

SIPA

SMALL INVESTOR PROTECTION ASSOCIATION

**A Voice for Small Investors
Seeking Truth and Justice**

UNPAID FINES: A NATIONAL DISGRACE

A SIPA Report
From an Investor's Perspective



April, 2016
By: Debra McFadden

Prelude

The below two tweets recently appeared on the Canadian Securities Administrators Twitter account: **CSA_News @CSA_News Feb 23** .

"A price to pay for misconduct: \$138M in fines/penalties ordered by CSA in 2015:"

<http://ow.ly/YCXDR> #ENFReport

"Canadian Securities Regulators' enforcement actions instrumental in deterring financial misconduct:" https://twitter.com/CSA_News



Is it a fact that \$138,293,796 were ordered in penalties in 2015? Technically yes. Or, is it more accurately a lie by omission*, or worse yet, part of a charade** being played upon the Canadian public? Do these fines actually act as a deterrent?

*"Also known as a continuing misrepresentation, a **lie by omission** occurs when an important fact is left out in order to foster a misconception. **Lying by omission** includes failures to correct pre-existing misconceptions.": https://en.wikipedia.org/wiki/Lie#Lying_by_omission

**cha·rade <http://www.oxforddictionaries.com/definition/english/charade>

SHə' rād/

noun

1. "an absurd pretence intended to create a pleasant or respectable appearance."
synonyms Farce, pantomime, travesty, mockery, parody, pretense, act,
: masquerade

The purpose of this document is to raise awareness of the issue of unpaid fines for breaches of financial services regulation levied by regulators against individuals and or firms.

Executive Summary

Securities Regulators routinely announce fines against wrongdoers attempting to demonstrate that they are dealing with wrongdoers. Based on our investigation of these fines we find that the pronouncements are an illusion of effectiveness – most aren't paid. The unpaid total runs into the hundreds of millions of dollars accompanied with an alarming air of indifference among regulators. We have determined that there is more than **\$899,216,448.32** in fines owing to Canadian regulators. Unpaid fines contribute to a breakdown of trust in the system and reduced investor protection. Better collection of fines is needed but a legislated fiduciary standard for advice giving would reduce the number of complaints and lead to better financial outcomes for retail investors. That should be the ultimate goal.

In Search of Justice

If you or a family member have been a victim of financial mistreatment by a financial advisor or firm and you are searching for justice, you may be in for a long and mostly unsatisfactory journey. Even if you can afford and are successful in taking legal action, most cases end with a Settlement Agreement and some form of the traditional non admission of liability and confidentiality clause attached to it.

"The parties understand and agree that neither the payment of any sum of money nor the execution of this Agreement by the parties will constitute or be construed as an admission of any wrongdoing or liability whatsoever by any party."

<https://www.lawinsider.com/clause/non-admission-of-liability>

Settlements can often provide the best outcome for both parties as opposed to a lengthy and expensive trial. However, confidentiality agreements or "gag orders" are often requested by defendants as part of any civil settlement. It appears to be a standard industry practice to use a "boiler plate" confidentiality clause in the typical settlement agreement, which includes a provision that the parties agree to keep the terms of the settlement confidential. Many investors think these agreements prevent them from ever again disclosing or discussing their experience. But for survivors of financial abuse, where embarrassment and shame are often part of their experience, having to maintain silence in return for a payment can have very negative consequences. It is important that those who have been abused financially keep their voice. Not just for the victim's own healing, but for society as a whole. We could learn many ways to improve the system, just by listening to investor voices.

Without an admission of wrongdoing, it can feel both confusing and like a hollow victory to the victim whose life was turned upside down during this time period. If you have also raised your concern with the regulators it can be an equally frustrating and disappointing journey. Many victims have expressed to the Small Investor Protection Association (SIPA) that they felt abused by the system they had believed was there to protect them. Many victims also give up even trying to be heard after entering into the confusing maze of regulatory protocol.

If your advisor or firm has been found guilty of regulatory misconduct, in the majority of cases, a cautionary or warning letter is likely the only sanction they will face. On occasion an advisor is

fined and or expelled from the industry and on even rarer occasions, a firm is fined. Now if you are thinking justice has been served in those rare cases, you may have to think again. In a vast majority of cases the fines are **never** collected.

*"While penalties, costs and other monetary sanctions/orders can be difficult to collect, **every effort is made** by regulators to do so, including using the services of collection agencies,"*
Canadian Securities Administrators (CSA)

I began to wonder how much money is actually owed to our securities regulators in Canada?

I thought it would be a fairly straightforward task to find out the amount of outstanding fines owed to our Canadian regulators. I was shocked to learn it was anything but easy. I wanted to get a handle on this mysterious dollar figure and began visiting each of their websites, but encountered a great deal of difficulty trying to ferret out this information.

I decided to contact the CSA directly with the question but was surprised when I received this response:

*"Thank you for contacting the **CSA Secretariat**.
In response to your query, unfortunately, we do not have any information regarding the amount owing in unpaid fines across Canada.
We would suggest you contact the Securities Regulators directly. Their individual contact information is available [on our website](#).
Sincerely,
CSA Secretariat"*

I must say, I thought that odd that they would not know that information, but was determined to learn what I could about the outstanding fines owed to our regulators by wrongdoers from all across Canada. I used the list on the CSA website <http://www.securities-administrators.ca/aboutcsa.aspx?id=99> and emailed each securities regulator across Canada. Here is a sample of some of the responses I received to my enquiry.

