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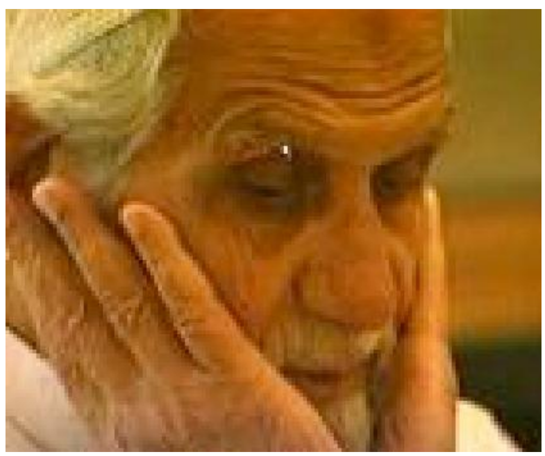
SPECIAL REPORT



Investor Protection in Canada -2009

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INTRODUCTION

Ken Kivenko, chair of SIPA's Investment Advisory Committee, prepared this timely report on Investor Protection in Canada in 2009. It's been an eventful year, and the way the events of 2009 are followed up by governments, regulators, corporations and consumer/investors will be crucial to the future financial security of all of us.

Ken's report provides an invaluable factual basis to establish where we are, and policy makers, regulators and consumer/investors would do well to read it carefully. Ken has tried to be scrupulously factual, but could not resist, on occasion, suggesting not only where we are but where we urgently need to go. You will be hearing more from SIPA about this in the coming year.

In 2004, SIPA prepared a five year report entitled "The Small Investors' Perspective of Investor Protection in Canada". The report was delivered to 25 of the top regulators and responsible government officials across Canada. Its purpose was to raise awareness and ensure that leaders were fully aware of how the regulatory regime was failing to protect consumer/investors. David Brown, then Chair of the Ontario Securities Commission said the SIPA Report led directly to his arranging the Ontario Securities Commission (OSC) Town Hall Event in 2005 that attracted approximately 500 persons.

In early 2005 SIPA made an unsolicited submission "It's a Matter of Trust" to the Senate Standing Committee on Banking Trade and Commerce that was a 20-page condensed version of the 100-page SIPA Report. This resulted in SIPA being invited to Ottawa to appear before the Senate Committee. Advised of the Town Hall Event that was to take place, the Senate Committee asked SIPA to report back, and asked David Brown to appear before the committee. The OSC failed to follow up with any more similar Town Hall Events. They did establish an Investor Advisory Committee that was disbanded two years later without any public report.

In 2008 the Government established the Expert Panel on Securities Regulation to make recommendations on securities regulation. Again SIPA made an unsolicited submission "Because They Can" to the Expert Panel and was subsequently invited to participate in roundtable discussions in Toronto. The Expert Panel's Final Report included some of SIPA's recommendations, including regulatory power to order restitution for victims of wrongdoing, and an Investor Protection Fund funded by the industry to pay for restitution.

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With the Final Report in hand, the Government established the Canadian Securities Transition Office (CSTO) chaired by Douglas Hyndman, former Chair of the British Columbia Securities Commission, to review and recommend action for the transition period. SIPA has already met with the CSTO and will continue to participate in a dialogue.

Although the regulators including the provincial Securities Administrators and Self Regulatory Organizations claim to provide investor protection and claim to be working towards harmonization, the fact that the British Columbia Securities Commission introduced an alphabetical list of disciplined persons about ten years ago to assist consumer/investors to carry out due diligence in selecting an industry labeled "Financial Advisor" (sales person) the other CSAs have not followed suit. In fact the CSAs have a national registration database that provides a search mechanism to locate individuals but Ontario does not participate and it seems not to be user friendly.

There are other indications that industry/regulators are failing to protect investors but rather are deceiving consumer/investors by creating the illusion that the investment industry is well regulated and protects investors. One notable indicator is that registered representatives had been registered by the regulators as sales representatives, yet the regulators allowed the industry to label these sales persons as "Financial Advisors", "Investment Consultants" and other titles to mislead the public. Regardless of the titles carried by these industry representatives, they should be held accountable as they are dealing with consumer/investors' financial futures and have fiduciary responsibility.

