To: **MFDA** membershipservices@mfda.ca

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Re: **PROPOSED AMENDMENTS TO MFDA RULE 2.2.1 ("KNOW-YOUR-CLIENT")**
AND
MFDA POLICY NO. 2
MINIMUM STANDARDS FOR ACCOUNT SUPERVISION
http://www.mfda.ca/regulation/propAmend/Prop2-2-1.pdf

Thank you for allowing me the privilege to provide a response to the above MFDA proposed Rule and Policy changes.

Investors don't just deserve, require *and / or* must they be provided with "protection", investors have the **"Right to Expect Protection" –** "investor rights" being the mission statement of FAIR Canada

– investors have the "Right to Expect Protection"

– investors have the "Right to Expect" that they will be provided with "Protection" by our 13-Prov. and Terr. Securities Commissions & the industry associations **–** the MFDA and IIROC – that our 13-Prov. and Terr. Securities Commissions have granted Self-Regulatory Powers to.

Purposes of Act – the Ontario Securities Act
1.1 The purposes of this Act are,
(a) to provide protection to investors from unfair, improper or fraudulent practices;
(b) to foster fair and efficient capital markets and confidence in capital markets. 1994, c. 33, s. 2.

"Provide protection to investors" and "confidence in capital markets" means—includes:

THE FRUGAL BUGLE ® 84 Cadillac Avenue South, Oshawa, ON, Canada L1H 5Z2
Bell Mobility PCS: (905) 767-7747 E-mail: killoran@sympatico.ca web site: www.investorism.com

1. that our securities commissions and the industry associations that they have granted Self-Regulatory Organization (SRO) powers to will finally understand, appreciate and really act upon the underlying "grist" contained in September 1997 statements made by my late mother's first cousin, Arthur Labatt, the billionaire Order of Canada recipient founding President of Trimark who had the honesty and courage to say that:

> **"We believe mutual funds are sold, not bought."**
> —**Arthur Labatt**, Investment Executive, **Sept. 1997**
>
> **"Most Canadians are not as sophisticated as Americans and so are less likely to want to make their own investment decisions."**
> —**Arthur Labatt**, Investment Executive, **Sept. 1997**

Arthur's extremely courageous truthteller honesty statements very simply mean that investors not only must be provided with all material information in order to make an informed decision before "buying" or "selling" any complex investment fund, Arthur statements become exponentially more important especially

– when fund investment schemes with significant Risks are being $OLD by a market registrant "Approved Person" – a "salesperson", and

– especially when a leveraged investment fund scheme is being $OLD by a "salesperson" that has a simple multiplication *or* an exponentially significantly higher compounded multiple of Risk

WHY? – because the "salesperson" is being paid on a monthly or quarterly basis an ongoing lack of transparency dollars and cents ***"Tied Advice / Tied Sale"*** trailer fee commission amount by the fund company to keep the investor invested in the leverage fund(s) **–** an extremely sophisticated derivative of a "secret commissions" to keep their investor invested in the leveraged investment fund scheme that was $OLD to the investor by the "salesperson" **!!**

FACT: On May 26, 2011, my highest calling "Hippocratic Oath" surgeon who performed major surgery on me had no choice of how he was going to be paid by the Ontario Ministry of Health for operating on me **–** for his performing 3+ hours of major surgery on me.

Q. **WHY** then does an MFDA market registrant "Approved Person" "salesperson" with no required higher**—**highest calling university required degree(s) and with no "Fiduciary Oath" to always put an investor's best interests ahead of their own self-interests

- **WHY** do we allow a market registrant "salesperson" to choose from 12-different lack of POS transparency remuneration schemes + additional on-going 50% *or* 100% ***"Tied Advice / Tied Sale"*** trailer fee commission combo permutations when they sell an investment fund **–** especially when they recommend a leverage $OLD investment fund scheme**?**

The Dirty Dozen Remuneration Schemes That a "salesperson" Can Choose From

Load Type	Description
DO	Deferred based on Original amount
DM	Deferred based on Market value
FO	Either Front end or deferred on Original
FM	Either Front end or deferred on Market
FE	Front End Load
BE	Back End Load
FB	Either Front end or Back end Load
AC	Acquisition Charge
IS	Initial Sales Charge
LL	Low Load
NL	No Load
VS	Volume Sales Charge

Our OBSI Ombudsman, Doug Melville, provided me with the following statement yesterday:

> **"From OBSI's perspective, it is important that the investor knows at the point of sale what they are getting into, both in terms of investments and leverage. The investor needs to know how the proposed investment and leverage fits with their own personal investment objectives, knowledge and risk tolerances. Such knowledge would help both investors and firms avoid many of the investment suitability complaints we handle."**
>
> **—Douglas Melville, Oct. 5, 2011**
> Ombudsman and CEO | Ombudsman et Chef de la direction
> OBSI | OSBI

EVIDENCE

It is beyond shameful **...**

- is it actually a **122. Breach of trust by public officer** under our Criminal Code**?**

- when Leslie Byberg and Rhonda Goldberg at our lead Ontario Securities Commission not only breach and apply ON Premier Dalton McGuinty's 2007 Liberal Party "Strive For Excellence" Education Platform on behalf of the deserved, needed and required financial literacy education of every consumer—investor
- They are also participating with their fellow Canadian Securities Administrators Fund Facts POS decision makers + predecessors, etc., who have all knowingly committed the Act of Obfuscation — since February 13, 2003 — for their individual and collective refusals to say anything whatsoever about why they have declined to include any of the 15-Modern Portfolio Theory RiskMetrics on their Fund Facts document **!!**

[122. Breach of trust by public officer]

122. Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

– the 15-Portfolio financial well-being protection RiskMetrics that illuminate the transparency of known**—**potential**—**could be Risks ***v.*** Rewards

– the 15-Portfolio financial well-being protection RiskMetrics that are the forensic audit trail from the get-go of every supposed "Duty-of-Care" investment fund $OLD scheme

– the 15-Portfolio financial well-being protection RiskMetrics that are the definitive gauges to forensically identify and audit "Know-Your-Client" suitability investment schemes.

The 15-RiskMetrics on my attached 17-year old "Prescriptive" POS Checklist

1. Alpha: _____
2. Beta: _____
3. Correlation Benchmark: _____
4. Downside Risk: _____
5. Downside Frequency: _____
6. Downside Magnitude: _____
7. Jensen's Measure: _____
8. Mornigstar Rating: _____
9. Mean: _____
10. R-Squared: _____
11. Sharpe Ratio: _____
12. Skewness: _____
13. Sortino Ratio: _____
14. Standard Deviation:_____
15. Treynor's Measure: _____

– the 15-Portfolio financial well-being protection RiskMetrics that I myself have taught at Wilfred Laurier University's Schlegel School of Business in 2002 (BU383) and at York University's Atkinson College in 2003 (ADMS3530)

– the 15-Portfolio financial well-being protection RiskMetrics that I added to my own 1994 investorism POS Checklist in 2002

– the 15-Portfolio financial well-being protection RiskMetrics that compare to my medical well-being blood, urine, prostate PSA, etc. numeric test results that my family doctor fully disclosed and discussed with me 2-days ago during the completion of my annual comprehensive medical appointment

Q. At what grade level does our family doctor educate, tell us and explain the significances of our numeric medical well-being test results?

Q. Is the Grade 6.0 or less financial literacy limiting rubric of the Flesch-Kincaid grade level system applied to the Fund Facts document actually meant to:

i.) by-design keep investors dumbed down so that they will know nothing about the 15-Modern Portfolio Theory financial well-being Risks ***v.*** Rewards metrics?

and / or

ii.) is it by-design meant to cover-up the fact that our market registrant licensed "salespersons" have zero higher calling making university educating—granting—bestowing degree(s) that makes them a professional profession of a Financial Well-Being Practitioners with an inherent "Fiduciary Oath" that parallels our highest calling medical well-being "Hippocratic Oath" physicians

– like our doctors who teach us our health education and prevention practices?

– the 15-Portfolio financial well-being protection RiskMetrics that "investor protection rights" deserve—require—demand that investors must be given @ the POS **–** that investors must be given especially at the point-of-a-leveraged-investment-scheme-that's-being-$OLD by a market registrant "salesperson" **!!**

AND of course, **IF** the movement to deliver their Fund Facts document 2-days after the sale is $OLD is allowed to stand

– IF their Fund Facts doc. is not required to be disclosed at the point-of-an-investment-scheme-being-$OLD

– especially a leveraged fund portfolio investment scheme being $OLD **–** with the 15-Portfolio financial well-being RiskMetrics being clearly disclosed @ the POS

– "investor protection rights" will be knowingly and clearly breached !!

2. "Providing protection to investors" + "confidence in capital markets" means that investors have a Right to Expect that a "spade will always be called a spade"

– that a market registrant Approved Person will always be called a "salesperson" and that a market registrant "salesperson" <u>will never ever be allowed</u> to be misrepresented as anything other than a "salesperson" unless they are licensed as a "fiduciary"

– that "salespersons" will never ever be allowed to be misrepresented to investors, as:

- **"as a "financial planner", "financial consultant","financial adviser", "investment adviser" and other terms designed to imply expertise in financial planning and investment advisory services."**
  —Glorianne Stromberg, Oct. 1998, Investment Funds in Canada …" Report

3. "Providing protection to investors" + "confidence in capital markets" means that our Securities Commissions and SRO's will themselves by example vigorously maintain, update on a timely basis, adhere to, investigate breaches and enforce our Prov.—Terr. Securities Acts and Criminal Codes while also overseeing the adherences of their SRO appointed industry associations to our Securities Acts and their own SRO required Rules and Regulations **+** our Securities Acts and Criminal Codes.

Q. Is the MFDA committing "triplespeak"?

EVIDENCE

The MFDA uses the phrase "Approved Person" and the word "salesperson(s)" in its Leverage Rule 2.2.1 ("Know-Your-Client")

@ http://www.mfda.ca/regulation/propAmend/Prop2-2-1.pdf

Word Mentions in the above MFDA Proposed Rule 2.2.1 (KYC) Amendment:

0 – adviser(s)

0 – advisor(s)

30 – Approved Person(s)

58 – salesperson(s)

When it comes to The MFDA marketing and representing its "Approved Persons" — "salespersons" – the MFDA itself misrepresents them as "advisors" and the MFDA allows its member firms to misrepresent and market them as higher calling *caveat emptor* undermining "advisors" too:

Choosing an Advisor: Getting helpful information

@ **http://www.mfda.ca/investors/brochure/ChooseAdvisor.pdf**

IIROC also itself misrepresents and allows its member firms to markets and misrepresents its "registered reps" as "advisors" too:

IIROC AdvisorReport

@ **http://www.iiroc.ca/English/Investors/KnowYourAdvisor/Pages/default.aspx**

And when the MFDA exercises and uses its ENFORCEMENT powers to lay Notice Of Hearings, Orders, Settlement Agreements, Notice of Decisions and Reasons, Case Summaries, etc., statements and adjudications the MFDA uses "salesperson" verbiage, not their own and member firms allowed misrepresentations of Approved Persons as "advisers" verbiage !!

Q. When does this blatant premeditated *caveat emptor* misrepresentation of "salesperson(s)" as "adviser(s)—advisor(s)" by the OSC, MFDA and IIROC themselves become a **Section 122. Breach of trust by public officer** under our Criminal Code?

I naturally assume that the granting of SRO powers to the MFDA and IIROC makes—elevates their most senior employees “public officers” and subject to our Criminal Code Section 122 “Breach of trust by public officer law too” **!!**

The Ontario Securities Act

Application for registration, etc.

26. (1) An application for registration, reinstatement of registration or an amendment to an existing registration must contain such information in such form as the Director may reasonably require and must be accompanied by such fee as may be required by the regulations. 2009, c. 18, Sched. 26, s. 4. http://www.osc.gov.on.ca/en/SecuritiesLaw_ord_20090807_231_valuengine.jsp

Adviser registration categories

(6) A person or company making an application under subsection (1) with respect to registration as an adviser shall indicate for which of the following categories of adviser registration he, she or it is applying and shall provide such information as the Director may require to verify that the activities of the person or company will be within the permitted activities for that category of adviser registration:

1. Portfolio manager, authorized to provide advice to a client with respect to investing in, buying or selling any type of security, with or without discretionary authority granted by the client to manage the client’s portfolio.

2. Restricted portfolio manager, limited to the advising activities authorized under section 27 for the person’s or company’s registration.

3. Such other category of adviser as may be prescribed by the regulations. 2009, c. 18, Sched. 26, s. 4.

4. “Providing protection to investors” + “confidence in capital markets” means that at some point in time, somebody (ies) from one or more our securities commissions, has to (have to) have the honesty and courage to publicly address each of the following:

- the beyond immoral and unethical ideal **–** the practice of “Know-Your-Client” suitability **–** which requires consumer—investors to bare their financial souls to a market registrant Approved Person who is a “salesperson” ***BUT*** who is knowingly being misrepresented as an “adviser / advisor”

  – investors are forced to bare their financial souls to a predation driven “salesperson” who is allowed to be misrepresented as a higher calling “adviser—advisor”

  – “salespersons” who are misrepresented as a supposed higher calling university educated and degreed professional profession with a looks, feels, sounds but does not taste “fiduciary oath” because they use upper case acronyms for their other than “salesperson” securities commissions and industry misrepresentation “advisor” titles

– acronym misrepresentations that give the perception of them being a higher—highest calling university degree bestowed professional that allows them to “prey” upon consumer—investors—patients—parishioners—students—etc., who have been conditioned from birth to trust and bare our souls to our higher—highest calling M.D. medical well-being practitioners, clergy, teachers, etc.,

– oxymoronically consumer—investors—criminals—etc., bare their souls to our solicitor—client privileged lawyers – the same lawyers who have designed and approved our “adviser—advisor” misrepresentation practices !!

- our failure to require our financial well-being practitioners to have a higher—highest calling university professional profession designating degree(s) with an inherent university granted or bestowed higher—highest calling professional profession “Fiduciary Oath” that parallels our highest calling medical well-being physicians with their “Hippocratic Oath” and their supporting College of Nursing nurses (4-year university degree), arm’s length prescription fulfilling College of Pharmacists (minimum 5-years of university education), etc.,

  – our failures to require our financial well-being practitioners to have the culture that’s attached to a required professional profession university degree(s)

  – our first world failures that have undermined and compromised the sovereignty of Canada and the financial well-being of every Canadian !!

- how the lack of transparency on investor statements of the monthly / quarterly / semi- and annual dollars and cents amounts of the ***“Tied Advice / Tied Sale”*** trailer fee commission component of an investment fund’s annual MER is an extremely sophisticated derivative of a **secret commission** that breaches **Section 426. Secret commissions** of our Criminal Code because its percentage amount stated once in a prospectus is never disclosed as a dollars and cents amount on an investor’s monthly, quarterly, semi- and annual statements.

FACTS: the dollars and cents amounts of the MERs, trailer fee commissions and the previous GST, now HST charged on MERs have existed from the time zero of computers, ***BUT*** our 13-Prov.—Terr. securities commissions have committed a Breach of Trust by their not requiring the transparencies of these existing, available and easily transferable monthly, quarterly, semi- and annual amounts to be clearly disclosed on investor statements **!!**

Section 426. Secret commissions

426. (1) Every one commits an offence who
(*a*) directly or indirectly, corruptly gives, offers or agrees to give or offer to an agent or to anyone for the benefit of the agent — or, being an agent, directly or indirectly, corruptly demands, accepts or offers or agrees to accept from any person, for themselves or another person — any reward, advantage or benefit of any kind as consideration for doing or not doing, or

for having done or not done, any act relating to the affairs or business of the agent's principal, or for showing or not showing favour or disfavour to any person with relation to the affairs or business of the agent's principal; or

(*b*) with intent to deceive a principal, gives to an agent of that principal, or, being an agent, uses with intent to deceive his principal, a receipt, an account or other writing

(i) in which the principal has an interest,

(ii) that contains any statement that is false or erroneous or defective in any material particular, and

(iii) that is intended to mislead the principal.

Privity to offence

(2) Every one commits an offence who is knowingly privy to the commission of an offence under subsection (1).

Punishment

(3) A person who commits an offence under this section is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Definition of "agent" and "principal"

(4) In this section, "agent" includes an employee, and "principal" includes an employer.

R.S., 1985, c. C-46, s. 426;
R.S., 1985, c. 27 (1st Supp.), s. 56;
2007, c. 13, s. 7.

– that it's an abuse that is simply or exponentially multiplied when higher**—**highest risk leveraged investment fund schemes are $OLD.

– especially when trailer fee commissions paid by fund companies are far more consumer**—**investor abusing **+** "salesperson" advice undermining and compromising than the practice of "tied selling" that was made illegal in 1998 and added to our Canadian Bank Act

– and especially now when it has already been announced that investment fund trailer fee commissions are being banned in other Commonwealth nations: UK, Australia, etc.

The above "Investor Rights" abusing practices, cultures **–** these beyond immoral and unethical ideals – must be immediately exposed, addressed and fixed before the MFDA's Proposed Amendments to its Leverage KYC Rule 2.2.1 can be properly written, presented, addressed and approved by our 13-Prov.**—**Terr. Securities Commissions who have granted SRO powers to the MFDA and IIROC.

Below please find some extremely relevant leverage "grist" + a compendium of some of the fund leveraged investment scheme abuses that I have been exposing over the last decade.

Best regards,

Joe Killoran, 1979 *Ethical* Ivey MBA

ATTN.: MFDA and BCSC

INVESTMENT FUNDS IN CANADA

AND

CONSUMER PROTECTION

STRATEGIES FOR THE MILLENNIUM

A Review by Glorianne Stromberg

Prepared for Office of Consumer Affairs, Industry Canada

October 1998

http://www.ic.gc.ca/app/oca/crd/dcmnt.do?id=801&lang=eng
http://www.ic.gc.ca/eic/site/oca-bc.nsf/vwapj/Investment%20Funds%20in%20Canada.pdf/$file/Investment%20Funds%20in%20Canada.pdf

WORD MENTIONS:

1-salesperson

1-registered representative

1-sales-oriented representative

60-sales representative(s) **–** [sales] representative(s)

94-adviser(s)

Page 25 (pdf page 44)

On a less positive note, a number of industry participants said that there is not a whole lot of difference observing that:

- "shills" are still very much in evidence;
- [free] trips are coming back;
- inappropriate product sales are still being made;
- there are some fundamental structural problems with the investment fund industry that center on **the fact that consumer/investors think they are dealing with an independent professional investment adviser** when in fact they often are simply dealing with a **salesperson;**

- **the foregoing situation is aggravated by the fact that there is insufficient control over the use of descriptive terms such as "financial planner", "financial adviser", "financial consultant", "investment adviser", and other terms which do not clearly differentiate between the qualifications of the intermediary as a professional investment adviser able to exercise discretionary authority and the qualifications of a sales representative who is not permitted to exercise such discretion;**

- **there is still poor disclosure of what the consumer/investor is paying for and what service this includes.**

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Financial Planning Concerns

8. Concern about the unregulated use of terms such as "financial planner", "financial consultant", "financial adviser", "investment adviser" and other terms designed to imply expertise in financial planning and investment advisory services. These concerns are combined with a concern about the lack of standards to be met by firms and individuals before being able to offer, or to identify themselves as offering, financial planning and investment advisory services.