*"Thank you for your e-mail inquiry to the **Ontario Securities Commission (OSC)** regarding unpaid fines to the OSC.
The OSC does not provide or maintain the type of statistical information you are requesting.
However you may find the following sections on our website helpful with your research..."*

*"As for grand total, we don't track those stats, but you look at each settlement agreement you'll get an idea." **Nova Scotia Securities Commission***

*"Are looking for an overall number for outstanding fines or those from the last three fiscal years?
Also, could you tell me what your deadline is for a reply?" **Alberta Securities Commission***

*"Thank you for contacting the **British Columbia Securities Commission (BCSC)**.
Please refer to the Annual Reports posted on the [About Us](#) section of our website."*

"Good afternoon,
Your email has been forwarded to our Securities division for response.
Thank you"

Financial and Consumer Services Commission New Brunswick

"Sorry for the delay in response. We have looked into this and we do not track this information. If you have other questions please don't hesitate to call. Thank you,"

The Manitoba Securities Commission, Securities Division

While continuing my research, I came across this article in the news

<http://www.securitiesregulationcanada.com/2016/03/why-securities-regulators-cant-collect-monetary-sanctions-and-what-they-plan-to-do-about-it/>

"When *The Insurance and Investment Journal* contacted the CSA and asked them to disclose the amount of fines that had actually been collected, they said they were unable to provide this information. 'Unfortunately, I don't have these numbers,' replied **Sylvain Th  berge**, director of media relations for the **Autorit   des march  s financiers.**"

I was incredulous! It appeared no one was tracking the cumulative dollar figure owing to them! They actually seemed surprised at the question. They all assert they are committed to investor protection, but the hard evidence suggests otherwise. I think Canadians have a right to know this information and set out to find it.

Here is the breakdown for Capital Markets in Canada:

48% Ontario

17% Qu  bec

25% Alberta

6% British Columbia

4% Other

(http://www.albertasecurities.com/Publications/2015_ASC-Annual_Report_Web.pdf)

The Facts Regarding Unpaid Fines

Below is what I have uncovered thus far about how much is outstanding to our Canadian regulators in unpaid fines.

Mutual Fund Dealer Association (MFDA)= \$56,793,709.71* (includes costs imposed)

Investment Industry Regulatory Organization of Canada (IIROC)*= \$27,941,793.00

Ontario Securities Commission (OSC)= \$307,148, 437.00

British Columbia Securities Commission (BCSC)= \$340,000,000 (as of March 31, 2015)

Alberta Securities Commission (ASC)= \$105,000,000 (as of March 31 2015)

Nova Scotia Securities Commission (NSSC)= \$1,655,940

New Brunswick Financial and Consumer Services Commission Unpaid Fines=

\$5,134,950 (from 2005-2015)

Quebec Autorité des marchés financiers Total Outstanding =\$55,088,573.68

Manitoba Securities Commission=\$453,044.93

Total thus far = \$899,216,448.32

***Note:** this figure in most cases does not include those who have only partially paid their fine and most oftentimes does not include costs imposed. **See Appendices A-K**

Although each provincial regulator was contacted not all reported back to us.

**Except for Alberta and Quebec, provincial securities have not given SRO's the legal power to collect fines.

Digesting The Information

This figure is jaw dropping and it doesn't even include all of the provinces! What is happening here? Canadians assume these fines and costs are collected. The bottom line is: when the focus is on fines and costs assessed, rather than on collections, the public is getting a very misleading picture of actual enforcement results. One can only surmise what the investor losses associated with these fines were, but it is safe to say they are multiple times greater. This figure also ignores the fact that regulators investigate and prosecute only a small fraction of the complaints reported to them by investors.

I am personally appalled by this figure and at the dismally low rate of collection happening throughout Canada. I am trying to assess the meaning and discrepancy between what is said and written, with what is actually done and happening in real time. I intend to stand and be counted with those that say the above facts are unacceptable. People need to be held accountable for wrongdoing. Our regulators also need to be held accountable to the job they have been entrusted with carrying out, on behalf of the Canadian public they serve. Fines are increasing while collection percentage is decreasing. If fines were actually collected deterrence might dramatically improve.

Why would you expect to collect a fine when you announce at the penalty phase, of a long drawn out contested hearing, that fines are unlikely to be paid when permanent prohibition is ordered? I experienced that exact scenario, after waiting six years for someone to be found guilty of misconduct! This was actually said, when the Respondent's lawyer was in the process of enquiring about the possibility of his client making payments over a period of time! Is it any surprise there have been no payments to date, given this information?! How does this fit with the regulators saying they make every effort to collect? It doesn't.

Misconduct in securities and investment markets has both profound and far-reaching

consequences for all levels of society. Consumers, investors, capital markets, institutions, national economies, and global financial systems are all impacted when the integrity of securities and investment markets are undermined by misconduct.

Deterrence of misbehaviour and wrongdoing should be a central and an integral function of securities regulators whose main objective is to protect investors; maintain fair, orderly and efficient markets; and facilitate capital formation. Strong regulation that holds individuals and entities accountable promotes public confidence in financial services and is a key factor in the development of efficient markets, financial services, and economies. While in many instances, it unfortunately remains, individuals who bear the losses, noncompliance with securities law can have serious system-wide impact.

Sanctions are an important part of any regulatory system. They provide a deterrent and can act as a catalyst to ensure that regulations are complied with and should indicate that non-compliance will not be tolerated.

"Achieving the objectives of the regulatory framework requires not only sound regulation but also effective enforcement. No matter how sound the rules are for regulating the conduct of market participants, if the system of enforcement is ineffective – or is perceived to be ineffective – the ability of the system to achieve the desired outcome is undermined.

It is thus essential that participants are appropriately monitored, that offenders are vigorously prosecuted and that adequate penalties are imposed when rules are broken. A regulatory framework with strong monitoring, prosecution, and application of penalties provides the incentives for firms to follow the rules. This, in the end, adds to the framework's credibility and enhances investor confidence in the financial system" G-20 Working Group 1 Enhancing Sound Regulation and Strengthening Transparency Final Report, March 25, p. 45, www.g20.org/Documents/g20_wg1_010409.pdf (hereinafter Final Report).