As a follow-up to the SIPA Report on investor protection six years ago, this "Investor Protection in Canada – 2009" report is essential reading to all wanting to understand the crisis of investor protection in Canada, and to do something to remedy it.

Stan Buell, P.Eng.
Founder and President

Small Investor Protection Association

INVESTOR PROTECTION IN CANADA - 2009

While equity markets improved, progress on investor protection stalled. Chairpersons of provincial securities regulators boasted about their wonderful contributions to regulation, but little real progress was achieved. Billions of dollars were lost to unsuitable investments, excessive fees and leveraging, misleading marketing, Ponzi schemes and crooked advisers and brokers. While the rest of the world is tackling fundamental issues, our regulators tinker with minor adjustments to regulations. Ottawa at least took the first steps toward a national regulator.

While the impact of deficient investor protection is financially enormous, the collateral damage is often more devastating. Besides losing their life's savings, victims of financial assault are affected in many ways:

- Adversely impacts their health and accelerated their ageing
- Eliminates their capacity to trust other people
- Destroys their sense of self- respect and their dignity
- Creates a sense of hopelessness -an abyss of shame and self-doubt
- Paves the road for many of them to near destitution.
- Causes terrible stress within families
- Causes them to have to get part-time jobs to help make up for the losses, despite their ill-health
- Destroys hope of leaving a legacy to family members
- Contributes to marital breakdown, severe emotional distress, nervous breakdowns, heart attacks, drug over-dose and even suicide.

We thank all the contributors to this Report and regret we could only cover a tiny fraction of the debacles, scams, deceptions, fiascos, pension fund collapses and injustices submitted.

2009 trend not reassuring

The following are only some of the events in 2009 impacting consumer/investors:

Early in 2009, Manulife Securities Investment Services Inc. was fined $200,000 and costs of $50,000 for its lack of disclosure related to its relationship with Portus Alternative Asset Management Inc. by the Mutual Fund Dealers Association of Canada (MFDA) The fines were related to allegations that Manulife had a referral arrangement with Portus Alternative Asset Management Inc. between 2003 and 2005, and failed to disclose to its clients a component of the compensation that it received under this arrangement. Portus went bankrupt in 2005 as a result of “misappropriation of investors’ funds,” and its co-founders have been charged with fraud. Its investors have endured emotional distress in addition to financial loss.

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The availability of MFDA IPC (Investor Protection Corp) investor protection fund coverage (up to $1 million for each of a client's aggregated general and separate accounts) depends on the form in which the securities are held. IPC coverage provides protection only to assets held in nominee or dealer name rather than client name - roughly 80% of client mutual funds assets at most fund dealers are actually held in client name, so they are not insured by IPC. This restriction is not revealed to customers at point of mutual fund sale.

Canadian consumer/investors did not go unscathed by the US$50-billion collapse of the Bernard Madoff hedge fund empire, potentially the world's largest ever fraud. Mackenzie Financial was affected; Tremont is one of the managers of the Mackenzie Alternative Strategies Fund and Monteith Illingworth, a Tremont company spokesperson, confirmed that "there was exposure in that fund." The fund's investors lost 59% in 2008.

Two labour-sponsored funds - VenGrowth I and VenGrowth II - moved to a policy of annual distributions and ceased weekly redemptions in order to preserve shareholder value. In future, investors will receive a return through an annual distribution of the proceeds from the disposition of portfolio companies, rather than through weekly redemptions. At the end of December, VenGrowth I (formed in 1995) had $45-million in assets while VenGrowth II (formed in 2000) was home to $255-million in assets. About three-quarters of the investments in both funds were in private companies. The two funds have 2% management fees that will continue to be charged to investors trapped by the redemption restrictions.