THE FAIR DEALING MODEL

CONCEPT PAPER OF
THE ONTARIO SECURITIES COMMISSION
JANUARY, 2004

http://www.osc.gov.on.ca/documents/en/Securities-Category3/cp_33-901_20040129_fdm.pdf

WORD MENTIONS used by Julia Dublin, *et al*:

10-salesperson(s)

1-registered representatives

1-**sales**-oriented representative

1-**sales** representative

12-financial planner(s)

121-advisory – includes: 2-investment

173-advisor(s) – includes: 7-financial and 4-investment

344-adviser(s)

367-representative(s)

Pages 5 and 6 (pdf pages 15 and 16)

Terminology. Before reading further, it will be useful for readers to understand a few of the decisions we've made about terminology in this paper.

As most of you will be aware, the language people use to refer to the participants in the financial services industry can be confusing. Job titles for people in similar roles can vary widely – **but individuals most people refer to with names like financial planner or investment adviser are actually classified as "salespersons" under the *Securities Act*.** **The word "adviser" is very commonly used, <u>but under the regulations</u> it is confined to a small number of portfolio managers and newsletter publishers.** And the use of words like "dealer" to refer to firms implies (wrongly, in many cases) that they are engaged only in a narrow range of activities, rather than a wider spectrum of financial services.

This illustrates one of the problems we highlight in Part II: a lack of clarity. **If industry insiders cannot agree on vocabulary, imagine how the average investor must feel.** The Fair Dealing Model aims to improve clarity in a number of ways – and perhaps one of them will involve defining or redefining some terms. But we're not at the drafting stage yet. For now, our goal is that readers at least have a consistent, unambiguous understanding of the language in the Concept Paper. As regulators, we're more reluctant than most to stray from the official terminology, but we'll do it occasionally in the name of readability.

Following are some of the terms we use in the paper:

· "**representative**" describes an individual providing services to clients on behalf of a firm. We use the word in a broad sense that includes any salesperson, adviser, financial planner, etc.
· "**adviser**" is used much less frequently than "representative," because it is not as broadly applicable. We assume the common usage meaning of this word, not its *Securities Act* definition. We only use "adviser" to refer to someone who provides services beyond a sales role.

Province of Alberta Securities Commission

http://www.albertasecurities.com/Insiders/Pages/ImportantDefinitions.aspx

Important definitions of the ASC's Different Market Registrant Licenses

Adviser	a person or company engaging in or holding out the person or company as engaging in the business of advising others with respect to investing in or the buying or selling of securities or exchange contracts (Examples: Portfolio Managers, Investment Counsel and Securities Advisers)
Dealer	a person or company that trades in securities or ex- change contracts as principal or agent (Examples: Investment Dealers, Mutual Fund Dealers and Scholarship Plan Dealers)
Investment Counsel	an adviser who shall not instruct any trades in securities, or exchange contracts on behalf of any client without advising the client of the specific trade being proposed, and obtaining the approval of the client for that specific trade
Investment Dealer	a firm that is registered to trade, buy or sell all types of securities. The Investment Dealers Association (IDA) registers these firms on behalf of the ASC.
Investment Fund Manager (or "Fund Manager")	a person or company who has the power to direct and exercises the responsibility of directing the affairs of an investment fund
Mutual Fund Dealer	a firm that is registered to trade, buy or sell mutual funds
Portfolio Manager	an adviser registered for the purpose of managing the investment portfolio of the adviser's clients through discretionary authority granted by the clients
Registrant	a person or company registered or required to be registered under Alberta Securities Act or the regulations
Salesperson	an individual who is employed by a dealer for the purpose of making trades in securities or exchange contracts on behalf of that dealer
Securities Adviser	an adviser who provides advice to a non-specific client, for example a newsletter or magazine

Re: the history and *raison d'être* behind the 17 Portfolio Risk Metric numeracy numbers on my **1994 *investorism* better—best decision empowering 1-pg POS Checklist**:

- From its creation / inception in **July—August 1994**, my **POS Checklist** contained two (2) extremely significant and important better—best informed decision facilitating and empowering RISK metrics:

The ***Portfolio Turnover*** **_#_** for its numeracy – an important numeracy number that indicates the extra undisclosed portfolio trading costs that are in addition to the annual Management Expense Ratio (MER), GST, etc.

- it's also an indicator of capital gains that can be / will be distributed and the taxes that will be required to be pre-paid before non-tax shielded money invested in a fund is redeemed.

My **POS Checklist** has had blanks for these very important **Book Value $_ _._ _** and **Market Value $_ _._ _** these two required decision facilitating and empowering unit values for taxable investment monies since August 1994.

In June 2002, just prior to my six (6) month contract to teach BU383 Corporate Finance @ Wilfrid Laurier University began on July 1, 2002, I added 12 of the 15 Modern Portfolio Theory Risk Metrics to my **POS Checklist** that I would be teaching @ Laurier.

I added the other three (3) Risk Metrics **in Nov. 2002** that I taught @ Laurier to my **POS Checklist**.

In addition to the Portfolio Turnover numeric plus Book and Market unit values, my **POS Checklist** has contained the following 15 better—best informed decision empowering Risk Metric numeric numbers since 2002:

My 1994 *investorism* POS Checklist contains the 15-Modern Portfolio Theory better—best ...

... financial well-being POS decision empowering Risks *v.* Rewards Metrics

The 15-RiskMetrics on my attached 17-year old "Prescriptive" POS Checklist

1. Alpha: _____
2. Beta: _____
3. Correlation Benchmark: _____
4. Downside Risk: _____
5. Downside Frequency: _____
6. Downside Magnitude: _____
7. Jensen's Measure: _____
8. Mornigstar Rating: _____
9. Mean: _____
10. R-Squared: _____
11. Sharpe Ratio: _____
12. Skewness: _____
13. Sortino Ratio: _____
14. Standard Deviation:_____
15. Treynor's Measure: _____

Alpha

Also know as the Jensen, Alpha represents a fund manager's ability to beat a benchmark. The excess return of the fund relative to the return of the benchmark index is a fund's alpha.

Calculated on a 3-year basis, the formula for Alpha is: (Return minus Risk Free Rate) minus[Beta * (Benchmark minus Risk Free)]. Higher is better.

Beta

Beta measures the volatility, or systematic risk, of a portfolio in comparison to the market as a whole – the portfolio's benchmark index against which the fund is measured. The greater the value of beta, the more risky the fund is compared to the index. A portfolio with a beta equal to 1.0 has the same risk as the index; betas less than 1.0 indicate less risk; betas greater than 1.0 have more risk.

Correlation

Correlation, which ranges from minus 1 to 1, measures the performance relationship between two funds. A high correlation between two funds would indicate that the inclusion of both funds within a single portfolio would result in redundancy, and provide very little diversification. You'd have more stuff, not more performance or risk management. On the other hand, two funds that exhibit weak correlation would add diversification and reduce risk in a portfolio.

Downside Risk (Downside Deviation)

The true measure of a fund's risk, downside risk measures what investors can expect to earn should the fund not achieve some specified target rate of return. For our discussion from here on, we'll assume that target to be 10%. Downside risk should be subtracted from the target return. If a fund has a downside risk of 8, then, when the fund doesn't achieve the target return of 10%, we would expect the fund to average 2% (10 minus 8) during a 12-month period.

Downside Frequency

This indicates how often the fund failed to achieve the target 10% rate of return measured on a rolling annual basis.

Downside Magnitude

Subtracted from the target 10%, this figure reflects a theoretical worst-case scenario to define the extent to which the fund could drop. A very high number indicates that the drop could potentially be substantial.

Jensen's Measure

A risk-adjusted performance measure that represents the average return on a portfolio over and above that predicted by the capital asset pricing model (CAPM), given the portfolio's beta and the average market return. This is the portfolio's alpha. In fact, the concept is sometimes referred to as "Jensen's alpha." A positive value for Jensen's alpha means a fund manager has "beat the market" with his or her stock picking skills.

Mean

The simple mathematical average of a set of two or more numbers. A fund's mean is its average monthly return.

Morningstar Rating

The Morningstar RatingTM was introduced in Canada in February 2000. Based on the original Morningstar Rating launched in 1985 in the U.S., this one– to five–star rating system allowed investors to easily evaluate a fund's past performance within investment fund categories. The introduction of the Morningstar Rating gave the average investor ready access to the concept of risk-adjusted return. In 2003, Morningstar changed the way that it assigned Morningstar Ratings to mutual and segregated funds. Segregated funds and mutual funds were no longer compared directly with each other for the purposes of assigning the Morningstar Rating. Morningstar did not want the ratings of funds to be affected by being compared to fundamentally different investment vehicles.

How Does it Work?

To determine a fund's rating, the fund and its peers are ranked by their Morningstar Risk-Adjusted Returns (MRARs) for each of three time periods: three, five, and 10 years. For each time period,

if a fund scores in the top 10% of its peer group, it receives five stars (high);
if it falls in the next 22.5%, it receives four stars (above average);
a place in the middle 35% earns a fund three stars average);
the lower 22.5% receives two stars (below average); and
the lowest 10% earn one star (low).

Morningstar calculates ratings only for categories with at least 20 funds that have a minimum of three years of performance history and report their returns net of fees. Ratings are not calculated for funds in the Retail Venture Capital, Specialty, and Hedge Fund categories due to the diverse nature of these funds.

R-Squared

R-squared values range from 0 to 100. An R-squared of 100 means that all movements of a security are completely explained by movements in the index. A high R-squared (between 85 and 100) indicates the fund's performance patterns have been in line with the index. A fund with a low R-squared (70 or less) doesn't act much like the index. An R-squared of 0.45 means that 45% of a fund's movements are explained by benchmark movements.

A higher R-squared value will indicate a more useful beta figure. For example, if a fund has an R-squared value of close to 100 but has a beta below 1, it is most likely offering higher risk-adjusted returns. A low R-squared means you should ignore the beta.

Sharpe Ratio

This measure tells us how much risk is assumed by the fund manager – whether a portfolio's returns are due to smart investment decisions or a result of excess risk. This measurement is very useful because although one portfolio or fund can reap higher returns than its peers, it is only a good investment if those higher returns do not come with too much additional risk. The greater a portfolio's Sharpe ratio, the better its risk-adjusted performance has been. A negative Sharpe ratio indicates that a risk-less asset would perform better than the security being analyzed.

The Sharpe Ratio also determines if the manager is achieving excessive returns over a risk-free rate of return like those provided by T-bills.

Skewness

Skewness is extremely important to finance and investing. Remember the bell curve? That's a regular, symmetrical bell shaped distribution of results. Skewness is a measure that indicates the degree of asymmetry of a fund's distribution around its mean. Most sets of data, including stock prices and asset returns, have either positive or negative skew rather than following the balanced normal distribution (which has a skewness of zero). By knowing which way data is skewed, one can better estimate whether a given (or future) data point will be more or less than the mean. Positive skewness indicates a distribution with a right tail extending toward positive values. Negative skewness indicates a distribution with a left tail extending toward negative values.

Most advanced economic analysis models study data for skewness and incorporate this into their calculations. Skewness risk is the risk that a model assumes a normal distribution of data when in fact data is skewed to the left or right of the mean.

Sortino Ratio

This ratio is the standard "Post-Modern Portfolio Theory" measure of risk-adjusted returns. It measures how many units of return in excess of 10% are provided per unit of downside deviation / downside risk. In other words, the Sortino ratio is similar to the Sharpe ratio, except it uses downside deviation for the denominator instead of standard deviation, the use of which doesn't discriminate between up and down volatility.

Standard Deviation

Standard deviation is a statistical measure of risk reflecting the extent to which rates of return for an asset or portfolio may vary from period to period. The larger the standard deviation is, the greater the range of possible returns and the more risky the asset or portfolio becomes. Standard deviation is a statistical measurement that sheds light on historical volatility. For example, a volatile stock will have a high standard deviation while the deviation of a stable blue chip stock will be lower. A large dispersion tells us how much the return on the fund is deviating from the expected normal returns.

Treynor's Measure

A risk-adjusted measure of return that divides a portfolio's return in excess of the riskless return by its beta. Because it adjusts return based on systematic risk, it is relevant for performance measurement when evaluating portfolios separately or in combination with other portfolios. Compare to Sharpe Ratio.

III. General Risks of investing in funds, include:

A. Price fluctuation risk: may be more or less than when you purchased it

B. The investment is not guaranteed risk: it is not CDIC insured up to $100,000 like a GIC.

C. Redemptions may be suspended risk: under exceptional circumstances, an investor's right to redeem might be suspended

The specific risks of investing in funds, include:

1. **Concentration risk:** a fund that invests in a small number of securities

2. **Credit risk:** can have a negative impact on a debt security, **i.e.** bond, commercial paper, etc.

   Default risk: the issuer of the debt may not be able to pay

   Credit spread risk: between a corporate debt security and government security, junk and investment grade

   Downgrade risk: when a credit rating agency reduces their rating on an issuer's security

   Collateral risk: it will be difficult to sell the assets pledged as collateral for the debt

3. **Currency risk:** funds that hold foreign securities are marked to the market / converted to fund's currency on a daily basis. **ALSO,** from time to time, some foreign governments have / may restrict currency exchange.

4. Derivative risks: use of derivatives to limit gains or losses caused by exchange rates, stock prices or interest rates is called hedging and includes the following risks:

- the hedging strategy may not be effective there is no guarantee a market will exist when the fund wants to buy or sell (close out) the derivative contract
- there is no guarantee that the fund will be able to find a counterparty willing to enter into a derivative contract
- the counterparty to a derivative contract may not be able to meet its obligations
- a large percentage of a fund's assets may be placed on deposit with one or more counterparties, which exposes the fund to the credit risk of those counterparties
- securities exchanges may set daily trading limits or halt trading
- the price of a derivative may not accurately reflect the value of the underlying asset.

5. Equity risk: the value of a fund is affected by changes in the prices of the stocks it holds. Risks and potential rewards are usually greater for small companies, start-ups, resource companies and companies in emerging markets. Convertible into equity debt securities may also be subject to interest rate risk.

6. Foreign investment risk: investment in securities of foreign corporations *and / or* governments.

- Companies outside Canada may be subject to different regulations, standards, reporting practices and disclosure requirements.
- the legal systems of some foreign countries -- including Canada -- may not adequately protect investor rights
- Political, social or economic instability may affect the value of foreign and Canadian securities
- Governments may make significant changes to tax policies affecting the value of foreign and Canadian securities
- Foreign governments may impose currency exchange controls

7. Interest rate risk: the value of fixed income securities will rise and fall as interest rates change.

8. Large transaction risk: when a large investor in a fund makes a transaction, a fund's cash flow may be affected.

9. Liquidity risk: when problems in an organized market affect the ability to convert an asset to cash. A company's security may become illiquid because:
  - a company is not well known
  - there are few outstanding shares
  - there are few potential buyers
  - they cannot be resold because of a promise or agreement

10. Repayment risk: many debt securities, including mortgage-backed securities and floating rate debt securities, can be repaid before maturity.

11. **Replication management risk:** non-actively managed funds may not necessarily sell a security because the circumstances of a security issuer have changed to one of financial difficulty.

12. **Repurchase and reverse repurchase transactions and securities lending risk:** the other party to these transactions may default under the agreement or go bankrupt.

13. **Series risk:** most funds are available in more than one series of shares or units. A fund may use one series to pay the expenses of another series of the fund.

14. **Share class risk:** The Corporate Funds are separate classes of the fund manager. If the liabilities of a Corporate Fund are greater than its assets, the other classes of that corporation may be responsible for those liabilities.

15. **Specialization risk:** a fund that invests primarily in one industry, market capitalization range or specific region or countries may be more volatile than a less specialized fund.

investorism ADDENDUM

FACT: Investors can**not** determine what the **Risks *v.* Rewards** are in an investment fund portfolio **UNLESS –** our securities regulators require the following *and* arm's length auditor validated **RISKS *v.* REWARDS** investment fund portfolio identifying numeric ratios, performance measures, etc.,

– to be required to be delivered—transparent to investors at the point-of-sale, and to be

– updated weekly and available on-line by Sat. morning – day after Fri. weekly close calculations for on-going **Risks *v.* Rewards** validation + forensic verification purposes so that investors themselves can **"Trust, but Verify"** that their fund portfolio manager (s) is / are not using—engaging in any portfolio risk skyrocketing performance enhancing games—tricks—schemes—etc. with huge undisclosed RISKS to goose their investment performance between their currently required monthly *or* quarterly portfolio transparencies,

– high risk trading schemes that are facilitated by lack of transparency "IntraSpread dark-pool exchanges".