But deterrence can only be effective and credible when:

- would-be wrongdoers perceive that the risks of engaging in misconduct outweigh the rewards.
- when non-compliant attitudes and behaviours are thoroughly discouraged.
- when persons who are contemplating engaging in misconduct are dissuaded from doing so because they have an expectation of detection and that detection will be rigorously investigated, vigorously prosecuted, and punished with robust and proportionate sanctions; and that they will receive no personal benefit from their wrongdoing.

Timely enforcement interventions can prevent misconduct from crystallizing into investor detriment and harm to market integrity. Sanctions are a deterrent to wrongdoing and recidivism only when they are consistently and reliably applied. Effective sanctions need to also factor in the gravity of the misconduct, the economic and social impact of the misconduct, the unjust enrichment of the wrongdoer and the cost to investors.

Only when potential wrongdoers believe the cost of engaging in misconduct is greater than the reward, will they be dissuaded from engaging in it. Otherwise we can

certainly expect any weaknesses detected, to be continually exploited.

When regulation is well designed and regulators have well developed enforcement strategies; target and prioritize misconduct; and have the tools to detect, rigorously investigate, prosecute, and enforce the sanctions imposed on wrongdoers, then the risk of engaging in misconduct will begin to outweigh the benefit.

Numerous unpaid fines sends a clear signal as to what behaviour is actually being quietly tolerated and reflects very poorly on industry standards.

Every responsible parent knows that making an empty threat to a child will not only undermine their authority in the home, but will backtrack and make future enforcement of the rules even tougher; not just with that child, but with all their children. A regulator's reputation can likewise be negatively affected when the perception exists that appropriate enforcement action is either not going to be taken in a timely manner or when it cannot actually be implemented with any degree of success. Unfortunately, this is exactly where we are now at, nationwide.

The credibility of the system as a whole rests on the existence of effective discipline—the probability of **real consequences for failure to obey the law.**

The fines handed down oftentimes do not even reflect the financial gains a firm may have made by failing to comply with an obligation. This means that these penalties do not act as a deterrent and, in effect, give businesses an incentive to continue to fail to comply in return for a profit. In many cases the fines imposed certainly do not fully reflect the actual harm done to investors. In these instances the financial penalty or suspension of a single person is failing to achieve even the most basic objectives of an effective sanctioning regime. One small investor in an email to SIPA noted "Deceptive dealing is being accepted as a covert and silently tolerated business practice that is intended to maximize the short term profit of investment brokerages - AT THE EXPENSE of the elderly."

Regulatory arbitrage of moving mutual fund clients into other mutual funds repackaged in an insurance product regulated differently needs to be halted. Dually registered representatives should have their insurance agent license put on hold if they have an unpaid fine with any securities regulator in Canada.

Regulatory sanctions and fines should drive the economics of the financial services industry towards a Best Interests Fiduciary Standard. Fines should more often be imposed on dealers and not on "advisor" scapegoats who are the primary payment delinquents. After all, it is the dealer that has recruited the "advisor", trained him/her and is responsible for supervision. The dealer compliance function is also there to detect and prevent investor abuse. Dealer compensation models dramatically impact their representatives' behaviour. Dealers who set tough sales quotas, establish sales motivating commission grids, pay hefty commissions and trailers and attractive sales-based recognition/reward programs must be held accountable when those models drive a bad corporate culture and investor harming behaviours.

Under the present system granted to the majority of provinces, collection of fines and penalties are not even under the authority of some of our regulators in Canada!

We have a situation where regulators are imposing increasing monetary sanctions for infractions, yet they are actually not collecting them! The British Columbia Securities Commission has collected less than 5% of monetary sanctions imposed since its incorporation in 1995. They estimate that of the \$340 million in outstanding fines only \$0.3 million might be collectible. The BCSC's collection rate in fiscal 2015 was only 0.58%.

Where Do we Go from Here? Conclusion

The present situation clearly shows a failing in the legislation's regulations and/or contracts. This situation cannot be allowed to continue.

Fines given are rarely collected, particularly if those sanctioned leave the industry. The present situation, if allowed to go unchecked, is ultimately making the enforcement process itself a shameful farce. There is then, no effective deterrent in place. The entire system is vulnerable if investors lose confidence in it. No wonder they don't advertise or tweet those facts! The aim of enforcement needs to be: removing financial gain from non-compliance; making restitution to adversely affected parties; and exposing culpability when and where it exists and deterring future misconduct.

The dollar amount of these unpaid fines across Canada is huge. Now that we are getting a better handle on what this potential dollar number actually is, it is important to get this information into the public domain. Pressure needs to be brought to bear on our government to make securities regulators more accountable to Canadians. As investors become more aware of the ineffectiveness of regulation more will turn away from investment firms, banks and insurance companies.

Since regulators set the terms for dealer membership, why not, by contract, require a guarantee from each and every dealer for the regulatory, financial findings against all of its present and former employees, contractors, agents, directing minds, etc.? If that was put in place, a great deal of wrongdoing would cease quite quickly. The seemingly, at times, wilful blindness going on in many firm's compliance departments would change drastically overnight. This option would also, in the end, benefit the industry by providing a transparent system with appropriate sanctions that would aim to get firms back into compliance, ensure future compliance, and provide a level playing field for businesses that are following the rules. Dealers could then pursue offenders who flout the rules and law. Better firm compliance will ultimately lead to better outcomes for the public.

Effective sanctions should also incorporate wider aims such as; restoring the harm caused by regulatory non-compliance and take into consideration the needs of the victims and communities affected by regulatory breaches.

