

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

In the matter of:

**The Dealer Member Rules of the
Investment Industry Regulatory Organization of Canada**

and

Paul Christopher Darrigo

NOTICE OF HEARING

TAKE NOTICE that pursuant to Part 10 of Dealer Member Rule 20 and Section 1.9 of Schedule C.1 to Transition Rule No.1 of the Investment Industry Regulatory Organization of Canada (“IIROC”), a set date hearing will be held before a hearing panel of IIROC (“Hearing Panel”) on Wednesday, October 31, 2012 at IIROC British Columbia Room, 121 King Street West, 20th Floor, Toronto, Ontario at 10am, or as soon thereafter as the hearing can be heard.

TAKE FURTHER NOTICE that pursuant to Rule 6.2 of IIROC’s Dealer Member Rules of Practice and Procedure (“Rules of Practice and Procedure”), that the hearing shall be designated on the:

The Standard Track

The Complex Track

THE PURPOSE OF THE HEARING is to determine whether Paul Christopher Darrigo (“Darrigo” or the “Respondent”) has committed the following contraventions that are alleged by the staff of IIROC (“Staff”):

1. Between October 2009 and January 2011, Darrigo acted against his clients’ interest by effecting mutual fund transactions that triggered unnecessary deferred sales charges to his clients and undue commissions to himself, contrary to IIROC Dealer Member 1300.1(o).
2. Between October and December 2010, Darrigo engaged in inappropriate personal financial dealings with two clients by borrowing from them, contrary to IIROC Dealer Member Rule 29.1.
3. On or about November 7, 2011, Darrigo failed to attend and give information in respect of an investigation being conducted by Staff, contrary to IIROC Dealer Member Rule 19.5.

PARTICULARS

TAKE FURTHER NOTICE that the following is a summary of the facts alleged and to be relied upon by Staff at the hearing:

Overview

1. Over a period of fifteen months, Darrigo solicited buys and sells of mutual funds on a deferred sale charge (DSC) basis to the detriment of his clients, some of whom were elderly clients who relied on Darrigo for investment recommendations. Darrigo received significant commissions from the buy transactions while causing the clients to incur significant DSCs as a result of the corresponding sales transactions, in some cases up to 6% of the sales proceeds. By repeatedly selling mutual funds and then purchasing similar funds, Darrigo generated undue commissions by subjecting his clients to unnecessary redemption fees and caused the penalty period on the new fund purchases to re-set. Darrigo also engaged in inappropriate personal financial dealing with two of the elderly clients by borrowing funds from them without the knowledge or approval of his firm.
2. Mutual fund units purchased on a DSC basis are generally subject to a declining scale of redemption fees. Mutual funds purchased on a DSC basis are generally considered to be a long-term investment vehicle. Consequently, the quick turnovers of mutual funds purchased on a DSC basis facilitated by Darrigo were not in the clients' best interest.

Darrigo's Registration History

3. Darrigo first became a registered representative in 1991. His registration history is as follow:

Name of Business or Employment	From	To
Hampton Securities	2011/04	2011/08
HSBC Securities (Canada) Inc.	2009/06	2011/01
TD Waterhouse Canada Inc.	2005/06	2009/06
Scotia Capital Inc.	2001/03	2005/06
Merrill Lynch Canada Inc.	1997/11	2001/03
BMO Nesbitt Burns Inc. (and its predecessor firms)	1991/09	1997/11

4. On June 1, 2008, Darrigo became a regulated person of IIROC.
5. Following an internal investigation by HSBC Securities (Canada) Inc. (HSBC), Darrigo's employment with HSBC was terminated with cause on January 26, 2011 for engaging personal financial dealings with clients without HSBC's knowledge or approval.
6. Darrigo ceased to be a registrant of IIROC following his departure from Hampton Securities in August 2011.