The Ontario Securities Commission (OSC) alleged Fund manager Weizhen Tang was the "operating mind" of a scheme that had promised to pay investors weekly profits of 1% through investments in stocks, options, futures and mutual funds through stock markets in the United States, China and Hong Kong. The OSC froze Tang's Oversea Chinese Fund LP. The Commission said that "on the evidence presently available it would appear that almost all of the funds have been dissipated.

The Mutual Fund Dealers Association (MFDA) terminated the membership of Farm Mutual Financial Services Inc. and fined the company more than $2.5 million for the sale of certain securities to unaccredited investors. The MFDA found that between June 2003 and April 2007, the firm approved and allowed the sale of debentures issued by FactorCorp Financial Inc. to approximately 680 clients without having conducted reasonable due diligence on the product and without having made reasonable inquiries to determine whether the product was suitable for sale to its clients. In May 2007, FactorCorp suspended redemptions, and two months later, the OSC issued a temporary Cease Trade Order. At the time, roughly $49 million of Farm Mutual clients' debentures remained outstanding and unredeemed. In March 2008, FactorCorp went into bankruptcy. The MFDA also found that Farm Mutual failed to develop guidelines or investor profiles to identify clients for whom the debentures might have been a suitable investment. Unfortunately, other than writing up reports, nothing meaningful was done about it so investors now must try to recover damages via a class action lawsuit.

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In a May, 2009 study of mutual funds in 16 countries, conducted by Chicago -based Morningstar Inc., Canada received a "C" for taxation and an "A " for transparency (in both the prospectus and reports segment), but the report criticized the Canadian mutual fund industry on fees and expenses, giving it the only "F" in this category. The Morningstar Global Fund Investor Experience report stated: "Canadian investors do not pay much attention to fees. Canadian investors are comfortable with the fees because they don't know how low these fees should actually be. Assets tend to flow into average-fee or higher-fee funds because Canadian investors use financial advisors to help them make decisions. Advisors direct client assets to funds that pay better trailers. And since the trailer is included in the Management Expense Ratio (MER), the result is that assets flow into higher-fee funds." Canadian fund MER's are among the highest in the world thus unduly restraining retirement portfolio growth.

A hearing panel of the Investment Industry Regulatory Organization of Canada (IIROC - at www.iiroc.ca), imposed penalties on Dustin Rene Lamontagne for forging client signatures. The violations occurred when he was a registered representative with the Edmonton branch of CIBC Investor Services Inc. At a disciplinary hearing held in Calgary, the panel found th at in August 2006 Lamontagne forged 13 client signatures to his client investment plans and financial advice disclosure documents. The panel also found that on Oct. 23, 2006, Lamontagne misled CIBC by providing false information in respect of client signat ure irregularities, all involving his client investment plans and financial advice disclosure documents. Adulteration of documents, including Know Your Client (KYC) happens far too often with potential adverse consequences for consumer/investors.

Former OBSI Chief David Agnew had this to say upon his departure "I think we said at the time that [the withdrawal of RBC Banking] from the federal banking ombudsman body, Ombudsman for Banking Services and Investing is a threat to the integrity of the system. I mean, everything that we're trying to do is to make sure that consumers have a single-window access to the complaints system ... and so I don't think that was helpful at all." Other self-critical comments by Agnew include:

"While we've made progress, com plaint-handling in financial services has a long way to go."... "Instead of a proper response to the client, the firm has fired off a template letter dismissing the complaint, and has done none of the proper groundwork of responding to a client." (OBSI Newsletter, April 7, 2009)

"I think we've got a lot of work to do on the culture of complaint handling and dispute resolution in financial services." (Globe & Mail, May 14,009)

The controversial Sentry Select Diversified fund restructuring proposal put fo rth by the firm was approved by Unitholders but it contained a number of features that consumer/investors should not be exposed to. The proposal passed due to the ignorance of consumer/investors about their own true interests and the lack of any meaningful OSC intervention to protect consumer/investors. This case puts the integrity of the proxy voting system into disrepute and the OSC in an inexcusable position. Consumer/investors got caught in a situation they neither wanted nor needed.