When regulatory non-compliance occurs, sanctions should ensure that investment firms that have enriched themselves and saved costs by non-compliance do not gain an unfair advantage over businesses that are fully compliant. Where breaches result in damage or other costs to society, sanctions must assist in ensuring that those in breach provide proper recompense to those harmed. The wider impact of the offence on the victim needs to be fully explored. There has been very limited evolution of the rights and needs of victims in the area of regulatory non-compliance. Fines collected could also be used for further financial support of consumer organizations, investor outreach, and investor research.

This is a major socio-economic problem impacting the retirement income security of millions of Canadians. Things drastically need to change. Anyone who is handling and advising on other persons' funds needs to be held to the highest standard. They should have a fiduciary obligation to put their clients' interests above their own. Politicians and regulators need to act and soon, as the senior demographic makes the threat to social order greater with each passing day. A fiduciary standard for advice giving would reduce the number of complaints and lead to better financial outcomes for retail investors. If Canadian Regulators are ever going to successfully fulfill their mandate of protecting investors and preventing or at least deterring wrongful conduct, perhaps it is time then to not just focus on dollar penalties, which are popular and generate headlines, but on reforming the procedures and perhaps the very culture of organizations which permits and rewards conduct such as that charged in so many of these cases to begin with.

"Capital markets depend on investor trust. Trust depends on investor faith that a vibrant fiduciary culture operates to restrain firms' and advisors' conduct. "

<http://www.thefiduciaryinstitute.org/wp-content/uploads/2016/02/Fiduciary-Duties-in-2016-Jan-28.pdf>

Unfortunately, the Canadian investment industry and its regulators are not worthy of the trust investors have placed in it. This must change.

Sources:

Credible Deterrence In The Enforcement Of Securities Regulation

International Organization of Securities Commissions June 2015

<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD490.pdf>

The Challenge of Enforcement in Securities Markets: Mission Impossible?

Prepared by Ana Carvajal and Jennifer Elliott

International Monetary Fund Working Paper

<https://www.imf.org/external/pubs/ft/wp/2009/wp09168.pdf>

G-20 Working Group 1 Enhancing Sound Regulation and Strengthening Transparency Final Report, March 25, p. 45,

www.g20.org/Documents/g20_wg1_010409.pdf (hereinafter Final Report).

Fiduciary Duties Advanced in 2015; 2016 Will Reveal How Much These Gains Are Secured – Or Not

<http://www.thefiduciaryinstitute.org/wp-content/uploads/2016/02/Fiduciary-Duties-in-2016-Jan-28.pdf>

Why Securities Regulators Can't Collect Monetary Sanctions, and What They Plan To Do About It

<http://www.securitiesregulationcanada.com/2016/03/why-securities-regulators-cant-collect-monetary-sanctions-and-what-they-plan-to-do-about-it/>

Appendix A:

Alberta Securities Commission Unpaid Fines

In order to fulfill our mandate of protecting investors, effective rulemaking, oversight, compliance reviews and education must be backed by rigorous and visible enforcement.

http://www.albertasecurities.com/Publications/2015_ASC-Annual_Report_Web.pdf

In an email from Mark Dickey, a Senior Advisor of Communications for the Alberta Securities Commission dated Thursday March 31, 2016 he states, "Here is the information you are looking for:

Total outstanding to date is \$104.4 million

Total collected to date is \$23.4 million

Percentage: Just over 22 per cent (22.4 per cent)

	2006	2007	2008	2009	2010
Administrative penalties levied	\$620,000.00	\$564,000.00	\$3,218,000.00	\$1,903,000.00	\$1,190,000.00
Administrative penalties recovered	\$425,000.00	\$84,000.00	\$442,000.00	\$145,000.00	\$540,000.00
Administrative penalties outstanding	\$195,000.00	\$480,000.00	\$2,776,000.00	\$1,758,000.00	\$650,000.00

	2011	2012	2013	2014	2015
Administrative penalties levied	\$6,671,000.00	\$9,512,000.00	\$6,169,000.00	\$6,910,000.00	\$2,810,000.00
Administrative penalties recovered	\$226,000.00	\$457,000.00	\$247,000.00	\$2,034,000.00	\$122,000.00
Administrative penalties outstanding	\$6,445,000.00	\$9,055,000.00	\$5,922,000.00	\$4,876,000.00	\$2,688,000.00

<http://www.albertasecurities.com/Publications/2014-annual-report.pdf>

<http://www.albertasecurities.com/Publications/2013-ASC-Annual-Report.PDF>

<http://www.albertasecurities.com/Publications/2010%20ASC%20Annual%20Report.pdf>

<http://www.albertasecurities.com/Publications/2008%20ASC%20Annual%20Report.pdf>

<http://www.albertasecurities.com/Publications/2008%20ASC%20Annual%20Report.pdf>

<http://www.albertasecurities.com/proceedings-decisions-and-orders/Pages/unpaid-orders.aspx>

The Alberta Securities Commission may issue orders against, or enter into settlement agreements with, individuals or companies who have breached Alberta securities laws. Respondents are required to pay any administrative penalties, disgorgement orders, settlement monies and/or costs arising from such orders or settlement agreements as prescribed by law.

In the interest of transparency, accountability and investor protection, the ASC provides the list below of respondents who have not paid amounts ordered by the ASC or in a settlement agreement. Many orders or settlements also ban respondents from certain types of activity, such as acting as a director or officer of a public company. To access the full order or settlement, which includes information about the amounts to be paid and any additional sanctions imposed against these respondents, please click on the "Date of Decision" link beside each respondent.

