



**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: Michael Guglielmi**

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**NOTICE OF HEARING**

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**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 July 15, 2015 at 9:30 a.m. (Eastern), or as soon thereafter as the appearance can be held, concerning a disciplinary proceeding commenced by the MFDA against Michael Guglielmi (the “Respondent”).

**DATED** this 25<sup>th</sup> day of May, 2015.

“Sarah Rickard”

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Sarah Rickard  
Director of Regional Councils

Mutual Fund Dealers Association of Canada  
121 King Street West, Suite 1000  
Toronto, Ontario  
M5H 3T9  
Telephone: 416-945-5143  
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**NOTICE** is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

**Allegation #1:** Between October 2012 and April 17, 2013, the Respondent allowed WB, PA and WM, all unregistered individuals, to:

- a) open new accounts at the Member for at least 12 individuals that the Respondent never met; and
- b) recommend and process trades in the accounts of the 12 individuals using the Respondent's representative code;

thereby facilitating stealth advising by WB, PA and WM, contrary to MFDA Rules 1.1.1(c) and 2.1.1.

**Allegation #2:** Between October 2012 and April 17, 2013, the Respondent opened new accounts and processed trades for at least 12 individuals without performing the necessary due diligence to learn the essential facts relative to the clients and failing to ensure that the investments were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 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 December 16, 2008 to May 1, 2012, the Respondent was registered in Ontario as a mutual fund salesperson (now known as a dealing representative) with Quadrus Investment Services Ltd. ("Quadrus"), a Member of the MFDA.

2. From October 5, 2012 and April 17, 2013 when he was terminated as a result of the events described herein, the Respondent was registered in Ontario as a mutual fund salesperson with Hub Capital Inc. (“HUB”), a Member of the MFDA.

3. The Respondent is not currently registered in the securities industry in any capacity.

4. At all material times, the Respondent conducted business in the Vaughan, Ontario area.

### **Allegation #1 – Facilitating Stealth Advising**

5. While he was registered with Quadrus, the Respondent, together with WB, PA and WM who were registered as mutual fund salespersons, conducted business under the trade name, Real Wealth Investments (“RWI”) at the same branch location (the “RWI Branch”). At that time, WB and PA were registered with Quadrus and WM was registered with Investia Financial Services Inc. (“Investia”), a Member of the MFDA.

6. In or about April 2012, the Respondent, WB and PA resigned from Quadrus, and WM resigned from Investia.

7. WB, PA and WM did not become registered in the securities industry at any time after April 2012.

8. On October 5, 2012, the Respondent became registered as a mutual fund salesperson with HUB. At all material times, the Respondent conducted business at the RWI Branch.

9. Notwithstanding that WB, PA and WM were no longer registered in the securities industry, they continued to conduct insurance and mortgage broker business with RWI and regularly attended the RWI Branch.<sup>1</sup>

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<sup>1</sup> There is no evidence that, while registered with HUB, the Respondent conducted business under the trade name RWI.

10. Commencing in or about October 2012, WB, PA and WM informed the Respondent that certain individuals wanted to purchase mutual funds. WB, PA and WM requested that the Respondent provide them with account forms (including Know-Your-Client Information Forms, Orders Tickets and Dealer Representative Change Forms) to open accounts for the individuals at HUB and process trades in those accounts. WB, PA and WM also requested that the Respondent facilitate this activity by processing all of the account forms under his HUB representative code. The Respondent agreed to participate in this arrangement with WB, PA and WM (the “Stealth Advising Arrangement”).

11. In accordance with the Stealth Advising Arrangement, between October 2012 and April 17, 2013, WB, PA and WM met with at least 12 individuals<sup>2</sup> in the absence of the Respondent to complete the account forms. WB, PA and WM provided the completed account forms to the Respondent, who signed the documents and submitted them to HUB for processing using his representative code.

12. WB, PA and WM were not registered in the securities industry and did not possess the necessary proficiencies to advise or trade in securities on behalf of the 12 individuals.

13. HUB was not aware of the Stealth Advising Arrangement and, as a consequence, the activities of WB, PA and WM were not subject to supervision by HUB.

14. By virtue of the foregoing, the Respondent facilitated the processing of securities related business by WB, PA and WM, all unregistered individuals, through the accounts and facilities of HUB. WB, PA and WM were not in an employer-employee relationship, a principal-agent relationship or an introducing dealer-carrying dealer relationship with HUB, as required by MFDA Rule 1.1.1(c).

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<sup>2</sup> Namely, RP, LR, LA, JW, PM, ML, IC, KC, CT, DJ, DL, and DP.

## **Allegation #2 – Failing to Know the Client and Assess Suitability**

15. By participating in the Stealth Advising Arrangement or, alternatively, by relying solely upon the Respondent's mail communications with the 12 clients, the Respondent opened accounts and processed trades for the 12 clients, without fulfilling his obligations to:

- a) learn the essential facts relative to each client and each order or account accepted;
- b) ensure that the acceptance of each order was within the bounds of good business practice;
- c) ensure that each order accepted or recommendation made for each account was suitable for the client and in keeping with the client's investment objectives; and
- d) explain to the individuals the features and risks of the mutual fund trades he was processing on their behalf.

16. The Respondent thereby failed to perform the necessary due diligence to learn the essential facts relative to the 12 clients and failed to ensure that the investments were suitable and appropriate for the clients, contrary to MFDA Rules 2.2.1 and 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 Office of 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: Francis Roy  
Fax: 416-361-9073  
Email: froy@mfd.ca

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

(a) providing 4 copies of the **Reply** to the Office of 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 one (1) copy of the **Reply** to the Office of 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 Office of the Corporate Secretary permits otherwise; or

(c) transmitting one (1) electronic copy of the **Reply** to the Office of 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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