



**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**

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**SETTLEMENT AGREEMENT**

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**I. INTRODUCTION**

1. By Notice of Settlement Hearing, the Mutual Fund Dealers Association of Canada (the “MFDA”) will announce that it proposes to hold a hearing to consider whether, pursuant to section 24.4 of By-law No. 1, a hearing panel of the Central Regional Council (the “Hearing Panel”) of the MFDA should accept the settlement agreement (the “Settlement Agreement”) entered into between Staff of the MFDA (“Staff”) and the Respondent, Calogero (“Charlie”) Arcuri.

**II. JOINT SETTLEMENT RECOMMENDATION**

2. Staff conducted an investigation of the Respondent’s activities. The investigation disclosed that the Respondent had engaged in activity for which the Respondent could be penalized on the exercise of the discretion of the Hearing Panel pursuant to s. 24.1 of By-law No.1.

3. Staff and the Respondent recommend settlement of the matters disclosed by the investigation in accordance with the terms and conditions set out below. The Respondent agrees to the settlement on the basis of the facts set out in Part IV herein and consents to the making of an Order in the form attached as Schedule “A”.

4. Staff and the Respondent agree that the terms of this Settlement Agreement, including the attached Schedule “A”, will be released to the public only if and when the Settlement Agreement is accepted by the Hearing Panel.

### **III. ACKNOWLEDGEMENT**

5. Staff and the Respondent agree with the facts set out in Part IV herein for the purposes of this Settlement Agreement only and further agree that this agreement of facts is without prejudice to the Respondent or Staff in any other proceeding of any kind including, but without limiting the generality of the foregoing, any proceedings brought by the MFDA (subject to Part X) or any civil or other proceedings which may be brought by any other person or agency, whether or not this Settlement Agreement is accepted by the Hearing Panel.

### **IV. AGREED FACTS**

#### **Registration History**

6. 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”).

7. From January 18, 2002 to March 15, 2007, the Respondent was also registered as an agent with London Life Insurance Company (“London Life”).

8. The Respondent was terminated as an Approved Person by Quadrus and as an agent by London Life on March 15, 2007 as a result of the events described herein. The Respondent is no longer registered in any capacity in the securities industry.

## **Allegation #1**

### **(i) BET**

9. BET was a client of Quadrus. The Respondent was the mutual fund salesperson responsible for BET's account. In June 2005, the Respondent accepted approximately \$25,000 from BET for the purchase of an investment for BET's account.

10. The Respondent led BET to believe that he would invest the \$25,000 received from her in a six-month GIC issued by Cormax Management Inc. ("Cormax"). The Respondent advised BET that Cormax was associated with the Royal Bank of Canada and that the investment would yield a 15% return. The Respondent provided BET with a receipt purportedly confirming her investment.

11. In March 2006, approximately two months after BET's Cormax GIC had purportedly matured, the Respondent paid BET \$3,788 in cash, purportedly representing the interest earned on her Cormax GIC, and persuaded BET to reinvest her principal of \$25,000 in a "Series II" six-month Cormax GIC, again yielding 15%. The Respondent provided BET with a receipt purportedly confirming her investment in the second Cormax GIC.

12. Between October 2006 and March 2007, BET did not receive any further interest payments or return of her principal. In March 2007, after repeated calls by BET, the Respondent agreed to meet with BET and provided her with the name and telephone number of a purported representative of Cormax. BET telephoned the purported representative, who advised BET that she would receive her monies shortly.

13. In March 2007, BET filed a complaint with London Life concerning her investment in the Cormax GIC.

**(ii) AM**

14. 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 issued by Cormax.

15. The Respondent led AM to believe that he would invest the \$25,000 received from him in a six-month investment product issued by Cormax. The Respondent advised AM that the Cormax investment would yield a guaranteed return of 15% with a 6 month term.

16. On October 14, 2005, the Respondent accepted a \$25,000 bank draft from AM for the purchase of the Cormax investment product for AM's account.

17. On that date, the Respondent met AM at his banking institution and instructed him to make the \$25,000 bank draft payable to him personally. The Respondent advised AM that in order to purchase the alleged Cormax investment product, the bank draft was required to be made payable to the Respondent.

18. On November 1, 2005, the Respondent provided AM with a receipt purportedly confirming his investment. Over the next while, AM and the Respondent maintained regular contact regarding his investment.

