



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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## IN THE MATTER OF AURELIO MARRONE

### STATEMENT OF ALLEGATIONS (Subsection 127(1) and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

#### A) OVERVIEW

1. This proceeding involves an egregious and wilful failure by a registered individual to act in good faith when dealing with a vulnerable investor. The registrant demonstrated flagrant disregard for ethical standards and regulatory rules designed to protect clients.
2. Aurelio Marrone was a dealing representative at a mutual fund dealer when he was named the sole beneficiary of his elderly and terminally ill client's estate just 10 days before she died from cancer. Marrone also accepted appointments as the client's powers of attorney for personal care and property. The will and powers of attorney were executed at the client's bedside in a palliative care unit in hospital.
3. The client's estate was valued at more than \$2 million at the time of her death, including approximately \$1.7 million in investments that were managed by Marrone, who has not renounced the gift.
4. Dealing representatives of registered mutual fund dealers are subject to rules and standards imposed upon them by securities legislation, regulators and their sponsoring firms. They must avoid serious conflicts of interest with clients that cannot be reasonably addressed through other means and they are prohibited from assuming control of the financial affairs of clients where such conflicts exist.

5. Dealing representatives also serve an important gatekeeper role in protecting the integrity of the capital markets. They must not engage in any conduct that brings the market into disrepute and they are required by law to deal fairly, honestly and in good faith with their clients.
6. By accepting his client's powers of attorney, Marrone placed himself in a situation where he stood to have total control over decisions related to her care and finances while knowing he was the beneficiary of her will. Such authority over the affairs of a client gives rise to a serious conflict of interest with the potential of abuse for personal financial gain.
7. Those who defy client protection requirements in the manner perpetrated by Marrone must be permanently disqualified from participating in Ontario's capital markets.

## **B) FACTS**

Staff of the Enforcement Branch of the Commission (**Staff**) make the following allegations of fact:

### ***The Respondent's Advisor-Client Relationship with MU***

8. Marrone (the **Respondent**) and his client (**MU**) were both Ontario residents. The Respondent was MU's dealing representative at IPC Investment Corporation (**IPC**) for approximately 13 years prior to her death in May of 2017.

### ***MU's Terminal Cancer Diagnosis and Declining Health***

9. MU was diagnosed with terminal cancer in or around February of 2017. MU was admitted to hospital on May 1, 2017 and subsequently transferred to a palliative care unit where she remained until she passed away approximately three weeks later. The Respondent was aware that MU was dying prior to her hospitalization.

### ***Sequence of Events Leading to the Creation and Execution of MU's Will and Powers of Attorney***

10. The Respondent contacted an estate lawyer (the **Lawyer**) in April of 2017. The Respondent and the Lawyer discussed a meeting between MU and the Lawyer for the purpose of preparing a will and powers of attorney for property and personal care (the **Estate Documents**) for MU. The Lawyer and MU subsequently spoke on the phone and agreed on a date to meet.

11. After meeting MU on April 30, 2017, the Lawyer had concerns about MU's capacity to prepare a will. The Respondent was aware of the Lawyer's concerns. He obtained a letter written by MU's oncologist the following day. The letter was dated May 1, 2017 and addressed "to whom it may concern". The letter stated:

*"[MU] is a patient... who has been diagnosed with metastatic cancer, with a prognosis of 3 months or less.*

*I met with her on April 13, 2017 and found her to be lucid and capable of making decisions regarding her care.*

*I trust this is the information you require."*

12. The Respondent provided the Lawyer with a copy of the letter the same day the Respondent obtained it. After receiving the doctor's letter, the Lawyer proceeded with the preparation of MU's Estate Documents.
13. On May 9, 2017, MU executed the Estate Documents in hospital. The Respondent was named sole beneficiary of MU's will as well as her powers of attorney for personal care and property. The Lawyer was appointed estate executor and trustee. The Respondent agreed to be named MU's powers of attorney immediately before the documents were executed.
14. MU died on May 19, 2017. Her estate was valued at more than \$2 million at the time of her death, including approximately \$1.7 million in investments that were managed by the Respondent and a condominium.

#### ***The Respondent's Failure to Comply with Dealer Policies and Regulatory Rules***

15. IPC policies and procedures and Mutual Fund Dealer Association of Canada (**MFDA**) rules specifically prohibited the Respondent from accepting power of attorney designations on behalf of clients such as MU and required him to disclose to IPC any conflict or potential conflict of interest with a client.

16. By May 9, 2017, the Respondent was aware that he had been appointed as MU's power of attorney for property and personal care. He further knew that he had been named a beneficiary of MU's estate. The Respondent did not disclose these facts to IPC, including the fact that he could reasonably be perceived to be in a serious conflict of interest position with MU. He has not renounced the assets left to him in MU's will.
17. The Respondent was terminated from IPC in January of 2018 after the firm became aware of his conduct in this matter.
18. After MU's death, additional wills that MU had executed were found in her home. The most recent of those wills, dated August 15, 2012, named the Respondent as executor of MU's estate and her nieces, who reside outside of Canada, as her beneficiaries.

**C) BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

Enforcement Staff alleges the following breaches of Ontario securities law and/or conduct contrary to the public interest:

19. By engaging in the conduct described above, the Respondent failed to deal fairly, honestly and in good faith with a client contrary to subsection 2.1(2) of Commission Rule 31-505.
20. The Respondent's conduct was also contrary to MFDA rules, IPC policies and procedures and the public interest.
21. Enforcement Staff reserve the right to amend these allegations to make such further and other allegations as Enforcement Staff may advise and the Commission may permit.

**D) ORDER SOUGHT**

22. Enforcement Staff request that the Commission make the following orders:

- a) that any registration or recognition granted to the Respondent under Ontario securities law be terminated or for such period as is specified by the Commission, or that terms and conditions be imposed on the registration or recognition by the Commission, pursuant to paragraph 1 of subsection 127(1) of the Act;
- b) that the Respondent cease trading in any securities or derivatives permanently or for such period as is specified by the Commission, pursuant to paragraph 2 of subsection 127(1) of the Act;
- c) that the Respondent be prohibited from acquiring any securities permanently or for such period as is specified by the Commission, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
- d) that any exemption contained in Ontario securities law not apply to the Respondent permanently or for such period as is specified by the Commission, pursuant to paragraph 3 of subsection 127(1) of the Act;
- e) that the Respondent be reprimanded pursuant to paragraph 6 of subsection 127(1) of the Act;
- f) that the Respondent resign any positions he may hold as a director or officer of any issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- g) that the Respondent be prohibited from becoming or acting as a director or officer of any issuer, or registrant permanently or for such period as is specified by the Commission, pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act;
- h) that the Respondent be prohibited from becoming or acting as a registrant, an investment fund manager or a promoter permanently or for such period as is specified by the Commission, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- i) that the Respondent pay an administrative penalty of not more than \$1 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of subsection 127(1) of the Act;
- j) that the Respondent disgorge to the Commission any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of subsection 127(1) of the Act;
- k) that the Respondent pay costs of the Commission investigation and the hearing, pursuant to section 127.1 of the Act; and

l) such other order as the Commission may consider appropriate in the public interest.

**DATED** this 25<sup>th</sup> day of May, 2020

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