> *The predictability of future results show a strong correlation with the volatility of each strategy. Future performance of strategies with high volatility is far less predictable than future performance from strategies experiencing low or moderate volatility.*

- ***Aggressive Growth:*** Invests in equities expected to experience acceleration in growth of earnings per share. Generally high P/E ratios, low or no dividends; often smaller and microcap stocks which are expected to experience rapid growth. Includes sector specialist funds such as technology, banking, or biotechnology. Hedges by shorting equities where earnings disappointment is expected or by shorting stock indexes. Tends to be "long-biased." *Expected Volatility:* **High**

- ***Emerging Markets:*** Invests in equity or debt of emerging (less mature) markets which tend to have higher inflation and volatile growth. Short selling is not permitted in many emerging markets, and, therefore, effective hedging is often not available, although Brady debt can be partially hedged via U.S. Treasury futures and currency markets. *Expected Volatility:* **Very High**

- ***Macro:*** Aims to profit from changes in global economies, typically brought about by shifts in government policy which impact interest rates, in turn affecting currency, stock, and bond markets. Participates in all major markets -- equities, bonds, currencies and commodities -- though not always at the same time. Uses leverage and derivatives to accentuate the impact of market moves. Utilizes hedging, but leveraged directional bets tend to make the largest impact on performance. *Expected Volatility:* **Very High**

- ***Market Timing:*** Allocates assets among different asset classes depending on the manager's view of the economic or market outlook. Portfolio emphasis may swing widely between asset classes. Unpredictability of market movements and the difficulty of timing entry and exit from markets adds to the volatility of this strategy. *Expected Volatility:* **High**

- ***Short Selling:*** Sells securities short in anticipation of being able to rebuy them at a future date at a lower price due to the manager's assessment of the overvaluation of the securities, or the market, or in anticipation of earnings disappointments often due to accounting irregularities, new competition, change of management, etc. Often used as a hedge to offset long-only portfolios and by those who feel the market is approaching a bearish cycle. High risk. *Expected Volatility:* **Very High**

***The two-bar breakout (2BB) system*:** Attempts to capture short trends by going long or short based on the behaviour of the two most recent price bars. Maximum Risk. *Expected Volatility:* **Very High**

Naked Futures / Options Strategies: Maximum Risk. *Expected Volatility:* **Very High**
VERSUS

- ***Distressed Securities:*** Buys equity, debt, or trade claims at deep discounts of companies in or facing bankruptcy or reorganization. Profits from the market's lack of understanding of the true value of the deeply discounted securities and because the majority of institutional investors cannot own below investment grade securities. (This selling pressure creates the deep discount.) Results generally not dependent on the direction of the markets. *Expected Volatility:* **Low - Moderate**

- ***Fund of Funds:*** Mixes and matches hedge funds and other pooled investment vehicles. This blending of different strategies and asset classes aims to provide a more stable long-term investment return than any of the individual funds. Returns, risk, and volatility can be controlled by the mix of underlying strategies and funds. Capital preservation is generally an important consideration. Volatility depends on the mix and ratio of strategies employed. *Expected Volatility:* **Low - Moderate**

- ***Income:*** Invests with primary focus on yield or current income rather than solely on capital gains. May utilize leverage to buy bonds and sometimes fixed income derivatives in order to profit from principal appreciation and interest income. *Expected Volatility:* **Low**

- ***Market Neutral - Arbitrage:*** Attempts to hedge out most market risk by taking offsetting positions, often in different securities of the same issuer. For example, can be long convertible bonds and short the underlying issuers equity. May also use futures to hedge out interest rate risk. Focuses on obtaining returns with low or no correlation to both the equity and bond markets. These relative value strategies include fixed income arbitrage, mortgage backed securities, capital structure arbitrage, and closed-end fund arbitrage. *Expected Volatility:* **Low**

- ***Market Neutral - Securities Hedging:*** Invests equally in long and short equity portfolios generally in the same sectors of the market. Market risk is greatly reduced, but effective stock analysis and stock picking is essential to obtaining meaningful results. Leverage may be used to enhance returns. Usually low or no correlation to the market. Sometimes uses market index futures to hedge out systematic (market) risk. Relative benchmark index usually T-bills. *Expected Volatility:* **Low**

- ***Opportunistic:*** Investment theme changes from strategy to strategy as opportunities arise to profit from events such as IPOs, sudden price changes often caused by an interim earnings disappointment, hostile bids, and other event-driven opportunities. May utilize several of these investing styles at a given time and is not restricted to any particular investment approach or asset class. *Expected Volatility:* **Variable**

- ***Multi Strategy:*** Investment approach is diversified by employing various strategies simultaneously to realize short- and long-term gains. Other strategies may include systems trading such as trend following and various diversified technical strategies. This style of investing allows the manager to overweight or underweight different strategies to best capitalize on current investment opportunities. *Expected Volatility:* **Variable**

- ***Special Situations:*** Invests in event-driven situations such as mergers, hostile takeovers, reorganizations, or leveraged buy outs. May involve simultaneous purchase of stock in companies being acquired, and the sale of stock in its acquirer, hoping to profit from the spread between the current market price and the ultimate purchase price of the company. May also utilize derivatives to leverage returns and to hedge out interest rate and/or market risk. Results generally not dependent on direction of market. *Expected Volatility:* **Moderate**

Value: Invests in securities perceived to be selling at deep discounts to their intrinsic or potential worth. Such securities may be out of favour or underfollowed by analysts. Long-term holding, patience, and strong discipline are often required until the ultimate value is recognized by the market. *Expected Volatility:* **Low - Moderate**

From: Sandy Jakab [mailto: sjakab@bcsc.bc.ca]
Sent: Thursday, July 28, 2011 1:52 PM
To: 'Joe Killoran'
Cc: Anne Hamilton; Mark Wang
Subject: RE: John, EXCELLENT leverage letter !! You'll appreciate this leverage compendium too

Thank you, Joe, for passing this along. I am, in turn, passing it along to Anne Hamilton, who is leading the CSA's Recognizing Regulators' review of the MFDA's proposed leveraging requirements.

Regards,
Sandy

Sandra Jakab
Director, Capital Markets Regulation
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 - West Georgia Street
Vancouver, BC V7Y 1L2
(604) 899-6869 (direct line)
(604) 899-6506 (fax)
sjakab@bcsc.bc.ca

From: Joe Killoran [mailto:killoran@sympatico.ca]
Sent: Tuesday, July 26, 2011 3:40 PM
To: Sandy Jakab
Subject: John, EXCELLENT leverage letter !! You'll appreciate this leverage compendium too
Importance: High

From: Joe Killoran [mailto:killoran@sympatico.ca]
Sent: Tuesday, January 04, 2011 4:45 PM
To: JTOROBIN@globeandmail.ca
Cc: Hon. James M. Flaherty, Minister of Finance; CARNEY (GOV. B. of C.) Mark; CHERNEY Elena (ROB ED); CARRICK (ROB) Rob; BLACKWELL (ROB) Richard; McNISH (ROB) Jacquie; McFARLAND (ROB) Janet; MURRAY Susan (Fin. Lit. Task Force); STEWART (SUN LIFE) Don; MELVILLE Doug (OBSI Ombud); McKENNA Barrie (ROB); IGNATIEFF (MP) Michael; LAYTON M. P. Jack
Subject: Jeremy, FYI Re: Tackling the threat of consumer debt
Importance: High

Jeremy,

FYI – some relevant background "grist" on stock market leverage $OLD schemes Re: your excellent Tackling the threat of consumer debt Dec. 28, 2010, ROB article.

It will be interesting to see if Hon. Jim Flaherty and his Financial Literacy Task Force recognize the trailblazers who had the courage to wave their should be illegal leverage $OLD practices red flags that were abusing "sheeple" consumer / investors 13+ years ago.

Q. **WHO decides when immoral, unethical, inappropriate and unfair financial / safety Marketplaces and securities industry *cultural* ideals are illegal — should become — must be made illegal?**

examples: "Tied Selling", Bill 118: Fines for Cell Phones Usage While Driving in Ontario

investorism evolving STATEMENT

"The inappropriate cultures and practices in our financial marketplaces and securities industry have become unacceptable norms – they are our own devil's undermining playgrounds …

■ they are as immoral, unethical *and* should be as ILLEGAL as the ideals of: slavery, ethnic cleansing, genocide, racism – including ageism, anti-Semitism, rankism, etc."

Fact – "The Devil's In the Details":

Canadian market registrants are licensed as "salespersons / dealer representatives"

- **they are not licensed as "financial advisers / advisors" !!**

Best regards,

Joe Killoran
Oshawa, ON
Cell: (905) 767-7747
URL: www.investorism.com

****

----- Original Message -----
From: "Joseph Killoran" <killoran@sympatico.ca>
To: "Jack Geller" <jgeller@osc.gov.on.ca>
Sent: Friday, December 12, 1997 8:47 AM

Subject: Colourful Seminar Speaking Devils + My Still CONFIDENTIAL Email To Hockin

Jack,

If I may wear my consumer / investor advocate tattooed hat, I apologize to you and the people of Ontario for my truthsayer employment blackballed lack of funds (I couldn't steal more from this week's family food budget that my wife gives me) in order to attend both the Wednesday and Thursday Kennedy / DeLellis hearing sessions. I wrongly chose Wednesday's session hoping that the sex, drugs and prostitution expenditures listed in the Kennedy /

Haines 'declaration' would be allowed thus releasing a business ethics and morality practices side of the securities industry that needs exposure developing!

It's a shame that Derek Ferris did not accept your open ended offer for staff comments on the mutual fund seminar process that allows the use of unregulated and unlicensed colourful personality speakers, i.e. many of whom have pedigrees that relate them directly to the devil himself! My presentation to Senator Kirby's hearings in February 1998 will include allowed mutual fund sales practices that I've observed during my recent auditing of seminars featuring the likes of:

1. mail order 'doctorate' Jerry White
2. the felon, Brian Costello
3. the leveraged world according to Hockin's pal, Garth Turner
4. the Richard Charltan disciple of Warren Buffet cloning Infinity road show
5. the Linda Leatherdale show, which was the cleanest presentation of all!

I would be delighted to meet with you and / or anyone you choose to designate in order to share and review the bait and hook improprieties / illegalities contained in my pages and pages of seminar audited notes. I'd also be willing to attend any seminars with you and / or any OSC investigators in order to point out the wrongs.

In the interim, you are not the only one who has a T.H. initialed knife in their back. Hockin used a machete on me! Hockin continues to decline not to reply to and / or acknowledge my still CONFIDENTIAL- I have not yet publicly released it - my **December 5, 1997,** email to him.

Best regards,

Joe Killoran

TOM,

MAY I HAVE YOUR PERMISSION TO DISTRIBUTE THIS EMAIL TO SENATOR KIRBY, THE WHO'S WHO ON MY SECURITIES INDUSTRY LIST + BUSINESS MEDIA NAMES, ETC.?

Tom,

I would appreciate your help, advice, direction and answers to the following questions so that I may ensure that my following unselfish presentations on mutual fund investor(ism) rights are clear, concise and civilized:

A) My MAY 14, 1998 presentation to Senator Kirby's Senate Bank Finance Committee Hearings will include sales practices that produce a collectivism MASS that = a concentration of POWER + INFLUENCE.

I'm told that the knife in my back attempt by an individual to discredit me and my ability to present my unselfish presentation to Kirby's committee has not worked. Tom, would you know anything about this attempted knife in my back stabbing?

B) My March 17, 1998, case study presentations to HBA and MBA students at my alma mater Western (now Ivey) School of Business covering the treatment by Trimark and the media of my Spring 1997 Trimark shareholder / unitholder investorism rights accountability enhancing proposals plus hopefully by then, the decision by the Ontario Court general division on my cousin, Arthur Labatt's, decision not to distribute my five 06/98 Trimark proposals so that all Trimark shareholders can vote on them. (cases attached)

Tom, my questions to you are as follows:

1. PARLIAMENTARY VERSUS THE MUTUAL FUND PROCESS

Being a former Federal Cabinet minister who is allowed to use the prefix 'Honourable' and who is well versed in our democratic parliamentary process that accommodates both the majority ruling power + opposition parties, the latter who are funded and allowed to always ask TOUGH, even embarrassing, questions on behalf of their watchdog mandate and the good of the people, etc.

Tom, can you tell me who IFIC *and / or* the OSC allowed (with or without funding) to sit at the table to unselfishly represent the best interests of mutual fund unitholders?

Can you give me the names of these individual(s), their qualifications and their industry unbiased and employment unrelated pedigrees / sources of income, etc.?

Waitzer told me in August 1997 that there were many individuals who were qualified and available, including myself, to represent mutual fund unitholders in the (Stromberg / Steering Group) process, but that none of these individuals were acceptable to the industry!

Was / is this still true?

If this is true, was the review process of mutual funds by Glorianne Stromberg plus representation on the Steering Group Committees flawed in the eyes of our parliamentary standards? I can proudly say that I unselfishly and formally offered on a number of occasions to contribute to the process with my ideas and creativity. My offers were denied. Can you tell me why?

2. SPEED + THE PROCESS TO CHOOSE INDEPENDENT SRO DIRECTORS

I was told by Sandy Grant @ the IDA on **November 18th, 1997,** that the new SRO is at least 12 months away, maybe 5 months away on an absolute best efforts basis.

i) who is responsible for, charged with and empowered to administer a Jack Welch / GE capitalism labeled SPEED philosophy enema to ensure that the SRO process doesn't get bogged down, that investor(ism) rights, integrity protecting and safety building transparency disclosure mechanisms happen expediently?

ii) I asked Sandy Grant @ the IDA how I can put forward my name to be considered for one of the public SRO INDEPENDENT / UNRELATED DIRECTOR positions? Sandy told me that the process for submitting names for public SRO director positions would be one where both IFIC and the IDA (only?) would be allowed to put forward names. For me, this process smells and rhymes with the political patronage appointment of our senate! Did you see where the federal government recently named a qualified consumer advocate to the CRTC panel?

The new mutual fund SRO needs more than to be represented by individuals tattooed with an advocates moniker. The SRO needs individuals with a financial background, who are qualified, individuals who are dedicated, individuals who understand the investment process, individuals who appreciate the BIG picture, who may not necessarily be liked, but have the uncompromised courage / dedication to unselfishly present ideas and creativity, individuals who will make the commitment to always represent the best interests of individual Canadians / Canada in our globally competitive marketplace. (I would be honoured if you / IFIC would put forward my name to fill one of the public SRO director positions.)

If no one was acceptable to your IFIC members to represent the best interests of unitholders in the Stromberg / Steering Group processes, and if IFIC and the IDA now have control over the public SRO director nominations plus appointment decision making process, is the process flawed? How do we fix the process?

What do you think, Tom? You have more experience having been accountable to the people who elected you to Parliament Hill from your London West riding. Should mutual fund unitholders be involved in the process to nominate and / or elect / choose the SRO public directors?

3. NOVEMBER 19, 1997, PRESENTATION TO SENATOR KIRBY'S SENATE BANK FINANCE COMMITTEE BY HON. TOM HOCKIN & JONATHAN WELLUM

There were several things in your November 19, 1997, presentation to Senator Kirby's Committee Hearings that I would appreciate if you would / could provide more illumination on to me. I haven't seen the Cpac video, we don't have cable TV for both financial and less TV watching by our family. What was the room temperature / hearing vibrations thermometer when Kirby used the following page 40 verbiage?

"I would like to force you to answer the question. I do not mind the sales pitch."

i) On page 50, Senators Meighen and Stewart asked you "What the position of IFIC was now and what the situation is today -- about fees paid by funds to dealers or salespeople who sell their funds in certain volume?" "..holidays in exotic locations"

Tom, your response was, "This was all shut down with our code two years ago."

Tom, was this a simple time duration oversight by you?
When I give my presentation to Senator Kirby's committee, I will be presenting to them the actual one page Fortune Financial internal flyer that Andy Willis referred to in his August 15, 1997, Globe and Mail column entitled, "The ethical pitfalls of fun in the sun."

Willis' column mentioned the names of the 11 mutual manufacturers (your members) who contributed the money (loaded the gun with the free trip bullets that breached your IFIC rules) towards Fortune's (another one of your organizations unique manufacturer + distributor under the same umbrella members) $1.2 million Spring 1997 - after RRSP hunting season - FREE Hawaii trip for Fortune's top producers and their spouses / guest.
This same flyer has the AIC bottom line zinger:

"**NOTE:** AIC who received the 3rd highest volume of Fortune's Business is not supporting our conference."

Why didn't Jonathan Wellum, President of AIC, who was sitting beside you at this Kirby Senate Bank Finance Committee hearing, mention this well publicized flyer plus slight against AIC by Fortune for AIC's being ethical, for AIC's playing by and following IFIC's rules?

ii) On page 43, Jonathan Wellum said, "In fact, we must make available to our unitholders, if they ask, all of the buying and selling and all of the transactions in a mutual fund. Seldom do they actually ask for that information."

ATTN.: MFDA and BCSC

My questions to you on Wellum's comment Tom, are simple, short and sweet.

Q. How does a mutual fund unitholder know about the availability of these transactions information? Where is it disclosed?

Q. Would you please send me a potpourris of your members' prospectuses with this disclosure highlighted?

Also, are there rules and regulations of what your members must disclose on their web sites? Are there any minimum type point sizes, kinds of readability type faces, i.e. the use of italics, script type, etc., lengths of disclaimer sentence lines, etc., that they must use and / or adhere to?

I recently perused Trimark's web site, and I noticed that there were no per fund portfolio listings or transaction trading record listings per fund, like what Wellum mentioned. Why aren't these portfolio and transaction documents available on your members web sites?

WARNING: Tom, I have to present the evidence that I have to give to Kirby's committee, evidence that you already know all about, i.e. the movement by your members from the new sales enhancing lubricity perks arena to the business ethics / morality / impropriety asset retention enhancing practices that your IFIC members are now bestowing upon mutual fund sales reps with security regulator blessed impunity. The lubricity sales aids contained in the wholesalers brief cases include: FREE gourmet dinners + the best seats in the house for concerts, sporting events, golf green fees, etc.! Tom, you may hear some canons go off when I present my micro examples as evidence of the macro integrity issue abusing problem at Kirby's hearing. These lubricity practices are condoned by our securities regulator, palm greasing practices that don't even require the need of a score card record keeping system!

Dynamic Mutual Funds used freebee tickets to the Karen Kain Farewell Tour Ballet as an asset retention enhancing reward for mutual fund sellers. Tom, can you get me a copy of Dynamic's list of freebee ticket recipients? I'd like to categorize the sales reps plus any media names before I give it to Kirby! I wonder how many supposedly independent business media (electronic + scribblers) accepted this freebee ticket offer from Dynamic? Was this a classic example of an arts patronizing with FREEBEE lubricity ticket rewarding / compromising practice!

Society condones the publication of the names and pictures of johns caught soliciting prostitutes and vehicle drivers caught blowing more than an acceptable .08 in our R.I.D.E. programs. Has the time come for us to publish the names of compromised securities industry individuals caught accepting freebees from the financial industry 'sugar daddies' whose business practices fall below acceptable industry standards?

iii) When I spoke to Jonathan Wellum on April 11, 1997, I asked him if AIC ever communicated to their AIC unitholders how AIC voted shares in their funds. Wellum's response to me was:

"Why disclose more [to unitholders] than we have to!"

Was there anything in your written submission and / or mentioned by you and / Wellum to Kirby's committee on this lack of transparency "sunshine is the greatest disinfectant" disclosure issue? I have to include Wellum's comment in my Kirby presentation. The comment begs the question, who actually decides what we disclose to mutual fund unitholders about what is happening to their own money?

(If Jonathan Wellum's comment to me is the kind of pedigree that's condoned, the kind of approved business ethics and morality practices that are required to win the fund manager of the year award, I'll never receive any awards here on earth for championing investor(ism) rights!)

Tom, a parallel to mutual fund mangers disclosing to their unitholders how many, how and why shares have been voted would be your years on Parliament Hill representing the citizens of London West. When you voted in Parliament, was your vote ever allowed to be a secret vote? I understand that all votes by our federal MPs are fully disclosed, are public record, are always available, that when you voted you were always accountable to your constituents for HOW and WHY you voted HOW.

When it comes to the present security regulator allowed (there's nothing in the prospectus) undisclosed abrogation of the power, influence, politics, corporate governance, etc. (there's no sunshine disinfecting transparency!), of the mutual fund vote, am I really "consumerism gone mad" for understanding and knowing about micro examples of macro self-interest voting abuses and for having the (naïve) courage to try and change the process to improve the integrity of our financial marketplace and the safety of our sacred savings?

When Waitzer was Chairman of the OSC, I believed in his "get the issues out in the open then we'll have to look at them" mantra. Now that Waitzer has accepted a position on Trimark's Board of Directors, please tell me how to disclose, autopsy and dissect Trimark's March 6, 1997, vote on Yves Michaud's Royal Bank proposals. Trimark mutual funds held and voted the second largest institutional block of Royal Bank stock, almost 11 million shares, about 3.6% of the total ownership. At that point in time, the Royal Bank umbrella of companies were the largest distributor of Trimark mutual funds, accounting for 7% to 8% of Trimark's total book of business.

WHAT is the definition of conflict of interest when mutual fund managers vote stock?

4. HOW MUCH ARE ASSET RETENTION — "Tied Advice / Tied Sale" Trailer Fee Commission 'LUBRICITY' PRACTICES WORTH?

The following chart attempts a simple autopsy dissection to show the value of the amounts that a mutual fund manufacturer could spend to entertain investment advisors / financial planners / broker dealer distributors, etc., to keep their clients from being advised to redeem and / or switch to another mutual fund. If we multiply the chart numbers by 100, we'll see very quickly that an easily attainable $1 million in DSC sold funds is worth a significant amount! That DSC sold funds with their higher MERs that include the annual payback DSC point of sale commission funding component are a can be forever cash cow for a self-funding manufacturer and a can be forever financial return abusing penalty to an investor! Canadians are so timid and shy, they would rather pay more than ask / negotiate to pay less!