19. At some time in 2008, AM spoke to the Respondent regarding an interest payment from his investment with Cormax. The Respondent advised AM that he could receive an interest payment from his investment, but never provided one to AM. After repeated attempts 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.

**(iii) JM & MT**

20. In September 2005, the Respondent accepted \$20,000 from London Life clients JM and MT to be invested in a Cormax GIC. JM and MT provided the Respondent with 2 cheques made payable to the Respondent for the purchase a six-month Cormax GIC that would yield a 15% return. The Respondent provided JM and MT with a receipt purportedly confirming their investment.

21. In April 2007, JM and MT filed a complaint with London Life, alleging that they had not received any interest payments or return of principal with respect to their investment in the Cormax GIC.

22. Cormax was not an investment product known to or approved for sale by Quadrus (or London Life). All of the transactions concerning the Cormax GIC's occurred without the knowledge or approval of Quadrus and London Life and were processed outside the accounts and facilities of Quadrus and London Life.

23. The investigations conducted by Quadrus and London Life were unable to determine the whereabouts of the monies provided by BET, AM, JM and MT to the Respondent. There is no evidence of the existence of Cormax other than the representations made by the Respondent to BET, AM, JM and MT.

24. There is no evidence that the Respondent used any of the monies he received from BET, AM, JM and MT to purchase Cormax GIC's or any other investments on their behalf. The Respondent has never returned or otherwise accounted for their monies, apart from the purported interest payment made to BET, as described above. Quadrus and London Life have provided compensation to BET, AM, JM and MT in settlement of their respective claims.

## **Allegation #2**

25. By letter dated May 3, 2007, sent via registered and regular mail to the Respondent, the MFDA requested that the Respondent provide information pertaining to his termination from Quadrus. The Respondent accepted and signed for the registered letter on May 9, 2007 but did not respond to the letter.

26. By letter dated May 22, 2007, sent via registered mail to the Respondent, the MFDA sent a second request for information pertaining to his termination from Quadrus. The letter was accepted and signed for on May 24, 2007 but the Respondent did not respond to the letter.

27. By letter dated June 7, 2007, sent to the Respondent via registered mail, the MFDA sent a third request for information pertaining to his termination from Quadrus. The letter was accepted and signed for on June 8, 2007 but the Respondent did not respond to the letter.

## **V. CONTRAVENTIONS**

29. The Respondent admits that he 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

30. The Respondent admits that he has failed to attend to give information as requested by the MFDA, contrary to Section 22.1 section (c) of MFDA By-Law No. 1.

## **VI. TERMS OF SETTLEMENT**

31. The Respondent agrees to the following terms of settlement:

(a) The Respondent will attend in person, on the date set for the Settlement Hearing;

(b) 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;

(c) 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.

(d) 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

(e) In the event that the Respondent fails to make a payment as per subparagraphs (c) or (d), 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.

## **VII. STAFF COMMITMENT**

32. If this Settlement Agreement is accepted by the Hearing Panel, Staff will not initiate any proceeding under the By-laws of the MFDA against the Respondent in respect of the facts set out in Part IV and the contraventions described in Part VI of this Settlement Agreement, subject to the provisions of Part X below. Nothing in this Settlement Agreement precludes Staff from investigating or initiating proceedings in respect of any facts and contraventions that are not set out in Parts IV and VI of this

Settlement Agreement or in respect of conduct that occurred outside the specified date ranges of the facts and contraventions set out in Parts IV and VI, whether known or unknown at the time of settlement. Furthermore, nothing in this Settlement Agreement shall relieve the Respondent from fulfilling any continuing regulatory obligations.

### **VIII. PROCEDURE FOR APPROVAL OF SETTLEMENT**

33. Acceptance of this Settlement Agreement shall be sought at a hearing of the Central Regional Council of the MFDA on a date agreed to by counsel for Staff and the Respondent.

34. Staff and the Respondent may refer to any part, or all, of the Settlement Agreement at the settlement hearing. Staff and the Respondent also agree that if this Settlement Agreement is accepted by the Hearing Panel, it will constitute the entirety of the evidence to be submitted respecting the Respondent in this matter, and the Respondent agrees to waive its his rights to a full hearing, a review hearing before the Board of Directors of the MFDA or any securities commission with jurisdiction in the matter under its enabling legislation, or a judicial review or appeal of the matter before any court of competent jurisdiction.

35. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, then the Respondent shall be deemed to have been penalized by the Hearing Panel pursuant to s. 24.1.2 of By-law No. 1 for the purpose of giving notice to the public thereof in accordance with s. 24.5 of By-law No. 1.