For each respondent, status of the amount unpaid is shown as follows:

2. Unpaid (Full) – no payments have been made on the original amount ordered or agreed
3. Unpaid (Partial) – a partial amount has been paid
4. Paying as Agreed – payments are being made in accordance with a payment arrangement that is in effect.

"Holding respondents accountable for their misconduct is important for investor protection and protecting the integrity of the Alberta capital market. Enforcing Commission orders to the full extent allowed by law, including collecting outstanding amounts owed, is key to effective deterrence." Bill Rice

To that end, the ASC pursues all avenues of collection available, including questionings, seizure of assets, and garnishment of wages, both inside and outside the province of Alberta.

This list is updated quarterly. When an unpaid order or settlement has been satisfied, the respondent's name will be removed from this list on the next update; the original ASC panel decision or settlement agreement will remain on the ASC website. Respondents who have appealed an ASC order will remain on this list while any appeal is ongoing.

Unpaid Orders

<http://www.albertasecurities.com/proceedings-decisions-and-orders/Pages/unpaid-orders.aspx>

ASC=\$105,000,000 (as of March 31 2015) unpaid fines

ASC spokesman Mark Dickey said the commission had ordered **\$128 million** in monetary penalties (fines, settlements and recoveries of ill-gotten gains) **from 1995 to March 31 2015**. It has collected just **\$23 million**, or about 18 per cent, a percentage he said is consistent with other jurisdictions.

<http://calgaryherald.com/business/local-business/asc-shaming-list-names-135-respondents-who-havent-paid-their-fines>

"It has been recognized in recent years that prison terms are the only deterrent for certain offenders who break Alberta securities laws."

http://www.albertasecurities.com/Publications/2015_ASC-Annual_Report_Web.pdf

Appendix B:

British Columbia Securities Commission Unpaid Fines

Outstanding Fine Total =\$340 million For the Year Ended March 31, 2015

Enforcement sanctions

We order respondents to pay to us administrative penalties and money obtained by contravening the Securities Act (161 (1) (g) payments). We also negotiate settlements, which include monetary sanctions. We recognize administrative penalties and settlements that are collectible, and unclaimed 161 (1) (g) payments, as revenue and appropriate these revenues to our education reserve, an internally restricted fund. Enforcement sanctions vary significantly between periods.

Collecting sanctions is difficult. Respondents often have limited assets, have poor credit, or have left BC. **We have collected less than 5% of the amount sanctioned since our incorporation on April 1, 1995.** We pursue outstanding amounts vigorously. However, **of the \$340 million outstanding, only \$0.3 million is likely collectible and accrued in our financial statements.** About 80% (\$276 million) of the outstanding sanctions relates to ten cases. About 30% (\$107 million) of the outstanding sanctions relates to section 161 (1) (g) orders to pay amounts obtained by contravening the Securities Act.

Source:

http://www.bcsc.bc.ca/uploadedFiles/About_Us/Annual_Report_2014-15.pdf?t=1457740071485

Appendix C:

Manitoba Securities Commission

Administration Fees and Costs Ordered from MSC
from January 2006-March 31, 2016 that are outstanding = **\$453,044.93**

Source:

Ms. Ainsley Cunningham
Manager, Education and Communications
Manitoba Securities Commission, Securities Division
500-400 St. Mary Avenue
Winnipeg, MB R3C 4K5

tel: (204) 945-4733
fax: (204) 945-0330
toll free: 1-800-655-5244 (MB only)
e-mail: ainsley.cunningham@gov.mb.ca

Administration Fees and Costs Ordered from MSC from January 2006 to March 2016

Date	Name	Order #	Admin Fees	Rec'd or O/S	Costs	Rec'd or O/S	Voluntary Pay't	Rec'd or O/S
January 11, 2006	M.R.S. Trust Company	4993	\$-		\$-		\$35,000.00	Collected
January 25, 2006	Bret Allan Dobbin	4984	\$3,000.00	Collected	\$500.00	Collected	\$-	
November 20, 2006	Ingram Jeffrey Eshun	5235	\$10,000.00	Collected	\$-		\$-	
December 6, 2006	B2B Trust	5260	\$-		\$-		\$10,000.00	Collected
January 31, 2007	Vertex One Asset Management and Jeffrey David McCord	5294	\$3,150.00	O/S	\$600.00	O/S	\$-	
August 8, 2007	Lion Ridge Capital Management Inc.	5438	\$10,000.00	Collected	\$5,000.00	Collected	\$-	
October 17, 2007	Wild Dog Inc. and Ryan Sookram	5501	\$5,000.00	O/S	\$-		\$-	
December 12, 2007	Josephus Delacore Lewis	5559	\$100,000.00	O/S	\$25,000.00	O/S	\$-	
December 12, 2007	Eric Sonogo	5559	\$20,000.00	O/S	\$5,000.00	O/S	\$-	
January 22, 2008	Euston Capital Corp.	5582	\$15,000.00	O/S	\$20,325.56	O/S	\$-	
January 30, 2008	Charles Morrison	5593	\$5,000.00	Collected	\$500.00	Collected		
January 31, 2008	Wild Dog Inc. and Ryan Sookram	5594	\$-		\$14,579.18	O/S		
May 28, 2008	Jack George Wladyka	5721	\$100,000.00	O/S	\$7,500.00	O/S	\$-	
June 18, 2009	Everett Conrad	5946	\$-		\$6,000.00	O/S	\$-	
August 24, 2009	Triclean Enterprises Inc.	5984	\$25,000.00	O/S	\$21,858.57	O/S	\$-	
November 25, 2009	John William Duncan							
November 25, 2009	Nicholson	6029	\$5,000.00	Collected	\$1,000.00	Collected	\$-	
November 25, 2009	National Bank Financial Ltd.	6029	\$20,000.00	Collected	\$1,000.00	Collected	\$-	
November 25, 2009	Edward Gordon Alexander Percival	6029	\$10,000.00	Collected	\$1,000.00	Collected	\$-	
June 18, 2010	Lori Diane Johnson	6158	\$10,000.00	Collected	\$7,500.00	Collected	\$-	
June 18, 2010	Gordon Joseph Wimble	6158	\$7,500.00	Collected	\$7,500.00	Collected	\$-	
September 1, 2010	Mario Di Fonzo	6191	\$6,500.00	Collected	\$500.00	Collected	\$-	
December 15, 2011	Kenneth Wayne Muzik	6435	\$-		\$5,000.00	Collected	\$15,000.00	Collected
February 7, 2012	Barrie William Cahill	6463	\$-		\$3,645.00	O/S	\$-	
May 4, 2012	Jory Capital Inc.	6520	\$-		\$50,000.00	O/S	\$-	
May 16, 2012	Olav Kenneth Gilleshammer	6528	\$4,000.00	Collected	\$500.00	Collected		
June 27, 2012	Rosenthal Collins Group LLC	6546	\$-		\$-		\$20,000.00	Collected
August 15, 2013	ADM Investors Services	6789	\$-		\$1,000.00	Collected	\$5,000.00	Collected
July 4, 2014	Brian Migie	6977	\$25,000.00	O/S	\$5,386.62	O/S		
September 18, 2014	Transamerica Securities Inc. (WFG)	6997	\$-		\$20,000.00	Collected	\$250,000.00	Collected
October 15, 2014	Forex Capital Markets	7005	\$158,000.00	Collected	\$-		\$-	
		Ordered	\$542,150.00		\$210,894.93		\$335,000.00	
		Collected	\$249,000.00		\$51,000.00		\$335,000.00	