Trimark was chosen for this chart example because they have self-funded their DSC point of sale commissions, i.e. Trimark pays the 4% or 4.9% selling commission. Note that the DSC payback amounts contained in the annual MERs keep growing and growing and growing. They actually become distinct and healthy 'cash cow organisms' with their own business ethics and morality retention abusing practices!

For our chart, we'll use as our base the front-end only Trimark Canadian Fund with its 1.52% annual MER minus the 0.30% annual trailer fee commission = a 1.22% Investment Management Fee that we'll assume Trimark wants to gross per fund after paying out all annual trailer fee commissions and paying back their own internal DSC point of sale commission funding account to reimburse the 4% or 4.9% point of sale selling commission amount that Trimark paid. The annual MERs are deducted from the fund's market unit value. The annual trailer fee commissions and payback of the point of sale commissions paid (amortized DSC Funding component) amounts are both included in the annual MER.

	TRIMARK RSP EQUITY FUND		TRIMARK SELECT CANADIAN	
	DAY 1 09/01/88	MKT. VALUE 12/03/97	DAY 1 11/23/92	MKT. VALUE 12/03/97
AMOUNT	$10,000	$24,715	$10,000	$19,588
DSC PT. of SALE COMMISSION	$400	N.A.	$490	N.A.
NO DSC EARLY Redemption CHARGE		09/01/97		11/23/98
ANNUAL MER	$200	$494.30	$231	$452.48
TRAILER FEE	$50	$123.58	$50	$97.94
DSC PAYBACK	$28	$69.20	$59	$115.57
INV. MGMT FEE	$122	$301.52	$122	$238.97

The above chart shows that market value growth funds asset retention holding lubricity practices — “Tied Advice / Tied Sale” trailer fee commissions

- **make them — trailer fee commishes — a much bigger abuse and industry integrity undermining practice than extra sales incentive mutual fund FREE trip practices ever used to be !**

5. WHAT DID YOUR "HEADS UP" DINO DELELLIS COMMENT MEAN?

Tom, besides your politician "Heads up" comment to me when I told you about the investor(ism) abusing practices that Dino DeLellis from London, Ontario, was engaged in, Dino was abusing some of the constituents who voted for you in your old London West riding!, did you take any action to report DeLellis to the OSC and / or protect mutual fund investors from DeLellis' questionable impropriety practices?

The motto on the bottom of IFIC's letterhead reads:

"Serving the investment fund industry in the interest of the investing public."

- Tom, did your former politician learned "heads up" comment to me on DeLellis actually mean an "I won't acknowledge having heard and / or knowing anything about this matter?"
- Is this the way I should interpret the "Heads up" comment from your lips?
- Is this the kind of protection mutual fund unitholders can expect from the slate of SRO directors that will wear an appointed by IFIC tattoo?

6. SUNSHINE DISINFECTANT RAYS ON JIM O"DONNELL & FIDELITY

Jim O'Donnell and Fidelity will each receive sunshine burning attention in my presentation to Senator Kirby's committee, including:

i) OWNERSHIP OF INFINITY INVESTMENT COUNSEL LTD.

Richard Charltan mentioned at a Fortune / Infinity sponsored mutual fund seminar on August 25, 1997, that Jim O'Donnell and some other influential, brand name, mutual fund industry players are silent, nominal (less than 10%) undisclosed owners / the financial backers behind Infinity Investment Counsel Ltd. Do you have a list of the owners of Infinity Investment Counsel that I can present to Senator Kirby's committee?

Should the list of owners of a private mutual fund manufacturer, like Infinity, be a public document that's required to be filed at the OSC? This Infinity ownership arrangement smells like a form of an insurance policy that's being purchased by some competing fund manufacturers to ensure that the predominantly Fortune Financial employee owned Infinity doesn't churn clients out of some of the silent backers' existing client owned fund holdings into an Infinity fund!

ii) IPO PAYBACK / INFLUENCE / THANK YOU PEDDLING

One method of paybacks is through the president's list of individuals who are allowed to get shares of a new (hot and oversubscribed first day premium jumping) IPO.

How do I get a copy of Jim O'Donnell's IPO president's list? Was Dino DeLellis' name on it? IDA members have a rule that brokers can not access hot new issues for their own accounts. Does this same rule apply to mutual fund only licensed broker reps employed by non-IDA member firms who may have a stock account with a subsidiary of their own employer or an IDA member broker?

I know exactly where to point the noses of the OSC investigators plus I also know how to cross reference the O'Donnell's president's list to individual mutual fund sellers and / or their clients to identify whether or Jim O'Donnell used his own IPO for payback purposes!

Tom, will you help me ferret out the needed information? If Richard Charltan, David Singh and / or Infinity Mutual Funds were allotted new issue IPO O'Donnell shares, would this have broken any IFIC member / employee rules? IDA rules? OSC rules?

iii) A JIM O'DONNELL RECOMMENDED EXAMPLE OF CHURNING

In the spring of 1996, shortly after Marathon Equity closed their Wayne Deans managed fund to new investors, Jim O'Donnell put together a road show to promote his Wayne Deans managed equity fund. I sat in one of these presentations and I was shocked to see first hand O'Donnell's smooth style of calling markers from his former days at Mackenzie where he was know as the mutual fund sales incentive travel agent to exotic destinations! The genesis of my mutual fund redemption / switch disclosure document idea crystallized when I heard Jim O'Donnell say to these brokers:

"Check your client holding cards. You'll find some DSC mutual fund holdings (he presented it in a 'you all remember me' way that reminds them of O'Donnell's former procreation, the Industrial Horizon Fund at Mackenzie Financial) where the redemption period has matured. It won't cost your clients anything to get out and you can switch the money over to an O'Donnell fund and you also get a brand new DSC (5% Sales Solution) sales commission!"

Tom, the office managers of this IDA member firm were present at this O'Donnell presentation. The mangers' annual remuneration + bonuses are based upon the transactions + commissions generated by the sales troops under them, NOT based upon the financial planning, investment advice and / or investment performance that they achieve for their clients. Where was I to go to report this blatant churning presentation recommendation that was skillfully tied in to a collecting old 'you owe me' markers that would create new transaction commissions?

iv) MARTIN GUEST AT FIDELITY DECLINED TO GIVE ME MATERIALS

Tom, I audited a mutual fund seminar on August 12, 1997, featuring your unlicensed and regulator unmonitored old buddy, Garth Turner. Garth baited the audience with a home equity loan leveraged mutual fund scheme using a withdrawal plan example featuring the Fidelity Growth America Fund. After the seminar, I contacted Fidelity and they sent me one original of their one page, both sides, withdrawal plan for Growth America illustrating an initial $100,000 investment and a $1,000 per month withdrawal, Turner used a $833 per month withdrawal in his bait and hook example that lacked full disclosure.

I contacted Martin Guest fully disclosed the reasons for my request for additional copies, i.e. to include them as exhibits in my Kirby presentation. Martin Guest / Fidelity are declining to give me colour originals of this off their shelf publication. Tom, can you intervene with Fidelity on my behalf? From your own recent presentation to Kirby's committee, you know how many original copies I need.

7. WILL THE SRO INCLUDE A 'CRIME STOPPING' REPORTING DEPARTMENT?

Will the new SRO have a mutual fund / securities industry reporting mechanism component (it might need a softer name than a confidence /

integrity undermining 'crime stopping' moniker imparts) where anyone with a conscience and / or the courage may anonymously report investor abusing improprieties and illegalities? As you know, I've been recommending the need for this kind of mechanism for several years. We need this industry integrity building plus safety watchdog deterrent mechanism no matter who gets credit for the idea and or the name that we place on it!

8. WHO SHOULD FUND A FUND INDUSTRY MONITORING MECHANISM?

The Ontario Government recently allocated $3 million to set up an agency that would investigate the difference between medical care between the different regions of the province.

The examples given and or needed, include:

i) the differences in the incidence of C-sections between Ottawa and London.

ii) the why behind the high incidence of back stabbing wounds on Parliament Hill, at Queens Park and on Bay Street? It's higher at these three places than anywhere else in the province?

iii) the need for random biopsies to be taken to identify when those who are allowed to use the 'Honourable' prefix slip from Santa's nice list onto his naughty list!, etc.

On April 13, 1995, I helped to present a presentation to Waitzer that showed how mutual fund sales data when screened against the codes of a mutual fund sales representatives could be used to proactively police the industry without ever infringing upon the privacy of individual investors. The process involved establishing industry averages and then looking at significant deviations from the averages. With Waitzer's blessing we presented the same presentation to you and five of your most senior IFIC employees on June 13, 1995. When you asked me at the conclusion of our June 13th presentation if this kind of marketplace integrity policing system was happening anywhere else in the world, I answered "No." If I could give you an answer now with some hindsight wisdom, I'd say, "No, but as you are a former Minister of Small Business with a business doctorate degree from Harvard in International Business, wouldn't it be great to start this as a new small business that we could grow very quickly and use our better 'Made in Canada' market integrity practices expertise as an industry that we could proudly export around the world?"

I understand that IFIC and FundSERV / MFCS are now running with the above screening idea and that I've purposely been excluded from the loop because my passions and commitment scare you / most of your members! Would you please let me know what the status is on this IFIC / MFS project and whether or not it will fall under the umbrella of the new SRO? I'd like to include this proactive marketplace integrity building data screening process into my presentation to Senator Kirby's committee.

IN CONCLUSION

Tom, I believe that our dads are still playing bridge together somewhere in the world hereafter, in the place where all good lawyers go / are sent.

It's now your turn to deal here on earth.

Joe

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From: Joseph Killoran [killoran@sympatico.ca]
Sent: Thursday, August 13, 1998 9:28 PM
To: Glorianne Stromberg
Subject: LEVERAGE: Fused SWooP Bomb

Glori,

My attached word file lesson on leverage isn't complete, it's a first draft.
I must still cover the lack of sales commission / transparency disclosures issues:

1. how long a duration should leverage be sold for?

2. do DSC funds sales defeat the duration of leverage?

3. why don't the quarterly statements that the fund manufacturer's send to their SWooP clients break out the total amount(s) of MERs deducted during the quarter, the trailer fee commish portion and to whom the trailer fee was paid **!!**

Joe

P.S. I'm fading, I finished the primer coat at mid-night. It's now 1:30 am.
I apologize for any oversights.

08/13/98

LEVERAGE: And the "SWooP Bomb" (attached pdf)

The **"SWooP"** is my acronym for the coming financial marketplace undermining **BOMB** that leveraged Mutual Fund sales (especially to seniors, retirees, pensioners, etc.) Using the monthly "Systematic Withdrawal (ooPs) Plan" to pay the monthly loan interest + maybe some principle.

THE "SWooP Bomb" INGREDIENTS:

We begin by expanding Arthur Labatt's September 1997 IE quote to:

"mutual fund leverage is $OLD not purchased!"

From my March 17, 1998, presentation @ my MBA alma mater Ivey

we add:

1. Knowledge that mutual funds have not yet attained commodity product status.

2. Recognition that the only leverage education (good, bad and ugly scenarios) that the 70 Ivey MBAs and 50 HBAs have ever had during their formal education in school was this year in Steve Forester's class! We don't teach financial leverage risk / rewards in a scheduled (sounds less intimidating than compulsory) high school curriculum!

We then note that almost every mutual fund manufacturer produces a SwooP sheet for their better performing funds usually beginning with an initial $100,000 investment at inception and monthly withdrawals of $833 to $1,000. The degrees of information provided remain simple and investorism deceiving (Fidelity Growth America) to full / most comprehensive disclosure (Trimark Fund).

The banks and trust companies provide the WD 40 lubricant in the form of their home equity loan brochures.

The banks flaunt the ease to borrow and availability of up to 75% of the value of your home to add an addition / renovate, take a vacation, buy a car, pay for higher education for children, consolidate debts, buy securities, etc. While the IDA keeps records on margin account statistics amongst their members, we can't calculate how much mutual fund leverage is in our stock market because a third party bank is providing the loan for the sale to be consummated at an arm's length distributor!

The unregulated and unlicensed mutual fund seminar "shills" then set the hook, they present scenarios with deceptive details, they legitimize the practice with "everyone's doing it" comments and they create a follow my "shilling" advice to the Judas bull seminar host for qualified advice!

The present regulator allowed leverage disclosure document does NOT impregnate an investor's brain with true leverage risk / reward scenarios, i.e. column formats have better disclosing / mind impregnating properties than disclosure using boxed and justified paragraphs!

We don't have a regulator required quarterly / semi-annual "taking leveraged inventory document" either.

The BOMB:

While IDA registered financial advisors are taught that leveraging seniors and retirees is a mortal sin, it's an always-open season practice amongst independent mutual fund dealer SRO members!

The BOMB's fuse is the fact that the proceeds from the monthly SWooP are used to pay the monthly loan interest + maybe a piece of the loan principle.

LIFO – "last in, first out — ouch!

If Ed Yardeni's Y2K thesis has any crystal ball accuracy, a stock market correction of 43% over 23 months (like the 1973 / 1974 energy crisis) may / will trigger "ForeClosure" sales signs on too many front lawns of our seniors.

Individuals who have retired and lost the ability to once again earn an income, may be forever financially imperiled if the fuse on their SWooP bomb is finally lit!

Glori, I'll be driving into Toronto Friday morning and I'll drop off my leverage file at your home. I have a number of "shilling" examples and exhibits.

I'll be prepared to review and explain the exhibits in my file with you if want me to.

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INVESTMENT FUNDS IN CANADA

AND

CONSUMER PROTECTION

STRATEGIES FOR THE MILLENNIUM

A Review by Glorianne Stromberg

Prepared for Office of Consumer Affairs, Industry Canada

October 1998

http://www.ic.gc.ca/app/oca/crd/dcmnt.do?id=801&lang=eng
http://www.ic.gc.ca/eic/site/oca-bc.nsf/vwapj/Investment%20Funds%20in%20Canada.pdf/$file/Investment%20Funds%20in%20Canada.pdf

21. ONGOING RELATIONSHIPS BETWEEN INTERMEDIARIES AND CONSUMER/INVESTORS

21.5. Leverage

The current climate of low interest rates, a strong and seemingly continuous upward trend in stock market returns and the recognition by consumer/investors of the need to invest more aggressively to provide for their retirement income have combined to encourage people to commit a major portion of their assets to investment funds.

It is not clear what proportion of people's investments have been acquired with borrowed money. This is because loans for investment purposes are provided by third party lenders such as banks, trust companies, insurance companies and credit unions and not by the investment funds. Loans are also obtained from other sources including margin account loans from intermediaries (such as full-service investment dealers), insurance policy loans, and home mortgage loans.

Another reason that it is not clear how leveraged people's investments are is because there is no requirement for consumer/investors or intermediaries to disclose to the investment funds whether the money that is being invested represent borrowed money.**201** Presumably, those who lend the money have this information but they are not required to provide this information publicly. There also does not appear to be any entity that gathers and compiles this information.**202**

The euphoria of the last several years has served as a springboard for some intermediaries and seminar speakers to urge people to maximize their investment opportunities by using borrowed money to invest. They have seized the opportunity that has resulted from the merging of the prime drivers that are said to motivate consumer/investor behavior, namely hope, fear and greed. Accordingly, these intermediaries and seminar speakers have been aggressively advocating various strategies aimed at minimizing taxes and avoiding the impact of tax claw backs and senior benefit cut-back provisions.

Three-to-one leverage programs**203** relating to segregated fund investing have also become the flavor of the day

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201 Mutual fund management organizations have some information about this matter as a result of administering systematic withdrawal plans for investors in their sponsored funds. These systematic withdrawal plans are often used to set up automatic payments to pay the interest and principal payments as they become due under a loan. Mutual fund organizations therefore are aware of payments that are directed to be made to third parties such as financial institutions even if they do not have actual knowledge that the payments that are being made are in respect of a loan provided to the investor. Mutual fund management organizations are not generally required to disclose any information that they do have.

202 In the case of loans made by federal financial institutions, this information may be part of the information that such institutions are required to provide to OSFI.

203 These programs generate four times the amount of the sales commissions that the intermediary would otherwise receive on the sale of the insurance and the mutual funds and four times the amount of the trailing commissions that would otherwise be payable. The mutual fund management organizations receive four times the assets under administration that they would otherwise have on which their management fees are calculated so there is an incentive for them to sponsor or support through cooperative marketing payments, speakers and seminars of the nature described above.

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The desire to increase assets under administration has led some investment fund organizations to sponsor seminars and media presentations that have involved some very aggressive people and tactics. Some (including the Ontario Securities Commission) have referred to these people as “schills”.**204**

When reputable investment fund organizations sponsor people of this nature, such sponsorship brings with it in the eyes of consumer/investors an implicit endorsement of the speakers and the tactics. Such sponsorship involves an unwarranted transfer of the trust that consumer/investors have in the integrity of the investment fund managers to the speakers. The various leveraging techniques are promoted at retirement planning or investing seminars, in newsletters, newspapers and magazines and websites.

They are also promoted through the use of radio and TV spots that leave the listener or viewer with the impression that some sort of legitimacy has been conferred on the speaker by reason of the speaker’s association with the radio or TV station in question.

The public is left with the impression that “everyone is doing it”, “it’s easy”, “you’re foolish if you don't", "only the tax people will gain if you don't", "it's not risky", "you will gain" and so on. There is no disclosure of the substantial direct and indirect interests that the persons advocating these strategies have in maximizing the amount of the loans and the investments in question.

Virtually all of the advertising is focused on the upside. The systematic withdrawal plan material provided by mutual fund management organizations includes illustrations that are based only on ***increases*** in the annual growth rate of the sponsored investment funds. The annual growth rates used often exceed the historical compounded annual rate of return for the periods shown in the illustrations.

There are few requirements with respect to the disclosure of the impact of leverage. Several years ago, the OSC issued a disclosure statement that was required to be delivered to investors who consider borrowing money to buy investment funds. The purpose of the disclosure statement was to make investors aware of the risks involved in borrowing to invest. The adequacy of the OSC statement for its purpose has been questioned by many. In July of 1998, IFIC released a Fact Sheet on leveraging. While the Fact Sheet does provide some information for consumer/investors, it does not appear that its primary purpose is to help consumer/investors fully appreciate and assess the impact of their decision to borrow money to invest.

When leveraging strategies work, they are a win-win situation for all the participants who are involved in the process including the consumer/investor, the lender, the intermediary, the sales representative, the seminar speaker and the investment fund manager. Everyone stands to make money which is the objective.

When leveraging strategies do not work, it is still a win-win situation for everyone except the consumer/investor and, if the consumer/investor's collateral and other assets are insufficient to repay the loan, the lenders.

The substantial fees, charges, expenses, sales commissions (including trailing commissions), mortgage expenses, legal charges and interest payments that have been paid, directly or indirectly, by the consumer/investor are not refundable.

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204 See *Re Dino P. DeLellis* (1998) 21 OSCB 305.

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When loans are called and the investment funds are liquidated to repay the loan, consumer/investors may find that their redemption proceeds are substantially reduced by deferred sales charges, redemption fees and surrender charges. If there is a shortfall in the amount of the redemption proceeds, consumer/investors will be forced to liquidate other assets (such as a home or business) in order to raise the funds to repay the loans.

