



**SIPA's mission: To aid public awareness of how the investment industry operates, to provide guidance to members with an investment complaint, and to pursue improved investment industry regulation and enforcement.**

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**Small Investor Protection Association - A voice for small investors**

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## SIPA SENTINEL

The SIPA Sentinel is issued bi-monthly. From time to time articles and re-prints are included that offer opinions on subjects related to investment and regulation. These are meant to help increase investor awareness, and SIPA may not share these opinions.

### **Earl Jones victims can sue Royal Bank**

*CBC News - July 14, 2010*



Quebec Superior Court Justice Robert Mongeon granted permission Wednesday for the \$40-million action, launched earlier this year against RBC, where Jones conducted most of his business. The former Montreal financial adviser fell from grace when his Ponzi scheme was revealed last summer. Appearing at the Montreal courthouse, lawyers for the Royal Bank said they would not challenge a motion filed by the victims' group seeking authorization to sue.

*Lawyer Neil Stein, who represents Jones's victims, said the bank's decision not to challenge*

*the motion bodes well for victims. "It shows they're at least going to collaborate in some fashion, and hopefully we'll be able to resolve the matter at a point in time."*

*RBC says it was also a victim in the scam.*

*"We were deceived by Earl Jones just as his clients were," said bank spokeswoman Gillian McArdle. "Until 2009, there was nothing to signal that Mr. Jones was anything but a legitimate and a successful businessman."*

*Jones is currently serving 11 years in jail for fraud after he bilked his former clients out of an estimated \$50 million over a decade.*

*The class-action suit alleges the Royal Bank's Beaconsfield branch in Montreal's West Island was aware that Jones was exploiting his personal account for his financial dealings, which included depositing cheques with double endorsements and forged signatures.*

*According to legal documents filed with the lawsuit, Jones enjoyed a privileged status at the bank because of his reputation in the community.*

*The suit's petitioner is Virginia Nelles, whose brother and mother lost almost \$1 million after investing it with Jones.*

*Several victims lost their life savings and have never reclaimed any of their money. Six victims have lost their homes and 11 more face possible eviction when their mortgage relief runs out in August.*



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### NEW BOOK TO HELP CANADIAN INVESTORS

**"Swindlers"** - Authors: Al and Mark Rosen

Available: mid-October 2010 - Estimated Price: \$34.95

*This book was written for seniors and investors to explain how they can avoid the trickery that has swindled Canadians over the past decade or more. The weaknesses of Canada's investor rights system are exposed along with how the swindlers have been able to operate. Many items of advice are provided for those situations that should be treated with high suspicion. Warning signs are described.*

*Al and Mark Rosen are forensic accountants who have investigated an extensive number of Canadian situations that have proceeded into court, such as Confederation Life, Standard Trust, Castor Holdings, Crocus Investment Fund, Hercules Managements, Victoria Mortgage, Northland Bank and dozens more across the country. The Rosens explain the patterns that exist in various types of alleged fraud cases and how warning signs are not being detected or are being ignored by securities commissions and auditors.*

*In essence, the authors expect the situation in Canada to become much worse when "new" international financial reporting standards (IFRS) appear in Canada commencing in January 2011. The proposed national securities commission is not likely to deal much with investor swindles, for various reasons set forth in the book.*

*Canada's investor protections have virtually, or totally, broken down, especially in the past 15 years. Lawmakers are ignoring concerns, leaving investors with the need to learn how to protect themselves.*

*The U.S. set up its Securities and Exchange Commission over 75 years ago, to provide an investor voice. Canada does not have an equivalent, but has proposals that will make matters worse. Investors' concerns are not being heard in Canada.*

### INVESTOR AWARENESS – MANAGING DEBT & LEVERAGE

Many small investors are not aware of the increased risks of leveraged investments (borrowing to invest) or the importance of debt management. Most investors who suffered major loss had leveraged investments. Jonathan Chevreau at the Financial Post wrote a great article earlier this year. SIPA is concerned that small investors are often encouraged to borrow to invest. This is not a good strategy for the average investor. Jonathan also published a book *"Findependence Day"*. The book *"emphasizes paying off credit card debt ahead of retirement savings and says a paid-for home is the foundation of financial independence."* This is advice everyone should heed as well as avoiding leveraged investing. Some excerpts from the Post article follow:

#### ***Time to reset priorities***

*Jonathan Chevreau, Financial Post · Saturday, Aug. 21, 2010*

*Whether old or young, becoming debt-free should be a bigger priority than retirement savings. Fortunately, the behaviours required to get out of debt -- frugality, the ability to plan and defer instant gratification -- are similar to those needed to build wealth. A cynic might argue advisors*



