SIPA Sentinel

October 2007

SIPA has a mission:

- **to aid public awareness of how the investment industry operates;**
- **to provide guidance to those who have a complaint about investments with a bank, broker, financial advisor, or other seller of financial products;**
- **and to pursue improvement of industry regulation and enforcement.**

Small Investor Protection Association - A voice for the small investor

SIPA Sentinel

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

The OSC Town Hall Event in 2005 was so successful the OSC waited 2 ½ years and changed the format – Details from the OSC website follow.

About the Investor Forum

The Ontario Securities Commission (OSC), the Investment Dealers Association of Canada (IDA), the Mutual Fund Dealers Association of Canada (MFDA) and the Ombudsman for Banking and Investment Services (OBSI) will be hosting an Investor Forum on Wednesday, October 24, 2007 from 6:00 to 8:30 pm. at the Metro Toronto Convention Centre in Toronto.

The Forum will offer investors an update on recent investor initiatives, followed by educational breakout sessions, and will conclude with a plenary session with the heads of the four organizations. Participants will identify the seminar they wish to attend when registering.

Admission to the Forum is free.

It will take place at the Metro Toronto Convention Centre, South Building, Level 700, Room, 718A, located at 222 Bremner Boulevard.

Plenary Panelists

David Agnew, Ombudsman, OBSI
Larry Waite, President & CEO, MFDA
David Wilson, Chair & CEO, OSC
Susan Wolburgh Jenah, President & CEO, IDA

Breakout Sessions

Working with an adviser - what to look for and what to expect from the relationship
Getting help with your investment complaint - who to contact and how the process works
Understanding Investment Products and Risks - learn about complex investments such as hedge funds and PPNs and pick up some tips on frauds and scams

More on Income Trusts from Diane Urquhart

"The original vendors of income trusts to seniors at $10 per unit are now buying them back at $2.25 and under. Here is a National Post article on the September 5, 2007 Spinrite Income Fund buyback by New York-based Sentinel Capital Partners. What a rip-off of the Canadian public, facilitated by the major banks and their subsidiary investment banks! Another example of an original vendor buyback is Associated Brands Income Fund, sold to the public by Torquest Capital Partners (owned by bank private equity divisions) at $10 per unit and bought back by this original vendor at about $0.80 on April 3, 2007."

Sentinel tries to weave magic with Spinrite takeover offer
Buying Back At Discount

Carrie Tait - National Post - Thursday, September 06, 2007

As ugly and tarnished as Spinrite Income Fund's existence as a publicly traded company may be, its privatization announcement is an example of how savvy investors capitalized on the feverish boom in the soon-to-be-defunct income-trust market.

Sentinel Capital Partners, a New York-based private-equity shop, yesterday offered Spinrite investors $2.25 per unit, bettering Tuesday's closing price of $1.51 by 74¢, or 49%. Sentinel knows this yarn company well: It was the financial sponsor that sold it to the public at $10 per unit in its February, 2005, initial public offering. Essentially, it's buying back its old company at a big discount to where it sold it to the public just a couple of years ago.

"It's a smart trade," said Sandy McIntyre, a fund manager at Sentry Select Capital Corp. "You've got to admire smart investors. And you've got to admire professionals."

Both knitting as a hobby and income trusts as investment vehicles were all the rage when Sentinel sold 80% of its interest in the company. By selling at the top of these two crazes, Sentinel's gross cash proceeds totalled US$109-million, which means it made about US$90-million on the deal, according to a Sentinel press release at the time.

It invested US$19-million in equity when buying the company in January 2004 for a total purchase price of $81-million. However, most of Spinrite's public investors would have lost money on the trust. The units did well initially, hitting $14.25 at their peak, but then knitting fell out of fashion and the income-trust market cooled. Cash distributions to unitholders were cut and eventually suspended, and Spinrite's debt covenants became a serious threat.

While it is tempting to paint Sentinel as a predator who dumped a trendy company onto a hot market, only to swoop in and pick up the pieces on the cheap, Mr. McIntyre thinks investors should be forgiving -- even thankful.

"Is it a good solution for investors? Absolutely," he said. "They're bailed out, they get to take their capital off, there's been a good run in the market, it's probably not the only investment you've got, and you've made money elsewhere."