21.6. Recommendations Respecting Leverage

Compliance and Enforcement Actions

Regulatory and self-regulatory authorities need to focus on the issue of suitability of leveraged transactions for the consumer/investor in question and the adequacy of the disclosure documents relating to the transactions.

The implementation by regulators and self-regulators of a strong compliance-oriented program, supported by hearings to consider the fitness for continued registration where the transactions are found not to be suitable or that the disclosure that has been made is inadequate, would curb a lot of inappropriate transactions.

Refund of Fees, Charges and Expenses

The consumer/investor should be entitled to a refund of the fees, charges and expenses that the
consumer/investor has incurred if:

(i) the disclosure relating to the “loan and own” transactions is inadequate; and

(ii) the consumer/investor’s loan has been called and the proceeds on the redemption of the investment fund securities are insufficient to repay the loan.

This refund would include all sales commissions, trailing commissions and deferred sales commissions. The amount of the refund would be applied to reduce the balance of the loan. Any excess would belong to the consumer/investor.

Business Practice Standards

Focusing on the fiduciary obligations of intermediaries would help. This could be done in a variety of ways. A starting point would be to develop minimum mandatory business practice standards to address suitability issues relating to the loan and own transactions.

Suitability issues would deal with matters such as:

(i) the overall suitability of using leverage to achieve the consumer/investor’s Investment objectives;

(ii) the amount of the loan together with the debt to equity ratio that the loan represents;

(iii) the terms of the loan;

(iv) the nature of the investments being acquired with the loan proceeds;

(v) the suitability of these investments for the investment needs of the consumer/investor; and

(vi) the other assets that are available to repay the loan.

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In addition to addressing suitability issues, the business practice standards would address disclosure issues and issues that relate to conflicts of interest.**205**

Enhanced Oversight and Supervision

Enhanced oversight and supervision by intermediaries respecting the suitability of proposed loan and own transactions should help. The supervisory standards in this respect would require sales representatives to disclose the “loan and own” transactions to the intermediary.**206** Information about such transactions would be part of the know-your-client/suitability provisions. Proper systems, controls and procedures should be in place which may not be bypassed.

Increasing Knowledge and Awareness

Increasing the knowledge and awareness of consumer/investors about the sensitivity of the “loan and own” proposals that they receive to the assumptions about the investment returns and interest rates that have been used to prepare the proposals should help consumer/investors make more informed decisions. The initiatives recommended in Section 14 of this Review should assist consumer/investors in this respect.

Various tools could be developed to help consumer/investors decide whether they should borrow money to invest. These tools could include:

(i) a basic consumer/investor awareness document prepared by an independent party who is not promoting the benefits of leveraging investments;

(ii) a specific “loan and own” disclosure document;

(iii) a “calculator” that allows consumer/investors to simulate the results of different interest rate and growth rate assumptions including various negative growth rate assumptions.

Loan and Own Disclosure Document

A disclosure document respecting the “loan and own” transaction should be required to be delivered to the consumer/investor before the loan is made. The purpose of this document would be to outline in plain language the terms of the proposed loan and of the proposed use of proceeds.

It is beyond the scope of this Review to identify all of the information that should be contained in a disclosure document of this nature. A working group (which should include independent parties who are not promoting the benefits of leveraging investments) should be assembled for this purpose. Current requirements relating to consumer loan transactions and cost of credit disclosure may provide a sound starting point.

I suggest that as a minimum, the document should contain several sensitivity scenarios with time horizons that relate to the term of the loan. The basic assumptions should be consistent with actual

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205 See the recommendations in the 1995 Report - Section 11.04 - Leverage.

206 Frequently, sales representatives simply steer clients to a lending institution and the intermediaries who are responsible for exercising oversight and supervision over the sales representatives are not aware that the funds to pay for the investments are borrowed. Consequently the intermediary's review does not focus on the suitability of the transaction in the broader context of the use of borrowed money.

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experience.**207** The sensitivity scenarios should include scenarios where the value of the investment declines and interest rates increase. The information in this document should be complemented by the information in the confirmation/point-of-sale document referred to in subsection 17.8 of this Review. The two documents could be combined if the information is clearly presented and it is clear to the consumer/investor what costs and risks are involved. If payments are made or received by related parties**208** this information should be disclosed together with the amounts of the payments.

Systematic Withdrawal Plans

Schedules outlining systematic withdrawal plan payments should include sensitivity scenarios that conform with the parameters described above under the heading “Loan and Own Disclosure Document”. The appropriateness of using securities that have been acquired on a deferred sales commission basis in a systematic withdrawal plan that is or may be used to pay the principal and interest on a loan and own transaction is questionable. This is a suitability issue that should be reviewed as part of the enhanced oversight and supervision referred to above.**209**

ATTN.: MFDA and BCSC

Seminar Speakers / Implicit Media Endorsements

A code of standards and ethics should be developed for investor education and retirement planning seminars and for other initiatives including newsletters, websites, radio, TV and print media used to induce consumer/investors to invest and to use various investment strategies. Persons conducting such seminars or other initiatives should be expected to adhere to this code of standards and ethics and to be registered as "securities advisers" with the Single SRO referred to in subsection 16.3 of this Review.**210**

The Non-Partisan Standards Council referred to in subsection 15.10 of this Review could be responsible for developing and administering the code. Failure to adhere to the code could result in the suspension or termination of registration as a securities adviser. Through a combination of:

(i) rules of fair practice of the Single SRO referred to in subsection 16.3 of this Review;

(ii) the amendment of the sales practices rule referred to in subsection 16.8 of this Review; and

(iii) voluntary action by the media, sponsors of websites, and by industry participants; speakers and authors who did not conform to the standards and whose registration has been suspended or terminated would not be able to be retained to speak at seminars sponsored by industry

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207 For example assuming 20 years of continuous growth rates at 20 per cent per year for an investment fund is simply not borne out by the actual performance of most investment funds.

208 "Related parties" would include the sales representative, the sales representative's firm, their respective associates or affiliates, the investment funds in which the investment is being made and the manager or principal distributor of such investment funds and their respective associates and affiliates.

209 If margin calls are made under these loan and own plans, it comes as an added shock to consumer/investors that the units that are required to be redeemed to meet the margin calls are subject to deferred sales commissions being deducted from the redemption proceeds otherwise available to meet the margin call. This will be the case if the units being redeemed exceed the number of units that the investment fund in question permits as a "free redemption."

210 The Securities Act (Ontario) contains provisions for the registration of "securities advisers". See Section **40.** – "Disclosure of financial interest of advisors and dealers."

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participants or to use media facilities (including their sponsored websites) to publish their views. In addition, investment fund organizations would not be permitted to provide such persons with cooperative marketing payments to subsidize their promotional activities of such persons.

In addition to ensuring that securities advisers comply with the code of standards and ethics and to the disclosure of who is sponsoring and picking up the costs related to the event, it is important that there be up-front disclosure that the speaker is being paid to speak, accompanied by information as to how the speaker is being compensated, who is responsible for compensating the speaker and what future compensation or participation in profits the speaker will receive.

This disclosure should provide sufficient detail to enable consumer/investors to understand how any transactions they enter into will affect the speaker's current or future compensation. The disclosure should include disclosure of any actual or potential ownership interest that a speaker has in any entity that is involved in or with the speaker's presentation or that the speaker recommends as an investment or otherwise.**211**

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211 Sometimes these speakers include examples of investments that they "like." Sometimes these investments turn out to be investments in which they have a financial interest. Too often consumer/investors are influenced by the speaker's comments and end up losing a lot of money. Hopefully, by raising the level of knowledge and awareness of consumer/investors through initiatives outlined in Section 14 of this Review, consumer/investors will be able to protect themselves better. In the meantime, there is also a need to try to deal with the problems by developing some standards as noted above.

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investorism ADDENDUM CAVEATS:

1. **our 13 provincial / territorial securities regulators license market registrants as "salespersons" to sell financial products …**

   - **FACT: these "salespersons" are not licensed by our securities regulators as "Financial Advisors", "Senior Retirement Specialists", "Vice Presidents", etc.**

2. **security regulators licensed "salespersons" eat the commissions that they kill, and ...**

   - **FACT: in order to keep their jobs, these licensed "salespersons" are required to meet their employer's daily / weekly / monthly / annual commission quotas !!**

3. equity funds pay licensed "salespersons" significantly higher fiduciary advice undermining and compromising on-going "Tied Advice / Tied Sale" trailer / service fee commissions

- **— equity funds pay significantly higher "embedded compensation" trailer fee commissions than balanced funds, bond funds and limbo-low to zero money market funds pay, and ...**

- **higher by-design equity fund "Tied Advice / Tied Sale" trailer / service fee commissions that "salespersons" need in order to meet their employers' commission quotas – pressure that undermines / compromises the Know Your Client suitability investment advice being dispensed by licensed "salespersons" who are not licensed as "financial advisors" !!**

  - **"salespersons" who are forced to either simply over-equity their "*sheeple*" clients in order to meet their required commission quotas**

and / or

  - **hyper-leverage their clients with added commission producing layers of equity $OLD investment schemes !!**
    … in order to:

    - **earn up to 4 *x* the 5% DSC point-of-being $OLD / purchase commission !!**

April 17, 2001

A wakeup call for fund investors

Your asset balance, management fees worth examining

Jonathan Chevreau
Financial Post

Full-service stock brokers have come under considerable heat the past few weeks over questionable trading practices leading to losses for clients.
So far, with the odd exception over the years, the chickens haven't yet come home to roost for the nation's mutual fund dealers. Investment funds are far more diversified than individual stocks and there's less potential for catastrophic losses due to one or two bad trades. But that doesn't mean the equivalent of stock-churning doesn't occur with ill-advised switches of mutual funds.

If nothing else, the lessons stock investors are learning from scrutinizing their monthly statements could be applied by mutual fund investors.

If most of your nest egg is tied up in funds, you may want to ask yourself a few of the ten questions posed by fund consumer advocate Joe Killoran at his Web site at www.investorism.com.

For example, Killoran suggests investors ask themselves when they last reviewed their asset mix holdings in their investment portfolio. Oh sure, most monthly statements tell you at a glance that your portfolio now contains 45% stocks or equity funds, 45% fixed income and 10% cash [or whatever your personal mix is] but they rarely dig deep and adjust for the anomalies of bonds in balanced funds, cash in equity funds etc. And when, to paraphrase Killoran, "was the last time you compared your portfolio asset mix disposition against a prudent investment asset mix portfolio by your age, years to retirement and risk tolerances with a portfolio from a qualified pension actuary?" Well, not lately, right? At best perhaps, when your advisor was rustling up his February RRSP contribution from you, you chatted about "rebalancing" -- most likely cashing out of some idle T-bills to snap up some bargain-priced technology funds.

Another red flag raised by Killoran five years ago is leverage. It's clear that a disturbing number of Canadian investors -- particularly seniors -- have been burned in recent months on margin calls in the current bear market. Killoran's 10 questions include this one, which I've condensed: "Do you know how much of a stock market hair cut correction it would take to produce a 100% loss of your money or a scenario where your home equity loan will be called?"

Hey, the stock market always comes back, doesn't it? Yes it does, but will it do so in time if you're deeply under water and facing margin calls?
Perhaps you're not such a gambler and happy to buy and hold funds over the long run, gradually dollar-cost-averaging your way to financial nirvana. If so,

can you answer this: "Do you know the annual Management Expense Ratio (MER) deducted annually or quarterly by the fund manager from each of your holdings?"

And do you know the long-term impact of that MER on your investment returns? The answer to that can be found at Industry Canada's MER calculator at http://strategis.ic.gc.ca/SSG/ca01457e.html.

Or, and here we come closer to the parallels with the stock brokerage industry: Do you know how much of the MER you pay on funds is a trailer commission [annual service fee] paid by the fund company to the advisor for every year he or she convinces you to stay with the fund?

Why is this relevant? If your advisor is suggesting a switch of -- for example -- Templeton Growth to AGF International Value -- wouldn't one piece of information in your assessment of the switch recommendation be the resulting doubling of the trailer fee accruing to the advisor for the switch?

This is the kind of "disclosure" or "transparency" Killoran has been pushing Canada's fund industry to adopt for years. He's been ignored, laughed at and all but drummed out of the Canadian financial services industry for his trouble but suddenly, the questions he's been raising seem more relevant.

Another area where questions have been asked and largely ignored by the industry and regulators is self-regulation. More than two years ago, in her Investment Funds in Canada and Consumer Protection report [made to Industry Canada's Office of Consumer Affairs], Glorianne Stromberg asked penetrating questions about the effectiveness of self-regulatory organizations (SROs) in Canada. In stocks and bonds, the Investment Dealers Association has SRO status and in mutual funds the Investment Funds Institute of Canada is lobbying to be accorded similar status. Last week, the Mutual Fund Dealers Association, under the IDA umbrella, was given similar SRO status. The investor abuses revealed in recent weeks at Nesbitt Burns call into question how effective self-regulation can be from a body that simultaneously serves an industry as well as the consumers who feed that industry.

"Is there too much 'self' in 'self-regulation?" Stromberg asked in her report. She posed 18 other questions, including "Do competitive interests interfere with or delay the rule-making process of the SROs?" She also asked how dependent are staff of SROs on the goodwill of the members and asked "should there be a separation of member regulation activities, market regulation activities and industry trade association or advocacy activities?"

I've no doubt 99% of Canadian stock brokers and fund dealers are honest practitioners who deliver much-needed advice in a confusing financial world. But if you're unfortunate enough to be in the hands of the unscrupulous 1%, ask yourself whether perhaps the fox may be in charge of your chicken coop.
jchevreau@nationalpost.com

----- Original Message -----
From: Joseph Killoran
To: Michael (OSC) Watson ; Larry (MFDA SRO COO) Waite ; Hon. Thomas (IFIC) Hockin ; Alex (IDA) Popovic
Cc: Ned (Dynamic) Goodman ; David (OSC Chairman) Brown ; Arthur Labatt, O.C., C.A. ; Glorianne Stromberg ; Dave (DPII) Velanoff ; Dimitrov, Daniella
Sent: **February 2, 2002 7:49 PM**

Subject: **Ernie Huckerby (ex-Fortune Fin. / Dundee) now at Blue Heron**

- **is the high profile London, ON, financial "salesperson" in this article**

ATTENTION: RCMP, OSC, IDA, MFDA, IFIC, FCAC, etc.
Ernie Huckerby (ex-Fortune Financial / Dundee Private Client Services) now at Blue Heron is the high profile London, ON, financial "salesperson" in this article who's client book is laced with this kind of lack of (KYC) Know Your Client suitability hyper-leverage SOLD advice !!

The Big Owe

Borrowing money to invest can leverage your results to the moon. It can also drive you mad with stress

by Donna Green
MoneySense Magazine
February 2002,

Give me a lever long enough and a place to stand and I could lift the world, Archimedes said. The ancient Greek philosopher was thinking of physics but he might as well have been talking about money.

In financial terms, leveraging is the practice of borrowing money to invest. By taking out a loan, you magnify your investment returns just as an actual lever magnifies your physical strength. Given the right conditions, leveraging can transform your portfolio's paltry 5% return into a healthy 10% gain.

Sounds good, doesn't it? A successful leveraging program seems to promise the world, and with interest rates at 40-year lows, you're probably drowning in offers from people who want to help you leverage yourself. Banks are extolling RRSP catch-up loans, mutual fund companies are touting their own loan programs, while brokerage firms are sending out flyers proclaiming rock-bottom interest rates on margin accounts. All these leveraging pitches have one thing in common: very appealing math. In the scenarios sketched by many financial planners, you can increase your effective return by 50% over a decade by using a conservative leveraging strategy. At least in theory, more aggressive borrowing can pump up your returns by 100% or more. The glowing numbers make you feel like a coward if you're not borrowing to invest.

But are you really missing out? There's no doubt that leveraging can be profitable on paper. Problem is, leveraging magnifies not only good results, but bad ones as well. Even a garden-variety dip in the market can wreak havoc.

Just ask Joan and Sam Cole. Six years ago, the Coles (I've changed their names to protect their privacy) were in their early 30s. Each was pulling down $45,000 a year. They owned a comfortable house and were completely debt free except for a small mortgage, which they intended to pay off in a few years.
Encouraged by their success, they began to wonder if they could be doing even better. So they sought the advice of a highprofile financial adviser in London, Ont., who was working with Sam's boss and many of his fellow employees. The adviser suggested they take out a secured line of credit against the equity in their house to buy a $50,000 portfolio of mutual funds. Then the adviser persuaded them to make several other investments, all financed by their line of credit.

The Coles' situation grew increasingly complicated. At their financial adviser's suggestion, they transferred much of their leveraged portfolio of mutual funds into their RRSP. Then the Coles got a second loan based on their RRSP assets to buy more non-registered mutual funds. Now the Coles had two large loans for investment purposes - the line of credit against their house, and the investment loan tied to their RRSP. They couldn't make the interest payments on the second investment loan, so their adviser devised a complicated arrangement in which Joan and Sam each cashed out $209 a month from their separate retirement accounts to finance the after-tax costs of the loan.

By that point, the Coles were in hock for $165,000. That was the total equity in their home and represented more than 50% of their net worth. "For the first little while the strategy was doing quite well," says Joan. "But then the Asian crisis hit and our money was coming out of our RSP and our mutual funds were going down at the same time."

Their portfolio plummeted, falling to $38,000 below its purchase price. "It was scary," remembers Joan. "Looking back, you don't know how you could have ever stepped into such a situation."

To their credit, the Coles refused to panic. They waited for the market to recover, then selectively sold. When their losses were finally staunched, they had lost $10,000 in the space of 15 months and had a notice from their bank demanding that they deposit money or assets into their retirement account to shore up the second loan. Although the Coles could have struggled on, they chose to sell their house, pay off their towering investment loans and dust themselves off. "I'm glad this happened to us when we were still very young," says Joan. "There are older people at my husband's work who, if they lost their job today, would be forced to sell their house because of our adviser. When things are going good, a leveraging strategy looks wonderful. But they don't tell you about the downside."

As the Coles can attest, the downside is terrifying. If you're employing leverage and the markets turn against you, you wind up losing not only your own money, but somebody else's as well. If you're not prepared to endure this stress, you shouldn't even consider the prospect of leveraging.

But what if you possess steel-belted, all-weather nerves that can take any amount of punishment? Here's where things get interesting. Leveraging can be a successful investing strategy but only if you thoroughly understand the mathematics and psychology that underpin it.

The biggest single factor is knowing how much to borrow. (For more on this topic see **Building your own money machine** .) Led astray by their financial adviser, the Coles borrowed far too much and expected part of their borrowed portfolio to pay for itself. Unscrupulous advisers often encourage such excessive leveraging since it increases the amount of commissions and trailer fees they collect. A quick reckoning estimates the Coles' adviser made at least $10,000 in commissions on the couple's investments - vastly more than he would have earned had the Coles simply paid down their mortgage and contributed to their RRSPs. And therein lies a lesson for all of us. Before committing to a leveraging strategy recommended by a financial adviser, you should know how much he or she stands to make from it.