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*focus on building wealth over reducing debt because it's difficult to get paid for counselling the latter. In fact, it's not unusual for aggressive advisors to go the other route, recommending leverage such as borrowing against homes to buy stocks or equity funds. Increasing indebtedness may or may not benefit clients, depending on markets, but it will speed the retirement of the leverage-peddling salesperson.*

...  
*Two years ago, I gave a copy of my book *Findependence Day* to a couple who read it and said they enjoyed it. The book emphasizes paying off credit card debt ahead of retirement savings and says a paid-for home is the foundation of financial independence. But this was all water off a duck's back for them. Today, this couple appears to be on the brink of joining other 60-plus seniors in the bankruptcy stats.*

...  
*Mr. Hallett argues successful management of debt and cash flow is more about discipline than knowledge. "This is about common sense and having the will to spend more efficiently." Merely boosting knowledge through more books, TV shows and websites devoted to financial literacy won't get the job done. I've concluded big-spending non-savers can't modify their behaviour without external help.*

*This is why, warts and all, I agree with IFIC that the right financial advisor has great value, particularly in the wake of the financial crisis. I don't necessarily agree investors need advisors who receive lucrative embedded compensation through high-fee mutual funds. But I do believe fee-only advisors can add value even to self-directed investors with online discount brokerages. If nothing else, you can be sure they'll remind you that no equity fund or ETF can match the after-tax return of paying off high-interest consumer debt.*

*[jchevreau@nationalpost.com](mailto:jchevreau@nationalpost.com)*

## World MoneyShow Toronto 2010, October 20-22

Don't miss out on **The World MoneyShow Toronto 2010, October 20-22**, at the **Metro Toronto Convention Centre**, where you will discover an unprecedented opportunity to learn what is working (and what's not) in today's tumultuous investing and trading marketplace. Your no-cost three-day pass will provide you with unlimited access to an exciting array of topics and world-class insights to fit your every investing and trading needs. [Register FREE online](#) or call 800/970-4355 and mention priority code **020006!**

Redirect link:

<http://www.moneyshow.com/toms/main.asp?score=020006>

## Investors Group Mutual Funds

If you buy Investors Groups mutual funds, you can check on their performance by visiting the Investors Group website at [www.investorsgroup.com](http://www.investorsgroup.com). In the top menu click on "products and services". Then in the left margin under "Products and Services" click on "Investments."

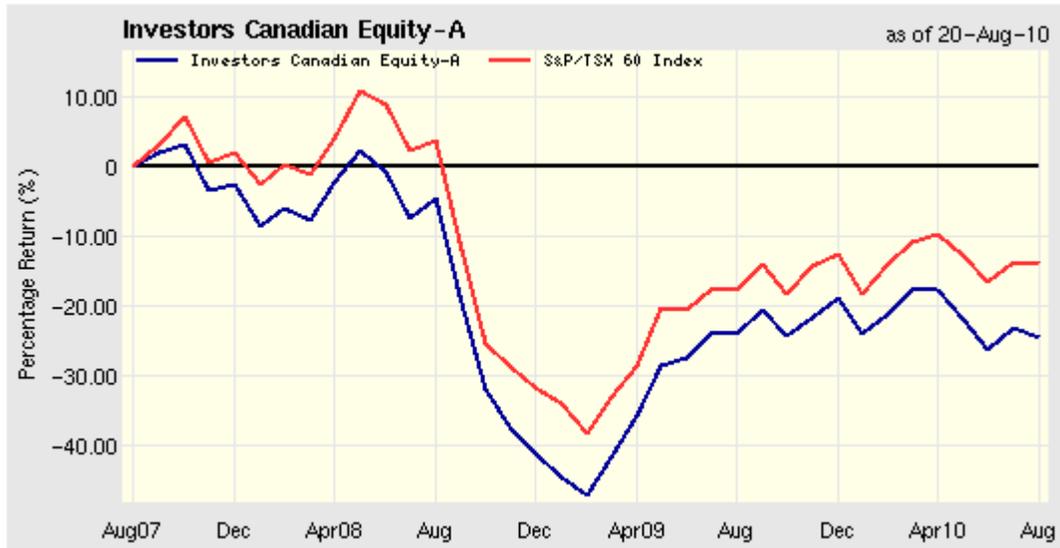
Under Products and Services select your fund and click on specific fund, a "pop-up window" will indicate you are going to GlobeFund. There you will find a good outline of the fund. You can also click on charting and compare the fund to a benchmark. We checked out the Investors Canadian Equity A and compared it to the S&P/TSX 60 index, which we use as a benchmark for equity



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funds because an ETF (XIU-T) which closely tracks the stock market index is readily available to DIY investors. This is what we found:

### Investors Canadian Equity-A as of Aug 20, 2010



It seems the TSX has performed better than the Canadian Equity Fund and generally tracks the index. The results would be similar for most Canadian Equity Fund because management fees and commissions come off the top leaving less for the investor.