Barbara Gray, an analyst at Blackmont Capital, foreshadowed Sentinel's trade on Spinrite in a note published December 2005. "Private-equity firms were the vendors of many of the initial public offerings in the trust market," the note said. "It is not unfathomable that some of these firms could buy back the same businesses that they sold, if the market becomes attractive. They know the companies well already, and if they could buy them at a discount to what they paid for them, they could hold them and wait for a more 'natural' buyer in the same industry as the trusts' operating entities."

This time around, the total purchase price for Spinrite totals $92-million, including debt and the subordinated units, according to Ryan Newell, Spinrite's chief financial officer. Sentinel still owns 16% of the company, so it will be able to knock off at least $9.1-million off the purchase price. It is not known how much of its own cash will be used to finance the deal, and how much debt will be used.

"I think this trend is something you will continue to see in the trust market," said Michele Robitaille, a fund manager at Guardian Capital LP. "At least that way the sponsor gets control over 100% of the cash flows."

A Visit to Capital Hill

On October 3, 2007, Dan Braniff, founder of the Common Front for Retirement Security, led a delegation to meet with the Honourable Marjorie LeBreton, Minister of State for Seniors. Bernard Dussault, Federal Superannuates, and Stan Buell, SIPA accompanied Dan for the presentation. Dan had successfully led the Common Front for Pension Splitting and 21 organizations have joined CFRS. Topics discussed included pension splitting, a universal pension plan, enhancing the Canada Pension Plan, defined benefits versus defined contributions, investment risks for pensioners, a national regulator, the recent Innovative Research Group survey sponsored by the CSA, lack of investor protection and the need for a national inquiry into the investment industry.

Innovative Research Group Survey indicates 1 million Canadians defrauded

The CSA sponsored survey IRG as reported by CBC News and other media reveals that 90% of Canadians believe the impact of investment fraud is severe and that the perpetrators are not punished. The following is from CBC News:

1 million Canadians victims of investment fraud: study

Tuesday, October 2, 2007 | 1:43 PM ET - CBC News

More than one million Canadians have lost money to some kind of investment fraud but most victims didn't report it, a survey done on behalf of the country's market regulators suggests.

The survey — done for the Canadian Securities Administrators — found that almost five per cent of adult Canadians have fallen victim to an investment scam and almost 20 per cent know a family friend or a family member who has been taken for a financial ride.

Many frauds are not the work of complete strangers, it found. About half of the victims were introduced to the fraud through some existing relationship of trust, like a family member, co-worker, friend, or neighbour.

The survey also found that fraud artists stand a very good chance of getting away with their crimes because the vast majority aren't even reported to authorities.
Fewer than one in four (24 per cent) of those who'd been victimized reported the crime, citing embarrassment, lack of proof, or because they hadn't lost much money.
Among the minority who actually reported their victimization, most were not happy with the way their complaints were handled. The survey said much of that dissatisfaction was rooted in a feeling that authorities didn't take action.
About three-quarters of those who said they'd lost money through fraud said they didn't recover any of their losses.
Most Canadians surveyed (about seven in 10) feel that fraudsters get away with their crimes. A similar percentage also believed that even if the con artists are caught, they get a light sentence.

Frauds not taken as seriously as other crimes
Canadians by an overwhelming margin (nine in 10) agree that the impact of investment fraud can be as severe as the impact of an assault or robbery. But half of those surveyed said authorities don't treat fraud as seriously as other crimes.
The study outlined the financial costs of fraud, with almost a third of victims saying it had an extreme or significant impact on their personal finances.
But the impact went far beyond dollars. Victims reported high incidences of stress, anger, and depression — especially among those who lost more than $10,000 — and their trust in the markets and in people in general had been severely compromised.
Who tends to be a victim of investment fraud? The survey found that having certain attitudes increased one's likelihood that they will fall victim to a fraudster, such as:
- *Not trusting investment professionals.*
- *Believing that it's necessary to "'bend the rules" to get ahead.*
- *Thinking that all investing is really like gambling.*

The study found that 4.51 per cent of the people who participated had been victimized.
The study's authors extrapolated that prevalence to 1,014,750 adult victims in Canada.
People in British Columbia were most likely to fall victim to an investment scam (14 per cent), while those in Atlantic Canada were least likely (four per cent).

'No one immune'
"We want people to understand that no one is immune to investment fraud," said CSA chair Jean St-Gelais. "The study shows it is a common occurrence in the lives of many Canadians. Everyone is vulnerable and all investors can benefit by doing their homework."
The prevalence of attempted fraud was also high, with almost three in 10 approached within the past three years. About of third of those approaches were through e-mail spam.
The study was carried out by Innovative Research Group for the Canadian Securities Administrators — the group that represents the country's 13 provincial and territorial securities commissions.