You should also understand the logic behind leveraging. As we've noted above, leveraging magnifies your results, both good and bad. Let's say you have $50,000 and you borrow another $50,000. Your $100,000 portfolio has to lose just half of its value to completely wipe out your original stake. On the other hand, it has to rise just 50% to double the money you originally put in. Any leveraging strategy starts with the notion that the after-tax return from the stock market will be higher over any long period of time than the after-tax cost of borrowing money. This is a reasonable assumption, but the key words in that sentence are "long period of time." Your leveraged portfolio might lose money for years.

To make most leveraging plans work, you should count on sticking to them for at least a decade. Even then, your results may vary widely. Leveraging, for instance, was a magnificent strategy for most of the 1990s, when the stock market soared and interest rates tumbled. But it would have performed less well in the 1970s, when the stock market tanked while interest rates soared. During that dismal decade, a leveraged portfolio would have spent several years sucking wind. Let's say you began with $50,000 in 1970 and borrowed another $50,000 at the prevailing interest rates to buy stocks. Four years later, your $100,000 portfolio would have been worth only $98,500. Perseverance would eventually have paid off. If you had held on until 1980, and your portfolio had matched the TSE 300's return, your leveraging strategy would have resulted in about a 12% after-tax return, compared with 8% for a non-leveraged strategy. That's a nice payoff from leveraging - but you would have paid for your extra profits with many sleepless nights during the early '70s.

In general terms, leveraging shines when interest rates are falling and stock market returns are high; it's less effective if interest rates are rising and stock market returns are dwindling. Right now interest rates look as if they have nowhere to go but up. If they do, leveraging may be less attractive in the future than it was over the past 20 years. The murky economic outlook makes it important for you to evaluate the merits of any leveraging arrangement. At first glance, this is an intimidating task, but with an understanding of first principles and some rules of thumb, you can shimmy up to the bar with any fast-talking leveraging aficionado.

Let's take the simplest case first - borrowing to put money in your RRSP. Here the rule of thumb is very straightforward. As long as you plow your tax refund into paying off your loan and you finish paying the remainder of the loan within a year, it almost always makes sense to borrow to contribute to your RRSP. The tax-free compounding of the money in your RRSP should offset the cost of a year's interest.

Borrowing to catch up on accumulated contribution room isn't so attractive. A catch-up loan of, say, $50,000, could take five to 10 years to pay off even after reducing it by the amount of the tax refund. Especially if you're over 50, this makes most such loans a dubious proposition.

Leveraging is most effective if you're young, you have a reasonable amount of free cash flow and you're investing outside your RRSP. But the arithmetic of leveraging depends on a precise balance between interest rates, your tax situation and your investment returns. Here's how this works in practice:

- The problem, of course, is that the situation rarely works out as neatly as in our example. If there's some interest and dividends thrown into the mix, the calculation gets a little more difficult and the net profit a little slimmer. (That's why leveraging is best done with tax-efficient mutual funds or exchange traded funds. The returns from these investments are most often in the form of capital gains.) Also, if interest rates happen to spike or if returns prove to be less generous than you predicted, your profits can be eviscerated.

"We have to be careful not to overstate the potential benefit of leveraging because that is done quite successfully without our help," says Talbot Stevens, an author and financial educator in London, Ontario, and author of a booklet called *Dispelling the Myths of Borrowing to Invest*. He points out that leverage projections commonly assume no distributions or dividends from the underlying investment. "The reality is that most mutual funds will have distributions, which reduces the tax efficiency and effectively reduces the net that you get down the road." By not including these taxable distributions, many leveraging proponents unrealistically overstate the benefits. Since you're ratcheting up your risk level when you leverage yourself, it makes sense to demand a healthy payback for the gamble you're taking. What you need to determine isn't solely if leveraging produces a profit. Rather, you want to know if leveraging will give you a better return than

not borrowing and simply plowing your savings into a mutual fund.
For a leveraging program to be advantageous it must yield more than a monthly savings plan. This is what Stevens calls the "better-than return." As a rough rule of thumb, Stevens says you need to earn only two-thirds of the interest expense for leveraging to be advantageous over a 10-year term. (For instance, if you're paying 6% a year in interest, you need to make at least 4% a year for leveraging to surpass an unleveraged strategy.)

Stevens stresses that investors should engage only in conservative leveraging, using at the very most only half of their available cash flow. He believes the ideal strategy for Canadians is a blend of RRSP investments and non-registered leveraging. "Use the RRSP refund, which is normally spent, to finance a small, conservative investment loan," he says. "With that small investment loan on the side, you get a second tax deduction which can be spent guilt free."

All of that seems sensible, but does it mean leveraging is right for you? Not according to Malcolm Hamilton, one of Canada's leading personal finance experts and an actuary at William M. Mercer Ltd. in Toronto. He believes that few people are psychologically equipped to borrow money to invest: "The normal person is better off paying down their mortgage and then filling up their RRSP and not carrying debt."

The problem with leveraging for most people is the stress it imposes. For leveraging to work, Hamilton says, "You've got to take large risks and you have to be very patient. You've got to have really mastered your emotions and you've got to be able to afford to lose the money." He believes that young people with good cash flows who don't have a mortgage or who have no desire to buy a house are the most appropriate candidates for leveraging. But he cautions that even 30-somethings may find it hard to bear the emotions of a money-losing period. "What often happens is the psychological impact of having to deal with a rough financial position for a couple of years is much, much more severe than you ever imagined."

Those who work with clients know just how true that is. "On paper, leveraging will almost always work with a long enough holding period," says Ron Nicksy, senior financial adviser and branch manager for Assante Capital Management in Toronto. "But I don't know how many people who leverage actually get that extra money in retirement." His point is a psychological one: "If things go badly you might cash out to cut your losses, and if things go well you might spend it."

You need discipline to make leveraging work - not to mention the willingness to lose money if things turn against you. Archimedes was right about the power of leveraging. What he didn't mention was that levers work in both directions.
Read more:

Building your own money machine

The four keys to successful leveraging.

GET OBJECTIVE ADVICE

Your financial planner may be biased because he or she stands to make additional commissions if you leverage. To get a more evenhanded opinion, talk to an accountant before borrowing any significant sum. "The financial representative is the last person investors should be asking," says Lorn Kutner, tax partner with the accounting firm of Mintz & Partners in Toronto. "Most people don't want to pay for advice from an accountant but they always call us after the fact when they are calling everybody before having to tell their spouse." Determined do-it-yourselfers can check out various break-even situations by using the software developed by Talbot Steven, a financial adviser in London, Ont., (his software is available at www.talbotstevens.com) or the calculators at AIC Ltd.'s website (www.aicfunds.com).

BUILD IN A LARGE MARGIN OF SAFETY

To determine how large an investment loan you should consider, calculate the size of loan you can comfortably afford to finance, then divide it in two. "Never do the maximum of what the lender thinks you can handle. Do half of that at most," says Stevens. "That way you can handle interest rates doubling." Tim Cestnick, managing director of national tax services at AIC Ltd., advises borrowing no more than 30% to 50% of your net worth. He recommends that conservative investors stick to fixed-rate loans so they don't have to worry about interest rates taking a sudden leap upward. Other advisers suggest that you never borrow more than the amount you're putting up yourself. Steer clear of interest-only loans. Instead, make both principal and interest payments so your risk is gradually reduced. And maintain an emergency cash reserve.

KNOW HOW THE NUMBERS WORK

The arithmetic of leveraging depends on a fine balance of interest rates, your tax situation and your returns. When these change, re-evaluate your strategy. It is easy to lose some of the interest deductibility on an investment loan if you sell a portion of the leveraged investments, or if the investments are certain to return less than the loan interest rate, as would be the case with a bond. You must understand the tax rules as well as the tax efficiency of your investments, and keep on top of interest rates.

COMMIT TO THE LONG TERM BUT KEEP YOUR OPTIONS OPEN

A leveraging program has a better chance of working over 10 years than over two, so you should be committed to the long term. However, you will feel more comfortable if you build in an escape hatch by purchasing only quality investments that can be easily sold without serious penalty.

Donna Green is a Certified Financial Planner and financial writer. She is the co-author of *The New Investment Frontier: A Guide to Exchange Traded Funds for Canadians*, Insomniac Press, 2001.

----- Original Message -----
From: Joe Killoran [mailto:killoran@sympatico.ca]
To: Jon (The FP) Chevreau
Cc: Glorianne Stromberg
Sent: **February 8, 2002 5:13 PM**

Subject: Allowed leverage practices are worse than extra sales incentive mutual fund banned FREE trip abuses

Jon, **Cc:** Glorianne

As mentioned, I'm trying to connect the dots on how egregious and abusive the leverage **$OLD** practices have been that our securities regulators have and still are allowing.

It took the OSC 15+ years to understand and finally ban the practice of extra sales incentive FREE trips for financial advisors who **$OLD** mutual funds. It took too long for the OSC to see the consumer/investor abusing faults underlying the practice of extra sales incentive FREE trips. It took the OSC too long to address and finally ban the practice. The extra sales incentive mutual funds **$OLD FREE trips** compromised / undermined / skewed / tainted, etc., the fiduciary duty of financial advisors to dispense independent, prudent, arm's length, lack of self-interest, etc., advice. Financial advisors knew more about how to qualify for the FREE trips than they did about the funds they were selling, what securities were in the funds, etc.

> **"We believe mutual funds are sold, not bought."**
> —Arthur Labatt, Investment Executive, Sept. 1997

> **"Most Canadians are not as sophisticated as Americans and so are less likely to want to make their own investment decisions."**
> —Arthur Labatt, Investment Executive, Sept. 1997

> **"Why tell them [fund investors] more than we have to"**
> **—Jonathan Wellum, AIC Fund Manager, April 4, 1998**

As mentioned, our securities regulators have been and still are allowing leverage **$OLD** practices that have far more egregious, abusive, financial euthanasia instigating and terminal consequences (including triggering suicides !) rendering results than the mutual fund FREE trip practices had that they banned. Briefly:

PLEASE NOTE: My following points are complementary addendums to Sections 21.5 and 21.6 in Glorianne Stromberg's "Strategies for the Millennium" Report.

1. MISSED CORE CURRICULUM EDUCATION:

consumer/investors were never given a core curriculum education in "Financial Literacy" that included the consequences of financial leverage. I asked Ivey Professor Steve Foerster's 1999 graduating MBA class if any of them had ever received any formal education in financial leverage. Except for their study in Foerster's class three weeks prior to my visit, non of Foerster's 85 MBA's at Canada's pre-eminent business school had had any leverage education except in that same Foerster class, a final MBA year elective Finance course!!

2. FLAWED LEVERAGE LOAN APPLICATION PROCESS:

Financial advisors are allowed to complete leverage SOLD loan application forms for the funding banks. Investors never meet the loans officer for a fiduciary review of the transaction. Stock market leverage should require enhanced fiduciary practices by bankers versus a mortgage broker applying for and processing a mortgage for a bank unseen client. The first fiduciary, like Pharmacist Drug Watch, question is:

- Do / should the banks have a higher fiduciary duty to meet clients when they are accepting and processing a loan for stock market related leverage?

3. COMMISSION QUOTAS versus ADVICE DISPENSED:

More than ever, financial advisors are being driven by their employers to meet EVER increasing commission quotas. Financial advisors are not graded by their employers based upon the quality of financial advice dispensed and how well their clients' needs are met.

4. JUST-IN-TIME (J-i-T) TRANSPARENCIES:

Lack of J-i-T point-of-being SOLD leverage transparencies that educate, facilitate decision making, show all of the salient details and validate advice, enhance safety by exposing all of the potential RISKS versus REWARDS using brain impregnating columns instead of information buried in paragraphs, etc., plus on-going dollars and cents MER and trailer fee commission transparencies on investor quarterly, semi and annual statements.

5. FERRETING OUT FALSE NET WORTH STATEMENTS:

Ernie Huckerby's favourite ploy was to value just SOLD limited partnerships at 100¢ on the $1 SOLD value on net worth statements he prepared for his clients *versus* the appropriate immediate after sale market value range of a low 58¢ to maybe as high as 65¢ per $1 of limited partnerships that he SOLD.

6. LEGAL BREACHES:

Leverage SOLD schemes have involved the premature LIFFing of Locked in RRSP's before age 55 (10 years before normal retirement age in the pension plan) in order to use the monthly LIFF payment to pay the leverage SOLD loan interest. This raises a second fiduciary like Pharmacist Drug Watch question:

- ■ Are the fund companies who have facilitated these early LIFFings of locked-in RRSPs liable for damages?

7. INAPPROPRIATE LEVERAGE $OLD SCHEMES:

Some financial advisors have been able to get the financial lenders to accept RRSP's as leverage SOLD loan collateral in order to increase the loans. Also, one inappropriate practice, while not illegal, is where advisors are having their clients, some in their early 30's, RRIF their RRSP's in order to pay the monthly interest on their stock market leverage SOLD schemes.

8. DSC $OLD LEVERAGE LASTS TOO LONG:

With the volatility and quicker happening durations of sector rotations, Donna Green's thesis that leverage schemes should be / could be 10

> years long, may be inappropriate. The optimum duration for a financial leverage program is like gambling: how many gamblers leave the Black Jack table within 10% of their peak winnings?
>
> With the lack of full, true and plain dollars and cents transparency to investors of the MERs and independent advice skewing trailer fee commissions, how many leveraged investors close out their leverage program within 10% of their peak gains?
>
> Leverage schemes are like poker. Instead of the house winning like in poker, the financial intermediaries are the real winners of financial leverage **$OLD** schemes. NOTE: Sections 21.5 and 21.6 in Glorianne Stromberg's Oct. 1998 Millennium Report for Industry Canada.

There are many questionable impropriety and illegality cans attached to Ernie Huckerby. I spoke to Andrew Roblin this week. Andrew is the ex-President of University Avenue Funds (now Blue Herron). Andrew still owns 7% of Blue Herron and is on the Board of Blue Herron. Andrew left me a voice mail yesterday saying that there were no OSC terms and conditions placed on the transfer of Huckerby's licence from Dundee to Blue Herron.

Between the Lines:

I was told by Dave Velanoff, the President of Dundee Private Client Services, that Dundee did an exhaustive forensic audit of Fortune Financial before they closed the transaction to buy assets only.

> [**11-24-09**: Dave Velanoff is now President of MGI Wealth Mgmt, formerly Rice Financial]

Dundee's forensic audit couldn't help but see the number of law suits outstanding against Huckerby, the amount of leverage in his client book of business and the numerous other improprieties like the $50,000 per sale Florida partnerships that imploded, etc.

Either Dundee used Arthur Anderson (à la Enron) to conduct the forensic audit on Fortune Financial OR Dundee has pulled a compliance cover-up like First Marathon did when they let Michael Holoday transfer his licence to Midland Doherty.

Bottom Line: Andrew Roblin is not pleased to now be stuck with Huckerby because of Dundee's failure to report Huckerby's impropriety and illegality practices to the OSC !

Jon, if you do a column on "OSC allowed leverage SOLD practices that have abusing consequences", please end your column asking readers to e-mail you their GREAT, GOOD, Break Even, BAD and UGLY leverage stories.

Have a GREAT weekend,

Joe

February 26, 2002

A culture of greed and deception

Nasdaq-listed firms used trickery to spin profits from losses

Jonathan Chevreau
Financial Post

It's too bad David Meal didn't have the chance to read a primer on the risks of borrowing to invest, released yesterday by the Ontario Securities Commission.

As described in Saturday's column, Meal, a 72-year old retiree, lost more than $100,000 on a 9 to 1 leveraged investment loan on a Nasdaq index fund just before the bubble burst in March, 2000.

Terri Williams, an OSC spokesperson, says cases like Meal's are common.

"Our contact centre has heard too many stories from seniors who have inappropriately been talked into borrowing to invest. We hope this new Investor Guide will help investors appreciate the risks involved." Leverage is a two-edged sword that magnifies emotions like fear and greed. In the Meal debacle, greed seemed to trump fear with respect to

the untimely loan made by the Georgetown, Ont. branch of the Canadian Imperial Bank of Commerce.

When Meal got his loan in November, 1999, there was little fear in the market. But perhaps he and the bank were victims of a deeper culture of greed and deception that went into the creation of the Nasdaq bubble in the late 1990s.

They could not have known of the accounting tricks that let the bubble get to such heights: the departures from Generally Accepted Accounting Principles (GAAP) only now being revealed in the post-Enron era of 2002.

A fascinating analysis of the true nature of Meal's Nasdaq investment can be found at www.smartstockinvestor.com. As the chart shows, the 100 companies comprising the Nasdaq 100 reported combined losses to the Securities and Exchange Commission (SEC) of US$82-billion in the first three quarters of 2001.

But these companies simultaneously reported US$19.1-billion in combined profits to shareholders, using the watered-down "pro-forma" or EBS ("everything but the bad stuff") earnings standard which developed over the bubble's creation.

Through the alchemy of selective accounting disclosure, most of the big-name tech stocks transmuted the dull lead of losses into the lustrous gold of profits. Reports to the SEC are regulated and must follow GAAP. But the pro forma earnings often "reported" by the press are unaudited.

With shareholders focusing only on reported "profits," this led to still greater quantities of gold through ascending stock prices. For awhile, such shenanigans worked. Such tech giants as Microsoft, Intel, Cisco, and Dell were at the heart of Meal's investment in the CIBC Nasdaq index fund.

Those investing in the exchange-traded QQQ fund (QQQ/AMEX) had exposure to the same 100 stocks. Many actively managed technology funds had similar exposure.

Most instructive is Cisco, which reported losses to the SEC of US$3-billion but pro forma "profits" of US$700-million to shareholders. That allowed Cisco to trumpet it "beat the street" by exceeding earnings estimates from First Call/Thomson Financial, a U.S.-based earnings consolidator.

To do that each quarter, Cisco had to expunge true accounting expenses so its headline earnings could be portrayed as being in line with or "slightly better" than earnings projections.

As the Web site notes, "pro forma reporting seems to pay off handsomely in the stock price."

Vito Maida, president of Patient Capital Management, refers to the essay in a current issue of his company's newsletter.

"Investors have no one to blame but themselves in such situations," Maida says. "During financial bubbles investors ignore the basics. As a result, conservative companies [like Oracle in the above essay] are penalized relative to their more aggressive counterparts who are showing strong 'earnings growth.' "

To compete, other corporate executives feel compelled to play the same game.

Even worse, companies in the Standard & Poor's 500 index are still playing the same game, Maida says. Current estimates suggest S&P 500 companies earned US$410-billion in 2001, using the criteria of First Call/Thomson Financial. On a GAAP basis, however, they earned just 58% of that.

John di Tomasso, president of the di Tomasso Group, a Toronto-based investment manager, is equally wary of valuations of the 30 blue chip stocks in the Dow Jones industrial average. In a client report entitled Dow Jones Earnings -- The Perception and The Reality, di Tomasso says the average investor is likely unaware of "the chasm between the market's actual and its apparent profitability."

Earnings are overstated by compensation schemes tying bonuses and share options to stock prices.

At today's still-lofty prices, I'd be wary investing money I've already earned in these indexes. **To borrow money not yet earned because some leverage-peddling bank rep or fund salesman needs to generate extra commissions strikes me as financially suicidal.**

jchevreau@nationalpost.com

March 6, 2002

Debt sword cuts both ways

Use extra care when borrowing beyond an RRSP loan

Jonathan Chevreau
Financial Post

Is there such a thing as "conservative leverage?" The term seems to be an oxymoron.