Client C

7. Client C is a retired medical doctor in his eighties. He was a long-time client of Darrigo, investing with him prior to Darrigo's employment at HSBC. C paid little attention to his investment accounts and relied on Darrigo for investment recommendations. He almost always accepted the recommendations of Darrigo with little question or input.
8. In August 2009, C transferred his investment accounts from TD Waterhouse to HSBC with holdings having a market value of approximately \$215,000. At that time, 80% of C's holdings were in mutual funds.
9. Throughout 2010, Darrigo solicited purchases and sales of mutual funds, some of which have similar mandates, in C's accounts. Some of the newly purchased mutual funds were held for less than a year. The proceeds from the sale transactions totaled approximately \$175,000, which amounts to approximately 80% of the market value of C's accounts at beginning of the relevant period. These sales transactions triggered over \$7,000 in DSCs. C was not aware that DSCs were incurred by these transactions.
10. In or around December 2010, Darrigo approached C to borrow funds, and C loaned him \$15,000. This loan was made without the knowledge or approval of HSBC. To fund this loan, C authorized Darrigo to liquidate part of his holdings, which triggered \$588 of DSC. C however was not made aware which fund was liquidated, and was not aware of the DSC at the time.
11. Subsequent to Darrigo's departure from HSBC, HSBC repaid C the principal of the loan. C was not reimbursed for the DSC incurred.

Client Mr. & Mrs. W

12. Mr. & Mrs. W are a retired couple in their late sixties. They became Darrigo's clients prior to his employment at HSBC, and relied on Darrigo for investment recommendations. They opened four accounts with Darrigo at HSBC and transferred approximately \$1.6 million worth of investments into their accounts.
13. Between October 2009 and December 2010, Darrigo solicited purchases and sales of mutual funds, some of which have similar mandates, in the Ws' accounts. Some of the newly purchased mutual funds were held for less than a year. The proceeds from the sales transactions totaled approximately \$1,300,000, which amounted to over 80% of the market value of the Ws' accounts at the beginning of the relevant period. These sales transactions triggered over \$54,000 in DSCs. The Ws were not aware that DSCs were incurred by these transactions.
14. In or around October 2010, Darrigo approached Mr. W to borrow funds, and Mr. W loaned him \$30,000. This loan was made without the knowledge or approval of HSBC. Darrigo approached the Ws again in December, 2010 for another loan of \$10,000, and the Ws declined.
15. HSBC discovered the loan when Darrigo's branch manager contacted Mr. W regarding another matter, and launched an investigation into Darrigo's conduct. Subsequent to

Darrigo's departure from HSBC, HSBC repaid the Ws the principal of the loan. The Ws were not reimbursed the DSC incurred.

Client D

16. Client D is a retiree in his mid-sixties. He continues to work part time since his retirement to supplement his modest income. He commenced investing with Darrigo when Darrigo was employed by TD Waterhouse Canada Inc. D has limited knowledge about investing and relied on Darrigo for investment decisions.
17. In or around June 2009, Darrigo opened accounts for D at HSBC and transferred D's holding, worth approximately \$330,000 at the time, from TD Waterhouse Canada Inc.
18. Between October 2009 and January 2011, Darrigo solicited purchases and sales of mutual funds, some of which have similar mandates, in D's accounts. Some of the newly purchased mutual funds were held for less than a year. The proceeds from the sale transactions totaled approximately \$380,000, which amounts to more than the full market value of D's account at the beginning of the relevant period. These sales transactions triggered over \$17,000 in DSCs. D was not aware that DSCs were incurred by these transactions.

DSC Incurred by Other Clients

19. In addition to the clients noted above, between October 2009 and December 2010, Darrigo solicited purchases and sales of mutual funds of a similar mandate in the accounts of at least seven other clients. The sale transactions triggered significant DSCs, amounting up to 6% of the transaction proceeds. Some of the newly purchased mutual funds were held for less than a year. Many of these clients were not aware that DSCs were incurred in their accounts. By selling the DSC-based mutual funds and then purchasing similar funds, Darrigo subjected his clients, including the clients referred to in previous sections, to unnecessary redemption fees and caused the penalty period of these mutual funds holding to re-set.
20. However, while unprofitable for his clients, these mutual fund transactions were of substantial benefit to Darrigo as a result of the commissions received from the mutual fund companies for the purchase transactions. In soliciting early redemption and repurchasing of mutual funds, Darrigo engaged in a trading strategy that put his own interests ahead of the interests of his clients.
21. As a result of purchases made in the accounts of the aforementioned client that were not in the best interest of clients, Darrigo received over \$60,000 in commissions during the relevant period.