Note: This is ALL orders, not just orders against registered firms or individuals

Appendix D:

(New Brunswick) Financial and Consumer Services Commission Unpaid Fines Total Outstanding from 2005-2015= \$5,134,950

Source: <http://www.fcnb.ca/annual-reports.html>

	2005-06-01	2006-07-01	2007-08-01
NBSC costs levied	\$7,750.00	\$5,000.00	\$29,000.00
NBSC costs recovered	\$7,750.00	\$0.00	\$3,750.00
NBSC Costs Outstanding	\$0.00	\$5,000.00	\$25,250.00
Administrative penalties levied	\$72,719.00	\$55,000.00	\$401,100.00
Administrative penalties recovered	\$72,719.00	\$10,000.00	\$51,100.00
Administrative Penalties Outstanding	\$0.00	\$45,000.00	\$350,000.00
Total outstanding from 2005-2008			
\$425,250.00			

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
NBSC costs levied	\$64,033.00	\$3,000.00	\$2,000.00	\$30,000.00	\$14,000.00
NBSC costs recovered	\$34,000.00	\$1,000.00	\$0.00	\$5,000.00	\$4,000.00
NBSC Costs Outstanding	\$30,033.00	\$2,000.00	\$2,000.00	\$25,000.00	\$10,000.00
Administrative penalties levied	\$683,000.00	\$177,500.00	\$38,000.00	\$1,523,000.00	\$75,000.00
Administrative penalties recovered	\$238,000.00	\$7,500.00	\$30,000.00	\$50,000.00	\$25,000.00
Administrative Penalties Outstanding	\$445,000.00	\$170,000.00	\$8,000.00	\$1,473,000.00	\$50,000.00
Funds ordered returned to investors	\$160,000.00	\$0.00	\$33,000.00	\$22,600.00	\$1,787,000.00
Funds recovered to be returned to investors	\$25,090.00	\$12,000.00	\$45,000.00	\$11,000.00	\$25,000.00
Funds Outstanding to Investors	\$134,910.00	\$0.00	\$0.00	\$11,600.00	\$1,762,000.00
Total fines outstanding ordered by the Commission from 2009-2013					
\$4,123,543.00					

	2013-2014	2014-2015
NBSC costs levied	\$3,660.00	\$0.00
NBSC costs recovered	\$500.00	\$0.00
NBSC Costs Outstanding	\$3,160.00	\$0.00
Administrative penalties levied	\$7,000.00	\$27,000.00
Administrative penalties recovered	\$7,000.00	\$27,000.00
Administrative Penalties Outstanding	\$0.00	\$0.00
Disgorgement ordered	\$594,997.00	\$0.00
Disgorgement received	\$12,000.00	\$12,190.00
Disgorgement outstanding	\$582,997.00	\$0.00
Total fines outstanding ordered by the commission 2013-2015		
\$586,157.00		

New Brunswick) Financial and Consumer Services Commission Unpaid Fines

Total Outstanding from 2005-2015= \$5,134,950

Appendix E:

Nova Scotia Securities Commission Unpaid Fines

Unpaid fines = \$1,655,940.00*

*This figure is actually higher because it does not contain the amounts still owing in fines that have only been partially paid.

Source:

<http://nssc.novascotia.ca/sites/default/files/Sanction-Payment-Status-Report-31-Dec-2015.pdf>

Hello Ms. McFadden,

Thank-you for your email. The Sanction Payment Status Report does include all years to date. If you click on the name it will bring up the settle agreement and some of them go back as far as 2003. As for grand total, we don't track those stats, but you look at each settlement agreement you'll get an idea.

Tanya Wiltshire, BPR

Manager, Investor Education & Communications

Nova Scotia Securities Commission

Hello Ms. McFadden,

Thank-you again for your interest.