36. Staff and the Respondent agree that if this Settlement Agreement is accepted by the Hearing Panel, neither Staff nor the Respondent will make any public statement inconsistent with this Settlement Agreement. Nothing in this section is intended to restrict the Respondent from making full answer and defence to any civil or other proceedings against him.



## **IX. FAILURE TO HONOUR SETTLEMENT AGREEMENT**

37. If this Settlement Agreement is accepted by the Hearing Panel and, at any subsequent time, the Respondent fails to honour any of the Terms of Settlement set out herein, Staff reserves the right to bring proceedings under the By-laws of the MFDA against the Respondent based on, but not limited to, the facts set out in Part IV of the Settlement Agreement, as well as the breach of the Settlement Agreement. If such additional enforcement action is taken, the Respondent agrees that the proceeding(s) may be heard and determined by a hearing panel comprised of all or some of the same members of the hearing panel that accepted the Settlement Agreement, if available.

## **X. NON-ACCEPTANCE OF SETTLEMENT AGREEMENT**

38. If, for any reason whatsoever, this Settlement Agreement is not accepted by the Hearing Panel or an Order in the form attached as Schedule "A" is not made by the Hearing Panel, each of Staff and the Respondent will be entitled to any available proceedings, remedies and challenges, including proceeding to a disciplinary hearing pursuant to sections 20 and 24 of By-law No. 1, unaffected by this Settlement Agreement or the settlement negotiations.

39. Whether or not this Settlement Agreement is accepted by the Hearing Panel, the Respondent agrees that it he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any allegation against the MFDA of lack of jurisdiction, bias, appearance of bias, unfairness, or any other remedy or challenge that may otherwise be available.

## **XI. DISCLOSURE OF AGREEMENT**

40. The terms of this Settlement Agreement will be treated as confidential by the parties hereto until accepted by the Hearing Panel, and forever if, for any reason

whatsoever, this Settlement Agreement is not accepted by the Hearing Panel, except with the written consent of both the Respondent and Staff or as may be required by law.

41. Any obligations of confidentiality shall terminate upon acceptance of this Settlement Agreement by the Hearing Panel.

## **XII. EXECUTION OF SETTLEMENT AGREEMENT**

42. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement.

43. A facsimile copy of any signature shall be effective as an original signature.

Dated: January 21, 2011

“Lisa Pagliaroli”

Witness - Signature

“Calogero Arcuri”

Calogero (Charlie) Arcuri

Lisa Pagliaroli

Witness - Print name

“Shaun Devlin”

Shaun Devlin  
Vice-President, Enforcement  
Mutual Fund Dealers Association of Canada



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**ORDER**

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**WHEREAS** on February 5, 2008 & October 23, 2009, the Mutual Fund Dealers Association of Canada (the "MFDA") issued a Notice of Settlement Hearing pursuant to section 24.4 of By-law No. 1 in respect of Calogero ("Charlie") Arcuri (the "Respondent");

**AND WHEREAS** the Respondent entered into a settlement agreement with Staff of the MFDA, dated January 24, 2011 (the "Settlement Agreement"), in which the Respondent agreed to a proposed settlement of matters for which the Respondent could be disciplined pursuant to ss. 20 and 24.1 of By-law No. 1;

**AND WHEREAS** the Hearing Panel is of the opinion that the Respondent failed to deal with clients, honestly and in good faith and engaged in conduct which was unbecoming and detrimental to the public interest contrary to MFDA Rules 2.1.1(a) and (c) respectively; and that the Respondent has also failed to attend to give information as requested by the MFDA, contrary to Section 22.1 section (c) of MFDA By-Law No. 1.

**IT IS HEREBY ORDERED THAT** the Settlement Agreement is accepted, as a consequence of which:

1. If at any time a non-party to this proceeding requests production of or access to exhibits in this proceeding that contain intimate financial or personal information, then the MFDA Corporate Secretary shall not provide copies of or access to the requested exhibits 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*;

2. 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;

3. 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.

4. 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

5. In the event that the Respondent fails to make a payment as per subparagraphs (c) or (d), 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 for the violation of Section 22.1(c) of MFDA By-Law No. 1.

**DATED** this     day of January, 2011.

Per: \_\_\_\_\_  
The Hon. Peter Cory, Q.C., Chair

Per: \_\_\_\_\_  
Ms. Jeanne Beverly, Industry Representative

Doc 240661