A number of commentators including Rosen Associates, Morningstar and the Canadian Foundation for Investor Rights (FAIR) have demonstrated that leveraged ETF's (Exchange Traded Funds) are toxic for most consumer/investors. Issues include insufficient disclosure of risk in offering documents. SIPA has reported cases of significant losses due to defective advice by brokers. Other than an IIROC Cautionary Notice, we didn't see much investor protection action by regulators or an explanation on how such poorly worded prospectuses reached consumer/investors. Earl Jones, the unlicensed investment manager, now known as the mini-Madoff of Montreal, was accused of running a Ponzi scheme that may have cost about 150 consumer/investors in Canada and the U.S. up to $50 million. On July 29, 2009 about 100 people attended a rally in front of the court that released Jones on $30,000 bail. Hoisting placards that read "100 victims, 100 years," they called for U.S.-style jail terms while demanding that Québec drop its opposition to the creation of a national securities regulator to replace Canada's controversial patchwork system of 13 regional authorities. Protest organizers couldn't accept that an unlicensed investment adviser - who allegedly bilked the elderly and disabled, along with relatives and lifelong friends - managed to openly conduct and advertise his services in Canada for decades. They can't believe a man accused of stealing millions was trusted to remain free while awaiting trial. And they couldn't understand the lack of co-ordination that exists between securities regulators and Canada's three levels of police. The allegations against Jones have not been proven in court. But concerns over how authorities have handled the affair speak to a deeper problem.

JovFunds Management Inc. [JOV: TSX] suspended redemptions in its Deans Knight Income and Growth Fund [DKI.un: TSX] for up to 120 days to get more time to sell debt securities to pay for potential annual payout requests. The $28-million closed-end fund is run by Vancouver-based Deans Knight Capital Management Ltd. Three closed-end funds run by Toronto-based Northwater Capital Management Inc. also face problems in returning monies to investors because they are invested in hedge funds that cannot meet their own redemption requests.

In 2008 it was disclosed in the news that the OSC Investor Advisory Committee (IAC) was defunct. It was to be a listening post for consumer/investor concerns. It ended without explanation at the end of 2007. It was publicly criticized suggesting it was nothing more than a rubber stamp for the OSC. The Report on its demise, which was promised in a November 2006 speech by OSC Chair David Wilson, had to be obtained via Access to Information. The report includes a detailed discussion of deficient complaint handling which may explain why the OSC may have not wanted its release. Despite intense criticism, the Commission has not re-established an IAC.

A new consultation regime was implemented - the Joint Standing Committee on Retail Investor Issues. Not surprisingly there are no representatives for consumer/investors on the committee. But presentations at the Ontario Standing Committee on Government Agencies have prompted the OSC to seriously consider re-establishing its connection with consumer/investors. This consideration doesn't apparently include an OSC Investor Town Hall. The last one, held in 2005, was tumultuous to say the least. There has not been a similar event since.

The CSA's proposed Fund Facts disclosure document is geared to a Grade Six reader. Under the proposed disclosure framework, delivery of the Fund Facts before or at the point-of-sale would be required for all initial purchases of mutual funds that are recommended by a so-called "Financial Advisor" (read salesperson). Prospectuses will now only be delivered on request. Unlike the equivalent form in the U.S. no performance benchmark is required to be provided. We expect a major issue to develop regarding whether or not a fund purchase was driven by a so-called "Financial Advisor" (read salesperson) or the consumer/investor. Overall, the latest proposal isn't acceptable to investor advocates. Fund industry lobbyist Investment Funds Institute of Canada (IFIC) still wants to challenge delivery requirements and continue talks though it's been a decade in incubation.