### LIMITATION PERIODS & OBSI

Limitation periods are one of the most important issues impacting investors with a dispute. In most provinces the limitation period has been reduced from six years to two years. In our opinion that is not enough time for victims of a life-altering event such as losing one's life savings to deal with the issue and start civil litigation.

Since limitation periods were reduced SIPA does not recommend the Ombudsman for Banking Services and Investments (OBSI) because of their prerequisite that victims must first attempt to resolve their dispute with the firm that perpetrated the wrongdoing. The investment industry has a history of employing tactics to delay the process and this could erode the limitation period so that the victim ends up statute barred from taking civil action. Now OBSI has developed a tolling agreement which will "stop the clock" when a complaint is received by OBSI. The new agreement is re-produced in its entirety:

*CONFIDENTIAL & WITHOUT PREJUDICE*

*Dear (Client Name(s)):*

*Thank you for your letter dated (date) about your complaint against [firm name]. Further to our conversation on (date), this letter explains the role of the Ombudsman for Banking Services and Investments (OBSI) and the terms of our review of your file. We also need to obtain your consent*



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for the release of your personal information from [firm name] by having you sign and return this letter. Our review cannot start until we receive your signed consent.

OBSI is an independent dispute resolution service. As an alternative to the court system, we provide impartial and prompt resolution of complaints. We work informally and confidentially. Our service is free to consumers. Enclosed please find a brochure on our service.

We will review your complaint in accordance with our Terms of Reference. More information about us, including our Terms of Reference and Privacy Policy, is available on our website at [www.obsi.ca](http://www.obsi.ca).

To review your complaint, OBSI needs access to your files at [firm name] and to employees or agents who were involved in providing the advice, product(s) or service(s) related to your complaint. These files may contain personal and financial information about you and others such as your spouse or a guarantor. [firm name] must respect the privacy rights of anyone whose personal information appears in your files. By signing this letter below, you and any others listed give your consent to [firm name] to provide us with information to review your file.

We may discuss your complaint with [firm name] and we may exchange information and documents between you and [firm name]. We also may need to provide information or documents to advisors outside of OBSI who we consult about your complaint.

Once our review is complete, we will share our conclusions with both you and [firm name]. If we conclude that you have suffered a loss because of a mistake, inappropriate advice or other maladministration by [firm name], we will recommend a resolution of the complaint that we believe is fair in the circumstances. Both you and [firm name] may accept or reject our recommendation.

By participating in our process, you are not giving up your right to take legal action against [firm name]. If you have already initiated legal action, you must agree not to proceed with the action until after we have completed our review of your complaint. If you are considering legal action, you should be aware that there is a time limit for you to start your lawsuit. This time limit is known as a limitation period and varies among the provinces and territories.

One way to suspend the limitation period (in other words, to stop the limitation clock) is to have the parties to a dispute, where permitted by law, enter into what's known as a "tolling agreement". By signing this letter, you and [firm name] agree that this letter acts as a tolling agreement that suspends any applicable limitation period, if the limitation period has not already expired.

For greater certainty, the limitation period will be suspended beginning on the date [firm name] signs a copy of this letter and will end thirty [30] days after OBSI mails our final findings letter to you.

OBSI's rules require all firms that participate in our service to enter into a tolling agreement when requested, so if you sign this letter [firm name] must agree to sign as well.

Once you and [firm name] have signed this letter, we will provide each of you with a copy for your records.

OBSI cannot provide you with specific information or advice about when your limitation period may expire or whether it has already expired. If you think you might want to initiate legal action against [firm name] if we complete our investigation and you are not satisfied with the results, and you have concerns about limitation periods, we strongly recommend that you speak with a lawyer.

If you start legal action while OBSI is investigating your complaint, OBSI may still continue to investigate your complaint but only under certain conditions. If you are thinking about starting legal action while OBSI is investigating, please contact us before you do so.