Last week, we looked at RRSP top-up and catch-up loans, which seem to fall under the category of conservative leverage.

Beyond that, however, is a potential minefield of the kind the Ontario Securities Commission warned investors against last week -- the kind of aggressive leverage booby trap that elderly retiree David Meal fell into when he tapped the CIBC for a 9:1 leveraged loan on an ill-timed 1999 investment in the bank's Nasdaq index fund.

Canada's mutual fund industry has been aggressively promoting leverage over the past year's market downturn. Talbot Stevens -- who has become a sought-after public speaker for the industry after self-publishing a booklet on the topic -- says interest in leveraging has "shot through the roof" over the past year.

One of the inducements to leverage is the desire to minimize the bite of Canada's punitive tax rates. RRSP loans help strapped investors come up with ready cash to make contributions that reduce their taxable income.

Leverage outside an RRSP is also tax-driven. Unlike RRSP loans, if you borrow money to buy securities for your non-registered (or taxable) portfolio, the interest on the loan is tax deductible. Some investors even seek out "interest-only" loans which do not require principal paydown.

Whether this can be considered "good leverage" will depend on an investor's risk tolerance and time horizon, the nature of the investment and above all, the ratio of the loan to secured assets.

Stevens says Meal and the CIBC violated several of his guidelines: Diversify among several types of funds, keep cash flow manageable and limit the amount of the loan relative to total net worth.

However, Stevens notes that while a 2:1 margin ratio is normal for investors buying stocks on margin, and 4:1 or 3:1 ratios are common through institutions like Manulife Financial, it's possible to get 100% financing (i.e. an infinite ratio) from the banks for investment loans.

Last year, The AIC Group of Funds published a leverage booklet written with its in-house tax guru, **Tim Cestnick**. While modelled after Stevens' work, it appears more aggressive. AIC's approach is called "Up-Vesting," a trademarked term it describes as "using the power of leverage prudently to create long-term wealth."

It should know. AIC founder Michael Lee-Chin "Up-vested" his way to billionaire status by first borrowing to invest in Mackenzie Financial.

Unfortunately, David Meal was impaled by the other side of the two-edged sword of leverage. Do we call the devastating losses he suffered "Down-Vesting?"

I happened to catch Cestnick's Up-vesting pitch at the recent Financial Forum in Toronto. He was meticulous in spelling out the possible risks and tax implications.

AIC lists seven risks -- at least four of which were experienced by Meal. They are:

1. Your investments could decrease in value (as did Meal's)

2. Interest rates could increase

3. Your cash flow could suffer (and Meal's did)

4. Margin calls could be made (Meal had to sell his JDS Uniphase shares to meet CIBC's first margin call)

5. Tax deductions could be disallowed (Meal ended up paying tax on fund distributions even though the fund lost money)

6. You (or the people selling you the investments) might just get greedy

7. You could lose sleep at night (Meal continues to worry about losing his home).

Investor advocate Joe Killoran is a former stockbroker who runs the **www.investorism.com** web site. He denounces leverage schemes sold by financial advisors who "eat what they kill."

In 1998, while the technology and dot-com bubble was still expanding, Killoran warned against home equity loans of up to 75% peddled by **"fund-industry-sponsored unlicensed seminar shills."**

He warned that seniors, retirees and pensions were being targeted – advice which, sadly, never made its way to David Meal, now 74 years old.

Most of the press declined to pass on Killoran's warnings against leverage-sold funds. He was particularly vocal about Systematic Withdrawal Plan redemptions used to pay monthly home equity loan interest, principal repayments and taxes owing on annual capital gains distributions. He predicted that retirees who came late to the party -- so-called LIFOs (last in, first out) -- would see their life savings depleted as margin calls were issued on their shrinking investments.

All of this came to pass for David Meal. According to the OSC -- which has also started to act against certain seminar shills -- there are many more seniors just like Meal starting to surface.

jchevreau@nationalpost.com

http://www.TorontoSun.com/home

Sunday, April 20, 2003

INVESTOR BEWARE

Senior loses savings following questionable advice

By Linda Leatherdale, Money Editor

This is Investor Education month in Canada. So, what better time to warn investors that "open season on seniors" lives on, and the horror stories of people losing retirement savings are still hitting my desk?

This is yet another one. Read and weep, then you decide who's the villain here.

David is a 75-year-old retiree who, along with his wife, lives solely off the returns from their registered retirement income funds (RRIFs).

This week I met with David at a coffee shop to listen to his tale of woe, and read document after document of how our system for so-called fairness has let him down.

His problems began back in 1999, when hi-tech stocks were zooming into the stratosphere, and advisers everywhere were preaching that even seniors needed growth in their portfolios so, heaven forbid, they didn't outlive their money.

It was a full-page newspaper advertisement by one of Canada's big banks that caught David's eye. It showed an impressive rate of return for the bank's Nasdaq index fund, so off he trotted to the local branch.

By the end of a meeting with a bank financial adviser, David -- then 72 -- had put up $10,000, for a 9-to-1 leveraged investment to buy $100,000 worth of Nasdaq index funds.

HIGH-RISK VENTURE

In others words, David was now on the hook for $90,000 on a margin account while investing the borrowed money in a high-risk venture.

Now, let's get real: Margin loans are risky ventures for any investor -- but a 72-year-old retiree with a history of heart attacks and mini-strokes, and who obviously couldn't afford to lose money, getting a 9-to-1 leveraged loan?

That kind of leveraging was popular just before the Great Crash of 1929, when too many unsophisticated investors were lured into the market with margin loans of up to 90%.

A harsh lesson was learned. Today most brokerage houses require an investor to put up 50% to get a margin loan. Read on.

At first, things looked good. With the Nasdaq still climbing, David received a distribution of $12,393 within a month, which was reinvested in more units.

On the advice of his financial adviser, he then sold the Nasdaq index funds and moved the money to the bank's global technology fund, which, by the way, doubled the management expense ratio fee or MER.

I'm sure you can guess how the story now goes.

The hi-tech bubble burst, with the Nasdaq falling from a high of 5,132.52 on March 10, 2000, to as low as 1,422.28 today, for a painful drop of 72.25%.

With his global technology fund plunging from a high of $69.25 to $7, the bank was now demanding he ante up more money or sell shares to keep his margin account within the 9-to-1 guidelines.

David sold shares from his RRIF to square up, but the losses kept building. By Christmas 2000, he hugged his wife when he realized his global technology fund was paying a dividend. He claims he called and called to say he wanted the money to go toward his loan, but alas, when he went to the bank branch after the Christmas break, he was informed the $15,985 had already been invested to buy new units.

By July 2001, the bank sent him a stern notice that his margin account had a $51,345.95 shortfall -- and by then, he'd already begun the rigorous task of trying to get recourse through the bank's ombudsman system.

During our meeting, David claims he never fully understood that he was given a margin loan, and said the implications were never fully disclosed. In fact, he shows me a bank form, titled Borrowing Money to Buy Mutual Funds (Leveraging), which he did not receive until January 2001.

He did, however, receive a letter from the bank in December 2000 that said it was a $90,000 investment loan at interest only, with a rate of prime plus one-half a percentage point.

David also claims he was not a high-risk investor, and shows me a bank Know Your Client form, which reads, "high risk tolerance, fair investment knowledge, 100% growth." The form that he has in his possession, though, does not bear his signature.

He claims other discrepancies, yet investigations by the bank's internal ombudsman, the Canadian banking ombudsman and the Ontario Securities Commission all find no wrongdoing on the bank's behalf, and, in effect, conclude David was a victim of his own actions.

One letter from the OSC to David did, though, point to regulatory concerns "that dually employed salespersons at financial institutions might engage in excessive lending to encourage mutual fund sales."

At our meeting, David shows me a newspaper clipping that advertises this financial adviser had just won a bank achievement award at a conference in Cancun, Mexico.

As for David's complaint that the 9-to-1 leverage ratio was overly excessive, the Canadian banking ombudsman points out, "the bank is not an investment dealer and is not subject to IDA (Investment Dealers Association) regulations regarding margin. It is governed in this regard by its own internal credit policies."

The ombudsman, in his report, adds, "The bank does not, as a technical matter, use the term margin in its material" and uses the words "inadvertently" and "neglected" when describing the service David received at the bank branch.

GOES TO COURT

So where does David stand now? He had two MPPs, the Royal Canadian Legion and CARP (Canada's Association for the Fifty-Plus) all write letters stating his case and asking for consideration. But to no avail. He hired investment dispute consultant Robert Goldin of MacGold Direct Inc., who advised him to go to court.

His lawyer, John Langlois, says the bank offered arbitration. A draft statement of claim, meanwhile, is ready to be filed in the courts.

But all of this is frightening and stressful, let alone expensive. With the value of his $400,000 RRIF now at $70,000 and falling, his modest condo mortgaged by $66,000, and the margin loan looming, he fears financial ruin -- if his heart doesn't give out first.

In a last-ditch plea, David bought a bank share and headed to the bank's annual meeting. There, he asked the CEO, "Would you give such a loan to your grandmother?"

****

-----Original Message-----
From: Joseph Killoran (home) [mailto:killoran@sympatico.ca]
Sent: Tuesday, April 22, 2003 11:39 AM
To: Linda Leatherdale
Cc: Hon. Paul Martin Jr.; Hon. John Manley, M.P.; Hon. Alan Rock, M.P.; Hon. Janet (M.P.P.) Ecker; Glorianne Stromberg; David (OSC Chairman) Brown; Michael (OSC) Watson; R. Michael (OBSI) Lauber, FCA; Dr. John (CIBC) Pattison, Sr. V.P.; Bill (FCAC) Knight; Howard (CBO) Maker; Lachlan (CIBC Ombud) MacLachlan
Subject: 04-20-03 SUN: Linda, GREAT column + some fine tuning facts

Linda,

As per my voice mail that I left for you today, your column on how CIBC royally abused David and Agnes Meal was Tony the Tiger GREAT. If you revisit the CIBC abusing feast on the Meals story, please note the following facts:

1. When David Meal arrived on the CIBC door step, he'd already attended 6 seminars featuring the unlicensed transaction inducing seminar "shills":

* 3 seminars with mail order PhD dr. Jerry White,
* 2 seminars featuring "Now it's my money" Brian Costello and
* 1 seminar featuring your ex-Toronto Sun Editor and boss, Garth Turner.

2. When David Meal arrived on the CIBC door step in November 1999, the Meals had $422,000 in registered RRIF's with David Charltan at Berkshire that were inappropriately 100% equity invested + the Meals had unregistered investments in high beta, high volatility individual Nortel and JDS Uniphase stocks totaling $59,000 with a $35,000 fully disclosed leverage loan from the Royal Bank + an $80,000 mortgage on their $175,000 approximate value condo.

NOTE: it is absolutely criminal how non-arm's length compliance departments, our securities regulators and bank ombudsman offices have all blessed the lack of prudent actuarial asset mix practice of seniors, retirees and pensioners being SOLD 100% equity weighted investment portfolios without any historical fixed income components. Why has this been allowed? Because equity funds pay substantially higher trailer commission fees than either fixed income or diversified funds do !!

3. CIBC Financial Advisor, Janice Kouymoujan, facilitated David Meal with a $90,000 loan so that the Meals must buy (it's called "tied selling") the two CIBC highest beta, highest volatility funds:

- **i.** first the passive CIBC NASDAQ Index Fund on November 26, 1999, a fund with a 1.12% MER that included an advisor 0.50% annual Service Fee Commission (other fund companies call it a Trailer Commission Fee).

- **ii.** This NASDAQ Index fund was redeemed four (4) months later on March 26, 2000, and the proceeds were switched to the actively managed CIBC Global Technology Fund, an actively managed fund with a 2.76% annual MER (a 146% increase in annual MER versus the CIBC NASDAQ Index Fund) that included a whopping and incredible advisor self-interest 1.50% annual Service Fee (a 200% increase versus the CIBC NASDAQ Index Fund !!).

NOTE Number 1: If you read the CIBC Funds Prospectus, you will see that CIBC does not provide fund specific annual Service Fees. The OSC has allowed CIBC to use an encompassing, "may pay up to 1.50% annual Service Fee" verbiage. The OSC is effectively allowing the fund companies to use inferior "asymmetric information" perpetuating transparencies:

* those with less education and knowledge will end up paying more for goods and services than those with education and knowledge,

and

* when sellers know more about products and services than buyers, we tend to have inferior products and services at too high a price.

NOTE Number 2: Glorianne Stromberg covered the story of consumer/ investors like the Meals being inappropriately abused by questionable sales practices in Sections: 9.1; 17.8 & 17.9; 21.1 & 21.2 and 21.5 & 21.6 of her October 1998 "Consumer Protection: Strategies for the Millennium" Report for Industry Canada. Sadly, Industry Canada and the OSC both shelved Stromberg's Report. If they had acted upon it promptly, as they should have, Meal's November 26, 1999, CIBC $90,000 loan and $100,000 initial CIBC NASDAQ Index Fund transaction would never ever have been allowed and facilitated as a prudent preservation of capital investment transaction for two 73 year old seniors !!

4. When CIBC provided the Meals with a $90,000 loan, on November 26, 1999, to facilitate the initial $100,000 purchase of the CIBC proprietary highest beta, highest volatility (tied selling) NASDAQ Index Fund, this purchase accounted for 17.2% of the Meals total registered and non-registered 100% equity portfolio totaling $581,000 prior to any adjustment calculation for the CIBC loan of $90,000 + the Royal Bank loan of $35,000.

Several weeks ago, I asked Mike Lauber (he's an ex-KPMG Senior Partner) if he and I could come to a pre-determination calculation (like Revenue Canada gives auditors) for the amount that we could conservatively add to the 17.2% weighting to account for the leverage loan that CIBC had given to the Meals. Mike Lauber declined to go where I was asking him to go because the resulting leverage included weighting calculation would have taken the already 100% equity inappropriate and prudence lacking 17.2% highest beta, highest volatility weighting in the CIBC NASDAQ Index Fund to a conservative and egregious range of 23% to 27% !!

5. Linda, I have sadly come to the conclusion that the individual Bank Ombudsman and now our ultimate Canadian Banking Services and Investments Ombudsman, Mike Lauber, offices, are a farce by design when it comes to consumer/investor best interests being served. Not-withstanding that Mike Lauber is the most gracious, honest and ethical person that I've met in our securities industry, Mike Lauber has shared with me his own definition of the non-arm's length Compliance Departments that abused investors must traverse through before they get to the bank ombudsman and / or Lauber's office.

Mike Lauber's definition of a non-arm's length compliance department is:

PROTECT, PROTECT, PROTECT

until something happens,

then they commit their further abused investor bashing

DEFEND, DEFEND, DEFEND

The two most egregious by-design flaws of Mike Lauber's Ombudsman For Banking Services & Investments (OBSI) office are:

1. Lauber's office is an industry based Ombudsman office and his mandate does not allow him to conduct a forensic audit of a financial advisor's practices to identify the patterns of advice rendered and / or products recommended and sold patterns that are clearly visible on every financial advisor's practice !

2. when Lauber does identify a problem or practice that has abused a consumer/investor, Lauber is neither required to report the impropriety or illegality abuse to the appropriate securities regulator nor does he treat the financial abuse like we treat medical well-being abuses, i.e. SARS, to contact other uneducated and unknowingly abused clients of the particular financial advisor or bank / mutual fund distributor to make them aware of how they may have also been abused.

Linda, sadly the playing field for abused consumer/investors will never ever be fair until we have a revolution that requires that we treat consumer/ investor financial well-being abuses with the same degree of attention, resources, care and media exposures that we treat our medical well-being abuses like SARS !!

Mankind has spent gazillions of dollars extending our life expectancies, but we have failed miserably to teach everybody their deserved core curriculum complementing and required "Financial Literacy" survival skills.

And the only way that we can now educate and protect our aging population is with a series of interactive [the key is the process of filling-in the blanks] point-of-being SOLD/purchase one-pagers covering the complete gamut of financial products, including: GIC's, regular mortgages, reverse mortgages, RESP's, Mutual Funds, financial leverage consequences, RRIF's, annuities, LIF's, home and auto insurance, Term versus Universal Life, etc., etc..

Interactive, fill-in the blanks one-pagers that take into account the point-of-sale attention span of adult consumer/investors and also follow and adhere to the educating thesis contained in the Ancient Chinese Proverb:

> **Tell me and I forget.**
> **Show me and I remember.**
> **Involve me and I understand.**

Linda, thank you for allowing me the privilege to share these extra fine tuning details about how CIBC has been allowed:

- by our securities regulators (who are accountable to our Provincial Ministers of Finance),

- by our chartered banks (who are accountable to our Federal Minister of Finance who's mandate is to protecting Canadians from their "tied selling" Bank Act outlawed practices), and

- by our industry based non-arm's length in-house further abusing Compliance departments and supposed arm's length Ombudsman consumer / investor best interests caring offices.

May God Bless Us because our by-design flawed systems, processes, practices, cultures + our securities regulators' mandates failures, etc. …

- the financial well-being of abused consumer/investors really don't stand a chance.

Best regards,

Joe

Thursday, October 23, 2003

Industry muzzles its victims

Gag Orders keep bad advisors' names out of the press

by Jonathan Chevreau,
National Post

One of the frustrations with this job is some of the most potentially instructive stories can't be made public. Since the stock bubble of 1999 burst, many tales of investor abuse involving leveraged loans have come to my attention.

Too often, the consumer/victim of abuse starts to go down the legal path in an effort to recoup their lost retirement capital. But the closer they get to exposing the villains in court or the press, the more likely they will be offered a partial settlement.

Once settled out of court, everyone agrees to shut up. The chance to warn other investors is lost because of gag orders the lawyers are allowed to attach to settlement agreements. The perpetrators are free to go their merry way and find new victims.

A source familiar with such behind-the-scenes negotiations says this: "The problem is gag orders are allowed by the financial industry. We're not treating our financial well-being like we treat our medical well being. Can you imagine a medical officer knowing the person working next to you has SARs and not letting you know about it?"

Occasionally, as with the courageous Georgetown, Ontario, pensioner David Meal, the public learns about actual identities.

Meal's story about getting a 9 to 1 leveraged loan from CIBC to buy the Nasdaq late in 1999 has been described here before. However, odds are you'll hear no more about him because the Toronto law firm of Groia & Co. has taken on the case.

My prediction is the whole thing will get swept under the carpet and the name of the CIBC advisor will never be revealed.

Settlements buy silence

A similar case was recently settled out of court. Instead of a retiree it concerned a Baby Boomer couple in Ontario. It also involved leverage and investments made in 1999. As dictated in their agreement, the protagonists declined to talk to me.

We'll call our victims John and Sue (not their real names.) **We'll call the advisor Will Leverage, or W.L. for short.** He's written at least one financial book and often gives free financial seminars. (Published "authors" often have perceived authority when hosting their asset-gathering seminars.)

Unlike Meal, who saw only the upside of the New Economy in 1999, both Will and his clients were concerned about Y2K''s possible impact on the stock market. The husband worked in the computer industry, which may have been a factor. [Y2K was a concern I shared, as shown in the Krash! book I coauthored then.]