In June, the Honourable Jim Flaherty, Minister of Finance, announced the establishment of Canada's Task Force on Financial Literacy to help create a cohesive national strategy to support initiatives across Canada aimed at improving financial education. The task force will be chaired by Donald A. Stewart, Chief Executive Officer of Sun Life Financial Inc. L. Jacques Ménard, Chairman of BMO Nesbitt Burns, will be the Vice-Chair. No investor advocacy or consumer/investor groups were consulted or appointed as members. Can we expect financial service industry leaders to provide the education consumer/investors need to protect themselves against financial deception, against corporate law-breaking and regulation evasion or against abuse by ignorant or criminal so-called "Financial Advisors" (salespersons)? Could such a Task Force remotely achieve Ottawa's professed goal of setting up an independent task force to help Canadian consumer/investors better understand the financial products and services that are available to them and the implications of the financial decisions that most often are made for them by so-called "Financial Advisors" (salespersons)?

The Ombudsman for Banking Services and Investments (OBSI, at www.obsi.ca), the national dispute-resolution service for Canadian consumer/investors, has never been busier dealing with complaints. By the end of 2009, complaints at OBSI were estimated to reach around 1,000, up nearly 50% from the previous year's 670 cases, according to Doug Melville, the newly-appointed Ombudsman and chief executive of OBSI. Investment-related cases alone are expected to increase by 59% from last year's total of 346. In 2008, investment-related cases at OBSI increased by 54% from 2007. Historically, OBSI has received an equal number of banking and investment-related complaints. But over the last year, about 60% of the complaints have been investment-related. Between November 2008 and August 31, 2009 , OBSI had opened a total of 744 cases, almost 60% of which were investment-related ones. OBSI usually targets to resolve 80% of the cases it receives in 180 days, but this goal is proving to be difficult given the explosion of cases, resulting from flawed industry complaint handling processes and biased/incompetent advice.

A review of MFDA cases reveals unsuitable investments, misappropriation of funds and fund churning are systemic. In Canada, commission-paid stockbrokers and mutual fund sellers do not have a legal duty to put a client's needs ahead of their own. Don't assume your so called "financial advisor" (salesperson) is just facing a conflict-of-interest. He/she may also be unqualified to design portfolios and manage risk and taxes. Regulators continue to permit mutual fund salespersons to be registered with minimal formal education and training, and allow the firms to call them "Financial Advisors"

A recent survey of Chartered Financial Analysts (CFA) revealed concerns about "advisor" conflicts-of-interest and competency. The CFA is recognized as a sign of professional excellence in the global investment community. CFAs must pass three rigorous examinations and complete several years of qualifying work experience. Survey respondents showed little change in their views about the ethics of market participants from last year to this year. They do not want individual investors to suffer unnecessary losses due to unsuitable advice. Here's what they said about weaknesses in Canada's securities regulatory system:

"Does not provide enough scrutiny that investors are receiving fair advice and service from investment advisers/brokers."
Investment industry groups "try to pretend that licensed salespeople are highly trained, when in fact the vast majority have little investment knowledge."
"Focus on the end consumer and the requirements that they need to make informed decisions – that is, transparency with respect to fees and commissions."
"There needs to be an office that can investigate real complaints/concerns raised by investors."

The MFDA gave DeThomas Financial Corp. a tap on the wrist for a breakdown of its Know Your Client regime: the sanctions were a modest $10,000 fine, retention of an independent monitor to resolve compliance deficiencies, and payment of proceedings costs of $2500.It's questionable whether such modest penalties act as deterrents and protect consumer/investors.

Canada may have excessively expensive mutual funds, but that comes, paradoxically, with poor performance. The Standard & Poor's Mutual Fund Performance Persistence Scorecard periodically provides semi-annual results on the persistence of top performing funds in the current market. These reports show performances of actively-managed mutual funds within their capitalization peer groups and monitor the consistency of their performance results.

For the first half of 2009, only 34.5% of Canadian Equity active funds were able to outperform the S&P/TSX Composite Index. Over longer periods, Standard & Poors continue to observe indices routinely outperforming the majority of domestic actively-managed funds. In three-year and five-year periods, only 16.7% and 7.6%, respectively, of actively managed Canadian Equity funds have outperformed the S&P/TSX Composite Index. Thus billions of dollars of consumer/investor investments are tied up in underperforming assets while high fees erode returns.