The success of our process depends on both you and [firm name] dealing with OBSI in a frank and open manner. By signing this letter, you and [firm name] agree that OBSI's correspondence, files and any discussions we have during our review are confidential. You and [firm name] agree that if there are subsequent legal or other proceedings you will not use any correspondence or information from our process. Neither you nor [firm name] will try to compel OBSI to produce its files or records. Nor will you try to have the Ombudsman, any OBSI staff member or advisor give evidence or testify.



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*We are not able to give you any professional advice, legal or otherwise. If you require legal, financial or other advice, you will need to obtain it on your own.*

*For educational purposes, we may publish all or part of your case in our Annual Review, website and communications materials. To ensure confidentiality, we will remove or change information that could identify you and the firm.*

*The length of our investigations depends on many factors, including our caseload. We have a target of completing 80 percent of our files within 180 days. Some files take longer.*

*As mentioned above, we need your signed consent before we can begin to review your complaint. Once you receive this letter, please call me. I will review this letter with you and explain our process. I will then ask you to sign the Consent section below and return all three pages to our office within 14 days. If you have any questions, please do not hesitate to call me.*

*Yours truly,*

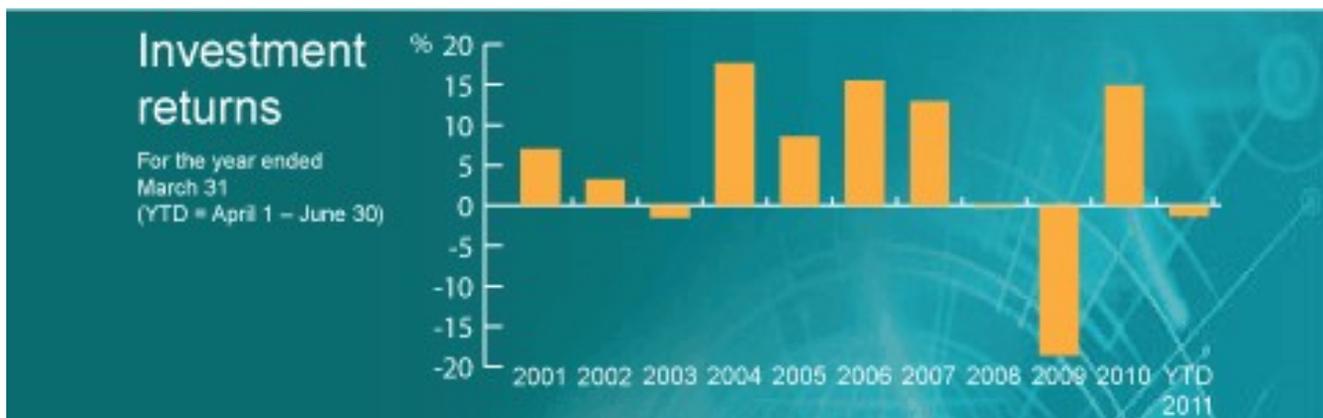
*Consumer Assistance Officer*

*Toll-free Phone: 1.888.451.4519*

## INVESTMENT RETURNS AND THE CANADA PENSION PLAN FUND

Small investors are often in the dark about investment returns. Many are sold mutual funds and saw the value of many of their funds drop in late 2008 when the stock market dropped significantly. Pension fund managers generally fare better than small investors but even they were impacted by the sudden market drop. Of course those who had a good proportion of their investments in bonds or other fixed income and less in equities or equity based investments would not have experienced such a great impact.

A graph showing the performance and the market value of the CPP Fund on a quarterly basis is reproduced below. Investments held by the CPP Fund include equities, fixed income (primarily government bonds), and inflation-sensitive assets (real estate, infrastructure and inflation-linked bonds). Whereas many small investors have a high percentage of their investments in mutual funds and these traditionally underperform the market.



*The performance and the market value of the CPP Fund s reported on a quarterly basis. Investments held by the CPP Fund include equities, fixed income (primarily government bonds), and inflation-sensitive assets (real estate, infrastructure and inflation-linked bonds).*



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You should note that the CPP Fund fiscal year runs from April 1 to March 31. This means that the 2008 drop in the stock market is reflected in the 2009 fiscal year when the fund lost almost 20%. You should compare your investment returns to those of the CPP Fund.