After an initial random phone survey, researchers asked 5,868 people about their investment experiences in an in-depth online study that was conducted between July 16 and July 31 this year.
The results are considered accurate to within 1.28 percentage points 19 times out of 20.

2007 CSA Investor Study by Innovative Research Group

The Innovative Research Group study is about the social impact of investment fraud. The report is available on the SIPA website as a Library document. The results of the study are no surprise, but it is surprising that the CSA released the study to the public. We provide an excerpt from the study below that outlines some of the impacts:

***"The first and greatest casualty of fraud is trust**. Not just trust in markets and investments, but trust in people in general.*
• Just over two-thirds (68%) of fraud victims say they are less willing to trust others after their fraud experience and 63% are less willing to make future investments.
• Among those who experienced fraud losses of $10,000 or more, 84% are less willing to trust others and 75% are less willing to make investments.
• Friends and family tend to see the impact in the same light as victims who experience major losses with 81% saying the victim they know was less willing to trust others and 77% saying the victim was less willing to make investments.
***Experience with fraud also shakes the confidence of victims in the way markets are run**.*
• Half of all victims agree that "After having someone convince me to invest in a fraudulent investment, I just don t trust the way investments are run and regulated in this country."
• A majority of 54% also agree that "As a result of the way authorities handled the case after I reported the investment fraud, I just don t trust the way investments are run and regulated in this country."
The next greatest casualty of fraud, particularly among victims with losses over $10,000, is health.
• The most prevalent health issues are about emotional health; with 36% of fraud victims reporting that they experience higher stress levels and 32% experiencing increased feelings or displays of anger.
• Among victims who lost $10,000 or more, 60% have experienced higher stress levels and 49% experienced increased feelings or displays of anger.
• Friends and family perceive an even higher toll with 68% perceiving that victims have experienced greater stress and 54% seeing increased feelings or displays of anger.
A second tier of health impacts relates to mental health.
• Just over one-in-five victims (22%) report experiencing depression (22%), or feelings of extreme loss or isolation (20%).
• Again, the impacts are more severe among victims who lost more than $10,000 with 43% reporting depression and 38% reporting feelings of extreme loss or isolation.

• Friends and family report even higher impacts with depression at 48% and feelings of loss or isolation at 44%."

SIPA pursues Forgery issue

Forgery is a widespread practice in the investment industry. Know your client forms are often changed to indicate higher risk tolerance than is acceptable to the investor, and salaries and assets are often overstated to justify investments with more risk.
When investors are considered accredited (having sufficient wealth to sustain significant loss) the industry is able to sell them unregulated products that normally would not be sold to unaccredited investors.
In September, SIPA made a submission to the RCMP on Forgery. The submission includes copies of a number of forged documents and affidavits from several individuals indicating that the signatures on the documents are forgeries.
This submission is a test case to determine whether the RCMP are now able to follow through with their initiative to pursue smaller cases effecting investors rather than utilizing all their resources on a few major cases.

Joint Submission to the Ontario Ombudsman

A joint (N.P.S.C.F./SIPA/U.S.C.O.) submission was formally submitted to the Ontario Ombudsman in September. We have provided documentation and have requested an investigation into the Ontario Securities Commission's failure to protect investors. The Ombudsman's staff wishes to speak to individuals and a number have already volunteered.
The IRG report on fraud mentioned above is timely as it supports what we have been saying about widespread fraud and wrongdoing.
If you have had an unsatisfactory experience with the OSC or if you feel the regulators are not protecting investors from fraud and wrongdoing, it would be helpful if you will volunteer to speak with the Ombudsman. This can be done confidentially. If you would like additional information, please call SIPA at 905-471-2911 and say you want information regarding the Ombudsman submission.