Failure to Cooperate

22. In March, 2011, upon Staff's request, Darrigo attended an interview with Staff and

provided a statement regarding his dealings with Mr. & Mrs. W and with C. During that interview, Darrigo acknowledged that he borrowed funds from these clients without HSBC's knowledge.

23. In July 2011, Staff contacted Darrigo to request an additional interview with him. Between July and October 2011, Staff made numerous attempts to schedule an interview at a mutually agreeable time to Staff and Darrigo.
24. By a letter dated October 24, 2011 and couriered to Darrigo, Staff advised Darrigo that he was being compelled to attend for an interview and provide information to Staff pursuant to IIROC Dealer Member Rule 19.5. The letter directed Darrigo to attend the Toronto office of IIROC at 10:00 am on November 7, 2011. The Compel Letter was successfully delivered on October 25, 2011.
25. Darrigo did not attend the scheduled interview as directed by Staff, did not contact Staff to reschedule the interview, nor did he provide any explanation for his failure to attend the scheduled interview. Staff attempted to contact Darrigo by telephone in the ensuing weeks without success.
26. Approximately seven months later, in June 2012, Darrigo contacted Staff indicating his willingness to cooperate with Staff's investigation. On July 26, 2012, Darrigo attended an interview as requested by Staff.

GENERAL PROCEDURAL MATTERS

TAKE FURTHER NOTICE that the hearing and related proceedings shall be subject to the Rules of Practice and Procedure.

TAKE FURTHER NOTICE that pursuant to Rule 13.1 of the Rules of Practice and Procedure, the Respondent is entitled to attend and be heard, be represented by counsel or an agent, call, examine and cross-examine witnesses, and make submissions to the Hearing Panel at the hearing.

RESPONSE TO NOTICE OF HEARING

TAKE FURTHER NOTICE that the Respondent must serve upon the Staff of IIROC a Response to the Notice of Hearing in accordance with Rule 7 of the Rules of Practice and Procedure within twenty (20) days (for a Standard Track disciplinary proceeding) or within thirty (30) days (for a Complex Track disciplinary proceeding) from the effective date of service of the Notice of Hearing.

FAILURE TO RESPOND OR ATTEND HEARING

TAKE FURTHER NOTICE that if the Respondent fails to serve a Response or attend the

hearing, the Hearing Panel may, pursuant to Rules 7.2 and 13.5 of the Rules of Practice and Procedure:

- (a) proceed with the hearing as set out in the Notice of Hearing, without further notice to the Respondent;
- (b) accept as proven the facts and contraventions alleged by Staff in the Notice of Hearing; and
- (c) order penalties and costs against the Respondent pursuant to Dealer Member Rules 20.33, 20.34 and 20.49.

PENALTIES & COSTS

TAKE FURTHER NOTICE that if the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by Staff in the Notice of Hearing, the Hearing Panel may, pursuant to Dealer Member Rules 20.33 and 20.34, impose any one or more of the following penalties:

Where the Respondent is/was an Approved Person:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$1,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.
- (c) suspension of approval for any period of time and upon any conditions or terms;
- (d) terms and conditions of continued approval;
- (e) prohibition of approval in any capacity for any period of time;
- (f) termination of the rights and privileges of approval;
- (g) revocation of approval;
- (h) a permanent bar from approval with the IIROC; or
- (i) any other fit remedy or penalty.

Where the Respondent is/was a Dealer Member:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by the Dealer Member by reason of the contravention;
- (c) suspension of the rights and privileges of the Dealer Member (and such suspension may include a direction to the Dealer Member to cease dealing with the public) for any period of time and upon any conditions or terms;
- (d) terms and conditions of continued Membership;
- (e) termination of the rights and privileges of Membership;
- (f) expulsion of the Dealer Member from membership in the IIROC; or
- (g) any other fit remedy or penalty.

TAKE FURTHER NOTICE that if the Hearing Panel concludes that the Respondent did commit any or all of the contraventions alleged by the Staff in the Notice of Hearing, the Hearing Panel may pursuant to Dealer Member Rule 20.49 assess and order any investigation and prosecution costs determined to be appropriate and reasonable in the circumstances.

DATED at the City of Toronto, this 18th day of September, 2012.

JEFFREY KEHOE
VICE-PRESIDENT, ENFORCEMENT
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
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