without performing his own assessment of the suitability of the leveraging recommendations that he made to the clients, contrary to MFDA Rules 2.2.1, 2.5.1 and 2.1.1.

IT IS HEREBY ORDERED THAT:

1. The Respondent shall be permanently prohibited from conducting securities related business in any capacity over which the MFDA has jurisdiction, pursuant to s. 24.1.1(e) of MFDA By-law No. 1;

2. The Respondent shall pay a fine in the amount of \$500,000.00, pursuant to s. 24.1.1(b) of MFDA By-law No. 1;

3. The Respondent shall pay costs in the amount of \$20,000.00, pursuant to s. 24.2 of MFDA By-law No. 1; and

4. If at any time a non-party to this proceeding requests production of, or access to, any materials filed in, or the record of, this proceeding, including all exhibits and transcripts, then the MFDA Corporate Secretary shall not provide copies of, or access to,

the requested documents to the non-party without first redacting from them any and all intimate financial or personal information, pursuant to Rules 1.8(2) and (5) of the MFDA Rules of Procedure.

DATED this 28th day of September, 2012.

“D. Merlin Nunn”

The Hon. D. Merlin Nunn, Q.C.,
Chair

“Jason P. Downey”

Jason P. Downey,
Industry Representative

“David Losier”

David Losier,
Industry Representative