INDUSTRY BULLIES AGGRIEVED INVESTORS

Although SIPA and many others have been trying to raise awareness of the widespread wrongdoing and fraud in the investment industry, Government has so far failed to react. The publishing of the IRG survey and report carried out for the CSA indicates beyond doubt that fraud and wrongdoing are rampant.
A recent article by Barry Critchley in the Financial Post discloses that Brad Goodwin, a former client of the Berkshire Group now owned by Manulife Financial is being bullied with threatened lawsuits for disclosing information to a journalist. For too long the industry has covered up the extent of wrongdoing by muting victims with gag orders and

threats of legal action if they speak out. It is time that Government takes action to protect Canadians from this harassment by an industry that appears out of control.
We urge all SIPA members to present a copy of this article to your Member of Parliament and to your provincial Legislative Assembly member.
The Common Front for Retirement Security (in which SIPA participates) has already met with the Minister of State responsible for seniors to ask for a national inquiry to expose this issue. Critchley's article is reproduced below:

Berkshire accused of legal piling on

***Barry Critchley** - Financial Post*
Friday, October 05, 2007

In most sports, there are various rules regarding piling on. Those who disregard them are penalized.
A group of disaffected clients of the Berkshire Group -- specifically, those who put their faith in Ian Thow, the firm's former senior executive based in Vancouver -- feel similar rules should apply to the way large and well-funded financial institutions deal with complaints.
Those clients -- who are part of a larger group who claim they lost $32-million over a period ending in the early summer of 2005 -- feel Berkshire, now owned by Manulife Financial Corp., is piling on by making them go through interminable delays, be it through the courts or through dealings with various regulatory bodies, to get satisfaction.
For instance, next Friday Berkshire was scheduled to bring a series of motions against Brad Goodwin, one of Thow's former clients, for allegedly disclosing information to a journalist. (The matter has been adjourned.) Goodwin, who along with his family has filed a lawsuit against Thow and Berkshire, has so far spent more than $200,000 on legal bills and his case has yet to reach discovery. "It's just corporate bullying," said Goodwin. "They want to get our lawyers tied up in there for three days and just bleed the life out of us. It's so expensive to fight these motions. They are absolutely doing everything they can to bury us. They're beating us down."
A number of Thow's former clients say they're upset, claiming Berkshire hasn't been reined in by Manulife, one of the country's most respected financial institutions. Many felt Manulife, usually lightning fast at stamping out fires, would have taken a more hands-on approach and sought to put the matter behind it after it bought Berkshire in August. As Doug MacKay, the prosecutor for the British Columbia Securities Commission said at its hearing into Thow: "He [Thow] intentionally and systematically stole millions of dollars from his clients, many of whom were elderly and apparently vulnerable to Thow's apparent charms."
Other examples of piling on: - According to people who have filed complaints, Berkshire has refused to co-operate with the Ombudsman for Banking Services and Investments, an independent agency whose mission is to fix conflicts between participating banking and investment firms and their customers. For the OBSI to complete its work, it needs

some input from Berkshire. - Last January, Mr. Justice R. Goepel criticized the way Berkshire was behaving in a court case brought by George Thomson, a Nanaimo businessman and also a former client of Thow. "Berkshire's failure to comply with the rules of court and various court orders made during the course of this application is not acceptable," Judge Goepel said.
At least one body seems to be breaking free of the pile.
The Mutual Fund Dealers Association announced yesterday it has issued a notice of settlement hearing against Berkshire. The proposed settlement agreement concerns allegations that Berkshire "failed to conduct reasonable supervisory investigations of Thow, and to take such reasonable supervisory and disciplinary measures as would be warranted by the results of its investigations," contrary to two specific MFDA rules.
The MFDA has the real power over Berkshire's fate and future operations.
The hearing is scheduled for Oct. 22 in Vancouver.

bcritchley@nationalpost.com

Fraud Squad TV – New TV series and interactive website

Former RCMP Superintendent Craig Hannaford has been busy since leaving the IMET project. The following is a message from him describing his new project.

"Over the last 6 months, I have been working on a project called Fraud Squad TV. This is a 13 episode television show that seeks to educate people about the different frauds that are out there. Each episode profiles 2 different types of consumer level frauds by using re-enactments, interviews with victims, investigators and subject matter experts. The TV show seeks to teach consumers how to recognize various frauds and hopefully how to avoid falling victim to these scams. The TV series is accompanied by an interactive web site (www.FraudSquadTV.com) providing additional fraud prevention information.

Fraud Squad TV appears on the following Canadian networks at these times:

Access	*MST*	*Starts Sept 24th*	*Mondays at 8 p.m.*
CLT	*EST*	*Starts Sept 25th*	*Tuesdays at 2 a.m. and 8 p.m.*
Court TV	*EST*	*Starts Oct 5th*	*Fridays at 7:30 am, 6:30 pm, 11:30 pm Saturdays at 8 pm Sundays at 1 pm, 7 pm, 11 pm*

Enjoy the show.

Craig Hannaford"