### **IIROC ADVISOR REPORT – ESSENTIAL HELP FOR INVESTORS**

Many Canadians have been victims of fraud carried out by non-registered persons. SIPA continues to recommend that small investors deal only with registered persons, but first find out the person's qualifications and background. Even when dealing with a registered person there is a risk of falling victim to wrongdoing but the risks are far less. Previously complete information was not readily available to the average investor, but now the Investment Industry Regulator of Canada has developed an Advisor Report that makes it easy for investors. The information is available on the internet or by telephone. The following outline is provided by David Thomas, Director Public Affairs, Investment Industry Regulator of Canada.

### **NEW ADVISOR REPORT SERVICE - .David Thomas, Director Public Affairs IIROC**

#### ***IIROC's new advisor background check service: It's high tech, but it still takes investor phone calls***

*The Investment Industry Regulatory Organization of Canada (IIROC) has recently launched an easy-to-use service that pulls together background information on all the advisors who are currently approved to work at the 200-plus firms IIROC regulates.*

*The IIROC AdvisorReport service gives investors immediate access to: information on an advisor's educational background; which functions or roles the advisor has received IIROC approval to perform; and a detailed record of the advisor's disciplinary history.*

*It's a great quick tool for any investor doing his or her due diligence on a new or existing advisor. It replaces a slower and more cumbersome two-step search. And it's important to note it has some added features that investors, especially those who don't want to use or can't access a computer, will appreciate.*

*First, it has a guide with extensive links to other regulatory sites, so if your advisor isn't regulated with IIROC you can be steered directly to search tools at the Mutual Fund Dealers Association and other regulators to check for registration status and enforcement records there. Try the IIROC AdvisorReport now if you are connected to the Internet at <http://www.iiroc.ca/English/Investors/KnowYourAdvisor/Pages/default.aspx>.*

*Second, you can skip the computer search and do your due diligence the old-fashioned way with a phone call, in either of Canada's official languages. Call 1.877.442.4322, choose your language and then push the button for option '2'. That will connect you to the line for complaints about dealers and advisors. At the other end of the line a member of IIROC's case assessment staff will explain the service, take your request and then get back to you either by phone, email, fax or mail. The IIROC AdvisorReport service is free of charge.*

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#### **SIDEBAR:**



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### **Calling IIROC: Complaints and Inquiries**

Contact IIROC at 1.877.442.4322. This recently updated bilingual service offers the four following four options:

1. General information about IIROC;
2. Information about complaints regarding an IIROC-regulated investment dealer or its registered staff, as well as help with the IIROC AdvisorReport service;
3. Complaints about marketplace matters, or inquiries about marketplace matters such as halts and resumptions; and
4. Information about the different compensation options available to clients of IIROC-regulated firms.

### **OSC INVESTOR ADVISORY PANEL NAMED**

On August 31, 2010, the Ontario Securities Commission (OSC) named the seven members, including the Chair, of its Investor Advisory Panel. Information is posted on the OSC website. An article by Barbara Shecter published in the Financial Post provides the following details:

#### **OSC names Investor Advisory Panel**

*Barbara Shecter, Financial Post · Wednesday, Sept. 1, 2010*

*The members of a new investor advisory panel created by the Ontario Securities Commission to provide input to the regulator include a lawyer, a longtime advocate for small investors, a pair of academics, a former research analyst, a pension plan executive, and a board member of a federal Crown corporation created to support First Nations economic development. Lincoln Caylor, a commercial litigator with Bennett Jones LLP, Stan Buell, founder and president of the Small Investor Protection Fund, below, and Paul Bates, dean and financial management services professor at McMaster University's DeGroot School of Business, are among the seven panel members selected by the OSC, which received 119 applications. Mr. Bates is also a former OSC commissioner and chairman of the Investor Education Fund, a non-profit organization established by the OSC. Rounding out the panel are its chairwoman, Anita Anand, an associate professor at the University of Toronto's Faculty of Law; Steven Garmaise, a former analyst and director of research at investment dealers in Canada and the United States; Michael Wissell, a senior vice-president at the Ontario Teachers' Pension Plan, and Nancy Averill, a member of the board of directors of the First Nations Statistical Institute. The panel, created in the wake of the financial meltdown and following complaints the market watchdog was not responsive enough to investor concerns, is expected to hold its first meeting this month. Members will hold two-year terms.*

### **SIPA's VIDEO CONFERENCING**

SIPA is planning to introduce video conferencing that will enable better communications amongst members. We have been exploring different systems and are using "Skype" and "Google Chat" for one on one video chats or group text chat when more than two are involved. One of the new system we are investing will enable larger groups to participate in video conferencing and this will enable more members to become active involved. In the coming months we will be working with several members in developing these systems and Steven Johnson will be available to provide help and guidance to any members interested in participating.