In August, The Canadian Foundation for the Advancement of Investor Rights (FAIR Canada - www.faircanada.ca) called on the MFDA to review its by-laws to include at least two representatives with expertise in consumer/investor issues and perspectives on its Board of

Directors. At this point in time, neither the MFDA nor the IIROC have consumer/investor representation on their Boards. FAIR has, in its submission to the Ontario Standing Committee on Government Agencies, called for the OSC to include an individual on its Board with retail focus. Such representation offers the opportunity of increased sensitivity to consumer/investor needs.

A group of aggrieved consumer/investors seeking redress from securities regulators in the wake of the collapse of the $32-billion non-bank ABCP market has accounts with some of the country's largest bank-owned investment dealers and two independent brokerages. Of the three dozen consumer/investors, representing families and individuals who were stranded with investments worth more than $1-million each when the ABCP market seized up in August 2007, at least one has an account with Canadian Imperial Bank of Commerce, four with National Bank Financial and most of the remaining are with Canaccord Capital Inc. and Credential Securities Inc. Securities regulators in Ontario, Québec and BC, as well as the Investment Industry Regulatory Agency of Canada (IIROC), recently settled with seven banks and the brokerages that sold third-party ABCP investment products in the weeks shortly before the market collapsed. It's been two years of pain and suffering for these consumer/investors.

Having been granted full parole on a civil law sentence for fraud, former Norbourg CEO Vincent Lacroix was less than a week away from sleeping in his own bed instead of in a halfway house. (He was originally sentenced Jan. 28, 2008 to 12 years behind bars – a term subsequently reduced to 8 1/2 years, then in Aug. 2009 to five years less a day by the Québec Court of Appeal). Instead, he spent a night in a jail cell after shocking a courtroom by pleading guilty to nearly 200 criminal charges. He was accused of swindling 9,200 consumer/investors in his now-bankrupt Norbourg Group of mutual funds out of $115-million. The court was preparing to try Lacroix on multiple counts of fraud, conspiracy to defraud, conspiracy to commit forgery, fabricating documents and money laundering. About 10% of Norbourg victims benefitted from a $31-million financial-services compensation fund managed by the Autorité des marchés financiers and financed by dues from Québec's 40,000 investment representatives. Ontario has no investor compensation fund

Near the end of the third quarter of the year, Alberta RCMP arrested one man and was looking for another after the pair allegedly set up a Ponzi scheme that raised more than $100 million from unsuspecting consumer/investors. Police say Milowe Allen Brost, 55, of Chestermere and Gary Allen Sorenson, 66, of Calgary gathered investments from people throughout Canada, the United States and internationally between 1999 and 2008. Brost has since been arrested, although Sorenson remains at large and is believed to be out of the country. It is unclear what has happened to the investments. Police say the scheme was based on gold investments. The suspects allegedly created Syndicated Gold Depository S.A., which was supposed to loan money to a Merendon Mining Corp. Ltd. with a high rate of return. Consumer/investors were lured into investing due to the promises of high returns and tax advantages. Regulators and law enforcement watched passively for years as the pair worked their illusion and consumer/investors suffered.

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The Ontario government threatened Canada's mutual fund industry with a Public Relations offensive against high management fees charged to consumer/investors, unless fund executives mute their objections to proposed sales tax changes. Industry executives have complained that the government's plans to harmonize the provincial sales tax with the GST will siphon money out of the retirement nest eggs of Canadians. But after an article published in The Globe and Mail, officials in Ontario Finance Minister Dwight Duncan's office said they we re prepared to release a document on the negative impact of mutual fund management fees (MER) on consumer/investors if executives continue to complain in public. As a result it is expected that MER`s will rise in 2010.

When it comes to being seen to be ethical and trustworthy, physicians and pharmacists are tops with Canadians. Canadians, though, have no faith in business executives, stockbrokers or bankers. Seventy-seven per cent of respondents to the Nanos Research poll rated medical doctors as "high" or "very high" when it comes to honesty and ethics in their profession, while the figure was 73% for community pharmacists. Stockbrokers rated 18%.