The Nova Scotia Securities Commission makes findings and imposes sanctions against those who are found to have violated Nova Scotia securities laws. Typically fines are imposed and the Commission pursues collection often resulting in a "payment plan" that is appropriate to an individual's circumstances. The Commission recognizes that there is a public interest in disclosing certain basic information of whether a fine is "paid", "partially paid" or "unpaid", as this encourages payment of fines while identifying those who do not pay. However, the Commission does not disclose the exact amounts outstanding on fines imposed as this constitutes recorded personal information about an identifiable individual's financial history and is protected by the Freedom of Information and Protection of Privacy Act (the FOIPOP Act). The Commission policy of disclosing the status of fines as "paid", "partially paid" or "unpaid" strikes the balance between privacy laws and the public interest. Anyone making a request for personal information is directed to make an application under the FOIPOP Act. The Commission then determines whether to make this information public based on the result of the FOIPOP application.

Thank-you,

Tanya Wiltshire, BPR

Manager, Investor Education & Communications

Nova Scotia Securities Commission

Appendix F:

Ontario Securities Commission Total outstanding= \$307,148, 437.00

Collecting monetary sanctions

While the OSC actively works to collect outstanding sanction amounts, material differences between assessments and collections have persisted since we began imposing monetary sanctions. Historically, collection rates from market participants have been much higher than from respondents sanctioned on matters related to fraud – where assets are typically non-existent or inaccessible. **Collections of monetary sanctions improved in 2015 primarily because two of the respondents are well-established firms that paid the sanctions assessed to them.** We continue to look for ways to improve our collections rates, including reviewing the experiences of other public and private sector organizations to identify methods that can be used by the OSC. We actively pursue collections using internal and external resources. A list of respondents who are delinquent in paying monetary sanctions to the Commission is available on the OSC website

Source: http://www.osc.gov.on.ca/documents/en/Publications/Publications_rpt_2015_osc-annual-rpt_en.pdf

OSC	Assessed	Collected	Outstanding
2005-2011	\$191,861,660.00	\$102,979,396.00	\$88,882,264.00
2012	\$38,986,471.00	\$3,055,816.00	\$35,930,655.00
2013	\$80,174,712.00	\$3,218,134.00	\$76,956,578.00
2014	\$61,675,609.00	\$1,768,769.00	\$59,906,840.00
2015	\$52,970,941.00	\$7,498,841.00	\$45,472,100.00
Total	\$425,669,393.00	\$118,520,956.00	\$307,148,437.00
Total Outstanding from 2005-2015=			\$307,148,437.00

Source:

http://www.osc.gov.on.ca/documents/en/Publications/Publications_rpt_2015_osc-md-and-a_en.pdf

http://www.osc.gov.on.ca/documents/en/Publications/rpt_2013_osc-md-and-a_en.pdf

Total = \$307,148, 437.00

Appendix G:

Prince Edward Island

The Office of the Superintendent Securities
Consumer, Corporate and Insurance Services Division
Office of the Attorney General

Total amount of fines outstanding = \$0.00

Hi Debra, Mar 18, 2016

I checked with our Securities Division and they have indicated that the Department has no Securities Act fines outstanding. I hope this is helpful.

Please let me know if you have any further questions.

Thanks,
Maureen

Maureen Flanagan-LeClair
Sr. Communications Officer
Family and Human Services
Justice and Public Safety

Hello Maureen,

That is truly amazing and a first of all the provinces that have reported back to me!
I will need a report to link to and reference from PEI Securities. They should have a record of all assigned fines by the Commission and payments received from over the years that I can reference. (ie Enforcement Action Annual Reports)
Since all the other provinces are doing so poorly at collection we will want more information on why PEI is so successful.

Thanks,
Debra

I have sent your inquiry to the Director... I'm not sure how quickly we will get a response. It is March break here and many are on vacation, including me... I will be out of the office all next week. Are you on a tight deadline for this information?

Thanks,
Maureen

Maureen Flanagan-LeClair
Sr. Communications Officer
Family and Human Services
Justice and Public Safety

Appendix H:

*Translated from French to English by Google Translate – Original French version below

Quebec Autorité des marchés financiers

Total Outstanding = \$55,088,573.68

FINES AND PENALTIES RESPONSE

There are two types of sanctions to the AMF :

Administrative penalties

The fines

a) administrative penalties :

Imposed by the Bureau decision and overhaul (BDR) following a request by the Authority or imposed by the Authority itself , against individuals and companies that are under his supervision when breaches of Acts under his responsibility.

b) Fines :

Imposed by the Court of Quebec , at the request of the Authority, following a criminal prosecution by the Authority.

1) Are imposed / recoveries

administrative penalties

For the period 2004 to 2015 , the Authority imposed administrative penalties totalling approx. \$92,444,116 .00.

Of this total amount , the Authority has recovered a total approx . \$87, 340 150.00 .

This represents a recovery rate of around 94%. Total outstanding =5,103,966.00

Fines in criminal matters

For the period 2004 to 2015, fines imposed in criminal cases totalled approx.

\$54, 902,037.76. Of this, the Authority has recovered an amount approx. of

\$4, 917,430.08.

This represents a recovery rate of around 9%. Total outstanding=\$49,984,607.68

important Information

In the case of fines, the Office of the offences and penalties (BIA), under the Ministry of Justice of the Government of Quebec) who is in charge of the recovery of the amounts.

The following reasons for the low recovery rate in criminal matters:

The accused (natural or legal persons) were initially or rapidly became insolvent, and have no more assets in their name at the end of proceedings;
In addition, it is most of the illegal investment of offence when he has no more money;
The amounts are often not found, were the subject of misappropriation have been spent;
The amount of the fine may sometimes alone, place the accused in a state of insolvency;
In criminal matters, where the offender lacks the means to pay the fine, the legislator can decide that it is more useful for society to switch fines to compensatory work For example, in 2015 alone, \$ 2,000,000 in fines were switched to 9,753 hours of compensatory work (similar to community work).