The 2009 Ontario Securities Commission Compliance Team report found that some Portfolio Managers (PM) made exaggerated claims about their skills, performance or services. As in the previous fiscal period, some PMs did not disclose whether performance returns were gross or net of fees, or the names of the composites or pooled funds that the performance returns related to. Some PMs compared the return of their funds or accounts to benchmarks that, in staff's view, were inappropriate or misleading to clients. Such defective disclosures mislead consumer/investors and can lead to unsuitable investments and undue losses.

A November 2009 report by PricewaterhouseCoopers found that Canada was the fourth most fraudulent nation in the world - behind Russia, South Africa and Kenya. (http://www.pwc.com/gx/en/economic -crime-survey/download-economic-crime-people-culture-controls.jhtml).Regulators have yet to adjust to this disturbing reality.

Also in November, the Financial Consumer Agency of Canada released its 2008-2009 Annual Report. Incredibly, monetary penalties amounted to an insignificant $50,000 down from last years minimal $76,000. FCAC is responsible for ensuring that federally regulated financial institutions comply with federal consumer protection laws and regulations, and monitoring financial institutions' compliance with voluntary codes of conduct and their own public commitments. Like other regulators, investor protection does not appear to be a high priority.

In December, Coventree Inc. was charged by the Ontario Securities Commission as being at the centre of the Asset Backed Commercial Paper fiasco (ABCP). As it turns out, the OSC itself had exempted the non-bank ABCP from being sold by prospectus. The $32 billion Non - Bank ABCP was a Made-in-Canada defective investment product at the outset. It created a lot of unnecessary stress for Main Street as liquidity dried up in August 2007. In Dec., seven firms were fined a relatively small amount of $138.8 million to put the disaster quietly to bed. It is alleged that Credential and Canaccord failed to take adequate steps to ensure that its Approved Persons understood the complexities of the third party ABCP and, in not taking these adequate steps, did not ensure that the purchase of third party ABCP was appropriately understood by its clients. Were it not for the efforts of independent financial analyst Diane Urquhart and consumer/investor Brian Hunter, who organized the Facebook ABCP Retail Owners Group, retail investors would not have received compensation. About 1800 consumer/investors, many seniors and retirees, were stuck with the frozen paper, unable to access their cash for over 18 months. Regulators charged with protecting consumer/investors watched from the sidelines.

If there were one printable quote that characterized investor protection in 2009, it would be: “I am outrageously frustrated with our regulatory system. When we were trying to negotiate a settlement, we got no help from the self-regulatory agency, and the RCMP simply referred our request back to IIROC and the OSC. So, we little guys were left to duke it out with the biggest financial institutions in Canada to try to get our money back." - Michael Miles, Victoria-based chairman of the Retail ABCP Owners Committee

There were some positive developments in 2009:

Glorianne Stromberg received a well deserved Lifetime Achievement Award for her relentless constructive critique of the mutual fund business.

The ill-conceived CSA proposed mutual fund Point of Sale (POS) disclosure rules were vigorously blocked, at least temporarily, by a small army of investor advocates.

The Canadian Securities Regulation Regime Transition Office (CSTO) committed to establish a funded Investor Advisory Committee to replace the one the OSC abandoned stillborn should a national securities regulatory regime be put in place.

After a long struggle by investor advocates, new MFDA and IIROC complaint handling rules finally were approved that should reduce the tensions involved in making a complaint.

All in all, 2009 was a troubling year for investor protection, continuing, if not accelerating, the five-year trend. Consumer/investors were exposed to a wide range of financial assaults. Loose regulations, lax enforcement and regulator disengagement amplified consumer/investor woes. Virtually every agency charged with protecting investors capitulated under financial services influence or due to their own inertia/complacence. If not corrected the end result could well be the decimation of the middle class in Canada. Let’s hope 2010 starts to reverse the trend before its too late.

Ken Kivenko January, 2010