RÉPONSE AMENDES ET PÉNALITÉS

Il y a deux types d'imposition de sanctions à l'Autorité des marchés financiers:

- Les pénalités administratives
- Les amendes

a) Les pénalités administratives:

Imposées par le Bureau de décision et de révision (BDR) suite à une demande de l'Autorité ou imposées par l'Autorité elle-même, à l'encontre d'individus et de sociétés qui sont sous sa supervision lors de manquements à des lois qui sont sous sa responsabilité.

b) Les amendes:

- Imposées par la Cour du Québec, à la demande de l'Autorité, suite à une poursuite **pénale** intentée par l'Autorité.

1) Sommes imposées/ sommes récupérées

Pénalités administratives

- Pour la période allant de 2004 à 2015, l'Autorité a imposé des pénalités administratives totalisant approx. **92,444,116, 00 \$**. De cette somme totale, l'Autorité a récupéré un montant total approx. De **87,340,150,00 \$**.

Ceci représente un taux de récupération autour de 94%.

Amendes en matière pénale

- Pour la période allant de 2004 à 2015, les amendes imposées en matière pénale totalisent approx. **54,902,037,76 \$**. De cette somme, l'Autorité a récupéré un montant approx. De **4,917,430,08 \$**.

Ceci représente un taux de récupération autour de 9%.

➤ Précisions importantes

- Dans le cas des amendes, c'est le Bureau des infractions et amendes (le BIA), qui

relève du ministère de la Justice du gouvernement du Québec) qui est en charge du recouvrement des montants.

- Les raisons suivantes expliquent les bas taux de récupération en matière pénale :
 - Les accusés (personnes physique ou morales) étaient au départ ou sont rapidement devenues insolvable, et n'ont plus d'actifs à leur nom au terme des procédures;
 - De plus, il s'agit la majeure partie du temps d'infraction en placement illégal où il ne reste plus d'argent;
 - Les montants sont souvent introuvables, ont fait l'objet d'une appropriation ou ont été dépensés;
 - Le montant de l'amende peut parfois, à lui seul, placer l'accusé dans un état d'insolvabilité;
 - En matière pénale, lorsque le contrevenant n'a pas les moyens de payer l'amende, le législateur a décidé qu'il est plus utile pour la société de commuer les amendes en travaux compensatoires Par exemple, en 2015 seulement, **2,000,000 \$** d'amendes ont été commutées **en 9,753 heures de travaux compensatoires** (similaires à des travaux communautaires).

Appendix I:

Yukon Territory

\$0.00 outstanding

Source:

Securities@gov.yk.ca

The Office of the Yukon Superintendent of Securities has not assigned any fines.

Rhonda Horte

Securities Officer, Deputy Superintendent of Securities

Rhonda.Horte@gov.yk.ca

Office of the Yukon Superintendent of Securities,
Corporate Affairs, Community Services, Yukon Government
Box 2703, C-6 Whitehorse, Yukon, Y1A 2C6

Appendix J:

IIROC Unpaid Fines

Total amount outstanding= \$27,941,793.00

Current as of March 4, 2016

This report identifies advisors and other individuals who had been employed at IIROC-regulated firms and who have not paid the full amount of a fine, disgorgement, and/or costs order imposed as a result of enforcement proceedings before an IIROC Hearing Panel. The report is intended to serve as an informational tool; it is not meant to be a list of individuals currently indebted to IIROC. Accordingly, the report may include the names of individuals who received a bankruptcy discharge subsequent to the order being made.

The report is updated quarterly and lists individuals who were disciplined by IIROC ("disciplined individuals") as early as June 1, 2008, when IIROC was created. Penalties are imposed upon disciplined individuals by an IIROC Hearing Panel either: following a contested hearing, or by approval of a settlement agreement.

To learn more about IIROC's Enforcement process, see [How Our Enforcement Process Works](#). Disciplined individuals who have not paid the amount levied within 60 days will be placed on this report.

Please note that this report does not include matters where a disciplined individual has appealed or sought a review of a decision made by an IIROC Hearing Panel. Details on penalties can be found by selecting the disciplined individual's name in the Unpaid Fines Report.

For more information, contact IIROC Enforcement at enforcement@iroc.ca.

June 12, 2014 Press Release-

[IIROC publishes names of individuals with outstanding fines](#)

information taken from

<http://www.iroc.ca/investors/Pages/Unpaid-Fines-Report.aspx>

Total amount outstanding= \$27,941,793.00 current as of March 4, 2016

Spreadsheet available upon request

Appendix K:

MFDA Unpaid Fines Report

Total for completely unpaid fines and the costs assigned as part of the penalty to those cases
=\$56,793,709.71

Note* This does not include any partially paid fine money and costs still outstanding on those cases which would still need to be added to this total.

Source:

Enforcement Hearings - Completed Cases

<http://www.mfda.ca/enforcement/complete.html>

Disclaimer:

"The information provided on this web-page is for informational purposes only. Order Payment Status information is updated on a quarterly basis as at March 31, June 30, September 30 and December 31. **The information on this list is current as at December 31, 2015.**

Definitions:

Paid: Respondent has paid the fine and costs ordered against them in full.

Unpaid: Respondent has not paid any portion of the fines or costs ordered against them.

As Ordered: Respondent is paying in instalments as per the terms set out in the Order.

Partial: Respondent has paid a portion of either the fines or the costs ordered against them, but it is not part of an instalment plan set out in an Order, or the Respondent has failed to adhere to the terms of an instalment plan set out in an Order.

Under Review: A review has been requested of the Hearing Panel's decision by the local securities regulatory authorities. Further information will be posted as it becomes available."

Spreadsheet available upon request