In February, 1999, the couple exhibited an interesting mixture of fear and greed in borrowing $150,000 to buy a "market neutral" hedge fund from @rgentum Management & Research Corp. In 1999, that was the minimum investment needed for hedge funds sold to sophisticated investors in Ontario. Designed to protect investors, in this instance the rule seems to have backfired. The rules have since changed.

The couple asked Will for a safe, low-risk investment. They planned to increase their risk level to "medium" if Y2K passed without incident. On their Know Your Client form Will described the couple as knowledgeable with "medium" risk tolerance. The couple didn't learn this until after they sued him.

In Will's defence, @rgentum described the fund as low risk, although it replaced the fund manager for poor fourth-quartile performance (which persists to the present). The fund was prematurely short the technology sector and suffered losses as the bubble expanded in 1999. It lost 26% that year and continued to lose through most of the years since.

The leverage amplified the couple's losses, which soon passed $100,000.

Meanwhile, Will put another $100,000 of the couple's savings in bond funds, which then fell 40%. "He put us into bonds at the worst possible time," Sue told my source. "We now have most of our money in the bank, as we are petrified."

By settling for less than 30% of their losses, the couple chose not to warn other investors. For the advisor, it's cheap hush money.

Worse, because of the gag order, the Ontario Securities Commission and advisor-policing self-regulatory organizations like the Investment Dealers Association and Mutual Fund Dealers' Association know nothing of the case.
As my source says, "Will Leverage is free to find new uneducated-in-financial-literacy victims to be in his food chain."

Asked about the advisor, an OSC spokesman would neither confirm nor deny an investigation is proceeding against him.

"Our system in Canada for handling complaints still leaves a lot to be desired," says former OSC commissioner Glorianne Stromberg. "The regulatory process has favoured the industry over investor protection."

But, she adds, the financial industry is "not alone in its cover-up." Doctors can move to another jurisdiction butchering patients, and child molesting teachers can move to different schools.

A spokeswoman for W.L.'s firm confirmed only he is still with them. "We don't comment on something like this to protect the privacy of the individuals."

Gag! So who's protecting Will Leverage's next victims?

jchevreau@nationalpost.com

From: Joe Killoran [mailto:killoran@sympatico.ca]
Sent: Wednesday, March 03, 2004 1:01 AM
To: James (IE) Langton
Cc: Glorianne Stromberg; Stan (SIPA) Buell; Robert Kyle
Subject: James, can you ferret out these BIG compliance problems too?

James, **Cc:** Glorianne

As you know, the seminar shills sowed fields upon fields of inappropriate lack of KYC suitability leverage schemes.

There were several impropriety and illegality leverage related schemes that DeLellis, Huckerby, Tindall, and many many others used. Remember, David Singh hired DeLellis after he was terminated by both AIC and TFPG to give sales seminars to Fortune Financial's advisors !!

1. **This one isn't illegal: BUT it definitely lacks the spirit of being appropriate:**

   they would RRIF and investors RRSP in order to obtain monthly streams to be used to pay the loan interest on their DSC SOLD fund schemes. Huckerby did this to Pam and Ron Edmond when they were in their early to mid 30's in order to pay their loan interest.

2. **This one is illegal:**

   when they found an investor who had locked in funds and who was less than 55 (10 years before normal pension plan retirement of 65 when a locked in RRSP can legally be LIF'd), a number of fund companies broke the law and LIF's locked-in RRSP's for investors in their early 50's and in their 40's too. For the last 7 years I have not been able to find out how to get at the data to prove that Compliance problems also cover pension plan laws having been broken too.

3a. This one was blatant fraud:

Ernie Huckerby had a scam of producing fraudulent net worth statements for his clients. Huckerby would sell them a limited partnership and immediately value it at 100¢ on the sold $1.00 of value rather than using a just-sold appropriate value of 58¢ to 63¢ on the dollar of sold partnerships. Remember, investors realize the difference with their tax write off and return of income taxes already deducted and paid to Revenue Canada.

3b. Huckerby had a 2nd fraudulent practice related to limited partnerships:

Huckerby sold too much dollar value in partnerships to his clients – he oversold them so much that many of his clients could never use portions of the sale on their income tax returns. When portions could not be deducted, these clients immediately lost 37¢ to 42¢ on each $1.00 of excess – the too much dollar value of partnerships that Huckerby sold to them !!

PLEASE check out points # 1 and # 2 above with Pamela and Ron Edmonds. They were the pseudonym disguised couple in Donna Green's **"The BIG Owe"** article in Money Sense magazine. The Edmonds submitted a two inch package of evidence against Ernie Huckerby's impropriety and illegality practices to the OSC last summer and the OSC declined to investigate Huckerby.

Edmond, Ron & Pamela
E-mail Address(es):
Edmond.1580@rogers.com

Q. can the civil servants employed @ our securities regulators, i.e. @ the OSC, actually be guilty of breaching Section 122 of our Criminal Code: Breach of trust by a public official?

Best regards,

Joe

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IE INVESTMENT EXECUTIVE

Downturn brings personal debt concerns to the fore

Advisors may need to help clients deal with servicing their debts in the coming year

By Wendy Cuthbert
January 2009

Whether or not there's a formal recession, Canadians know full well that their approach to debt, which has left them feeling vulnerable in the current economic environment, will have to change in the coming months.

"We're noticing that a lot more people are taking the situation a lot more seriously," says Elena Jara, education co-ordinator with national credit-counselling organization **Credit Canada** in Toronto. "They're realizing that the crisis [in the U.S.] also belongs to us."

Patricia Lovett-Reid, senior vice president with TD Waterhouse Canada Inc. in Toronto, expects a paradigm shift in how Canadians view debt in the coming year. In fact, she predicts, the days of the "buy now, pay later" mentality may finally be coming to an end: "The old-fashioned [idea of] putting money away and saving will come back into vogue."

Thanks to low interest rates and easy access to debt, Canadians have been dangerously comfortable in taking on higher debt loads in the past several years. In fact, the household debt/income ratio has increased to 137% as of June 30, 2008, from 110% at yearend 1999, according to Statistics Canada. "That's huge," Lovett-Reid says. Further, the **Bank of Canada**'s December 2008 *Financial System Review* indicates that the debt/asset ratio is 17.8%. "It's out of control," Lovett-Reid says.

Credit Canada expects to see a spike in client calls this February as consumers seek help to manage their debt loads, which tend to bust at the seams — even at the best of times — after the holidays. "Once the bills come in," Jara says, "reality hits."

In fact, there's evidence that Canadians are already battening down the hatches.

Spending has been going down slowly but surely throughout the past year, Lovett-Reid says. Demand for housing has also dropped, which points to lower demand for credit. The result: a personal savings rate of about 4% in September 2008. Although it's nothing near the *Wealthy Barber*'s 10% ideal, it's still 0.5% more than people saved a year ago, Lovett-Reid says: "[Canadians] are holding onto their money."

Fear about a potential recession has indeed created a belt-tightening culture, especially in Ontario, says Daniel Collison, a certified financial planner, trust and estate practitioner, and regional director with **Investors Group Inc.** in Markham, Ont. But, he says, there's a dichotomy in our current economic situation that might confuse clients: the uncertain economy clashes with our historically low interest rates. This creates a mixed message for consumers.

As dire as the situation may be, however, it has led to one significant positive outcome: it has created a catalyst for planners to revisit their clients' financial situations and focus on the liabilities side of the balance sheet. "It gets people thinking again," Collison says, "because they've become very lazy in focusing on the cost of debt."

Lovett-Reid adds that advisors need to recognize that anxiety concerning the economic crisis might mean that clients are no longer making investments their priority but are intent on addressing debt more aggressively. Reconstructing a client's debt portfolio — while not highly profitable over the short term for commission-based advisors — will help cement the client/advisor relationship. "[And] once that debt is retired," she says, "they'll be back to being the investing client but with more disposable income."

Collison recommends advisors add another category to the typical good debt (anything that builds wealth over the long run)/bad debt (unpaid consumer debt) paradigm: best debt. This category refers to debt that is tax-deductible. Advisors can recommend strategies to their clients, he suggests, wherein clients can convert their non-tax-deductible debt into tax-deductible debt.

If a client has a $20,000 loan on a car, for instance, and $20,000 in assets, it might make sense to cash in the assets to pay the loan, then borrow back $20,000 to invest. “It’s fairly simple,” Collison says of such a debt swap, “but it has to be done impeccably.”

Collison points out that advisors also need to make sure that what’s being sold doesn’t have tax implications. Not only is this strategy unlikely to make sense with a registered investment, but it might also be inappropriate for securities. Advisors need to find out whether such a strategy would create a capital loss or a gain.

Advisors should also try to steer clients gently away from the psychological impulse to throw every last penny toward their mortgages, he says. It’s a habit that has carried over from the 1980s and early 1990s, when mortgages carried double-digit interest rates. But having some cash flow in reserve is critical when there is so much uncertainty in the air.

“You can build up the equity outside the mortgage from which you can periodically take lump sums and pay down the mortgage,” Collison says. For instance, RRSP refunds become extra padding in the bank if interest rates spike or something calamitous, such as a job loss, occurs.

In some areas of Canada, debt anxiety isn’t an issue. An advisor in Alberta describes the mood in that province as generally positive. Although there is some concern about when investment returns will bounce back — some clients might be putting off their retirement, for instance — job losses, cash flow and onerous debt loads are not on the radar.

The story is similar in Newfound-land and Labrador, which is seeing unprecedented strength in its economy. “We’ve been relatively insulated — at least, for now,” says Joe Riche, a CFP with **Riche Investments** in St. John’s. “There’s a general sense of well-being here that we haven’t seem for some time.”

People are obviously concerned about their depreciating investments, and the real estate market in St. John’s is cooling from last year’s 22%-25% annual appreciation. That said, very few of Riche’s clients have borrowed against their homes’ equity, he adds. Individuals who see financial planners, he says, are those who are more proactive about money in general. So, it might not speak to the mood of the population as a whole, he admits: “Not many people come to me because of debt issues.”

For now, Riche’s only advice for those clients who might need credit is to lock in a rate now rather than wait: “There may soon be a credit crunch.”

Those who do need help are often beyond the scope of most advisors. Collison says that there are situations in which a potential client is told to seek credit counselling rather than go forward with a traditional financial plan.

This delicate situation will probably only increase over the coming months as more Canadians find themselves squeezed by debt obligations. There's very little an advisor can do when debt reaches proportions at which it's no longer balanced against assets — and the client has done little to rectify the situation. "Can you work with someone who has a drinking problem?" asks Collison. "Not until the client owns up to the fact that he or she has a drinking problem. It's very much the same for those who can't get out of debt."

Credit Canada counsels clients from all walks of life, but lately Jara has noticed more shell-shocked individuals who thought they were immune to such concerns — until they've found themselves in their own personal credit crisis, thanks to a job loss, reduced hours of work or obligations to help other family members. "Everyone's been hit," she says, "in one way or another." **IE**

ADVISOR.CA

When selling DSC funds, err on the side of disclosure

By Kanupriya Vashisht / **March 26, 2009**

Over the short term, you might be doing your cash-crunched client a favour by suggesting back-end-load mutual funds, but during this downturn, clients with recession-ravaged portfolios might be in a hurry to redeem. They won't be too pleased with having to pay a hefty redemption fee on money-losing DSC funds.

So do yourself a favour and make sure your clients understand that in the case of DSC funds they'll need to lock in for at least six to seven years, or risk paying redemption fees, which usually start at 6% and can be as high as 3% in the sixth year.

And do yourself an even bigger favour: take notes, notes and more notes.

A recent DSC dispute that escalated to the Ombudsman for Banking Services and Investments (OBSI), was decided in favour of the aggrieved clients due to ambiguity in the paperwork and flimsy file notes about fee discussions.

So here's the case as it unfolded (case study provided by OBSI):

Mr. and Mrs. Singh*, a couple in their mid-50s, had registered investments worth about

$190,000. The money was invested in a combination of GICs and no-load mutual funds. In early 2007, a friend referred the Singhs to Roger Gantry*, an investment advisor at another firm. Gantry recommended a number of changes, which the couple agreed to. After transferring their accounts, Gantry invested their money in a combination of no-load and low-load mutual funds. At first, the investments showed an increase in value, but later the Singhs' statements showed the market value of their portfolio had declined. They asked about the investments and claim it was only then they found out about the loads.

When the Singhs complained to Gantry about their losses and the load fees, he recommended a number of switches between funds, which did not trigger a redemption fee. However, the investments continued to decline. The Singhs redeemed the funds and transferred to another firm. They lost approximately $17,000 from their original investment with Gantry and incurred an additional $2,500 in DSC fees.

The Singhs complained to the firm. They said Gantry led them to believe they had gained on their investments when they actually lost money. **They also said he told them there would be no fees, but they were charged fees to redeem their funds.** The firm said there had been a miscommunication about the gain on the Singhs' account. However, it said the sales charges were disclosed on the transactional paperwork and in the simplified prospectus.

The Singhs escalated their complaint to OBSI. In an initial interview, the couple acknowledged they had been looking for medium-term growth and were willing to accept a moderate degree of risk. OBSI found the investments recommended were in line with the Singhs' investment objectives and time horizon, and it confirmed there had been wrong information given to the couple about the account value. But, OBSI also found it was not deliberate and did not result in any losses to the Singhs.

OBSI also found that low-load mutual funds were not inappropriate given the Singhs' investment time horizon. However, the paperwork did not clearly state the clients were purchasing DSC funds and there were no file notes indicating the advisor had disclosed the DSC fee.

OBSI discussed the lack of documented evidence of disclosure with the firm. The firm agreed the paperwork was not completed correctly and there were no file notes of the discussion of fees with the Singhs. Given the lack of evidence of disclosure, the firm agreed to reimburse the full DSC fees. The clients accepted that they had agreed to hold moderately risky investments and accepted a facilitated settlement for reimbursement of the DSCs.

In the course of the investigation, the firm sent OBSI a copy of a new fee disclosure document, which described in plain language the various fee options. The document requires clients to initial beside their selected fee option and sign an acknowledgement at the bottom. The firm indicated its advisors are now using the form to improve and document disclosure of fees to clients.

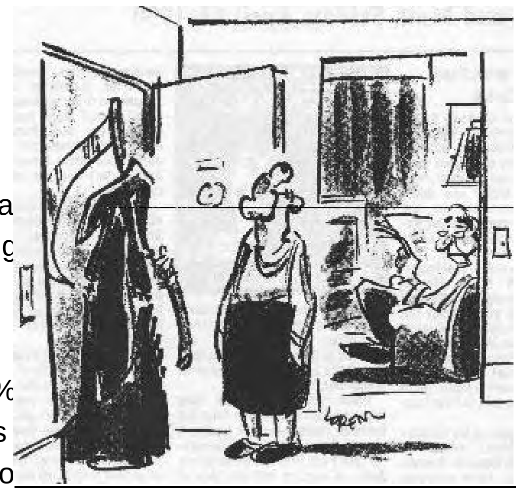
When dealing with DSC complaints, OBSI does not generally accept that in most circumstances simply giving clients a simplified prospectus is sufficient evidence of fee disclosure.

Instead, it first considers if DSC funds were appropriate and then reviews all evidence of disclosure. If DSC funds were inappropriate (for example because the clients' investment time horizon was less than the DSC schedule) OBSI will generally recommend compensation. If DSC funds were not inappropriate, OBSI will consider evidence of disclosure.

* All names have been changed to protect identities.

Filed by By Kanupriya Vashisht, **editor@advisor.ca**

$W☹☹P Bomb: home equity loan *$OLD* ______ funds!



"It's our home equity loan forclosure reaper !"

We keep track of many financial statistics and trends in order to continually learn about, understand and autopsy capitalism: things like stock market short sales, the amount of margin extended by brokerage firms, etc. But in the last few years, we have allowed a can be criminal advice rendering trend to occur and we have no idea about its size, magnitude and/or the degree of financial underpinning it can / will cause when the overheated dot-com stock market correction dives with peregrine falcon killing speed and accuracy.

I'm speaking about the can be financially lethal practice of up to 75% home equity loan *$OLD* investment fund leverage that our securities regulators allow fund sponsored unlicensed seminar "shills" to flog to our "4th 'R' in Investing" core curriculum missed and leverage, as in safe sex, uneducated "sheeple" investors that includes our seniors, retirees, and pensioners! ANYBODY can be the best hindsight doctor. Anyone can pick examples of fund leveraged scenarios that have reaped substantial returns over the last seven to 10 year red hot internet dot-com driven bull market run. And our pimple volatility corrections have always had a "just-in-time" Alan Greenspan viagra stimulated erection, I mean correction! But Greenspan doesn't have any arousals left in his quiver. A 1972-73 oil embargo -43% haircut correction over 26 months crisis will repeat itself. And leveraged $OLD funds using **$W☹☹Ps** - **$**ystematic **W**ithdrawal **P**lan redemptions to pay the monthly home equity loan interest + principle repayments + taxes owing on the annual fund capital gains distributions, etc., will be depleted for the LIFOs - last in first out - who will be issued margin calls. We'll soon see an uncaring ugliness in the form of "we didn't understand" ForeClosure $igns on the lawns of too many lack of leverage suitability $OLD seniors/retirees!

The third party banks don't really care, need to or want to keep track of what home equity loans are used for. If they do, they'll never disclose it to us anyway! The bank lenders only concern is that they've got leveraged investors by their best short willies home as collateral + a personal signature guarantee(s) too!

While the Ontario Securities Commission's blessed and approved "Borrowing Money To Buy Investment Funds (Leveraging)" disclaimer document may legally cover all of the disclosure bases, the layout lacks an investorism educating, risk enlightening and safety protecting presentation to ensure that the line between an investor's constitutional caveat emptor rights ***versus*** protection from making an uneducated, smart choices decision are clearly presented with 5 potential "great, good, break even, bad and ugly" scenarios!

Our schools never educated us about the can be financial euthanasia inducing consequences of leverage. We must therefore immediately implement **"how it can be done better"** full, true and plain disclosure "Leverage for Dummies" point-of-sale documents to protect us from the coming "we were never educated in the "4th 'R' of Investing" or leverage" based law suits? May God Bless Us for our leverage $OLD sins!

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AN: Informing, decision empowering, advice validating, safety enhancing .

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© FUND ✓ CHECKLI$T: ***"Better Di$clo$ure, A Better Way!"®***

KNOW YOUR CLIENT $UITABILITY: A$$ET MIX + RIK versus REWARD$

I / We understand that _________ fund investment strategies range from conservative low to aggressive high risk. I / We have ___ personally determined and established *or* I / we have discussed, determined and established with ___ my / our fund salesperson, my / our overall investment, objectives, needs and ______ fund ***RI$K/REWARD*** tolerances as follows:

A$$ET MIX	RIK vs. REWARD$
___ % Value	___ % Invest. Grade
___ % Growth	___ % Good Quality
___ % Income	___ % Speculative
___ % Momentum	___ % High Risk
100 % Total	100 % Total

Fund Name: ____________________ ***Managed By:*** ____________________ ***$ince:*** _ _/_ _/_ _

I/We acknowledge that I/we have received from my/our financial products salesperson, fee-based advisor, fund distributor, etc., the ___ page Simplified Prospectus for ______________ Fund(s).

PERFORMANCE COMPARISON TO THE END OF: M M M / 2 _ _ _

Fund being recommended / purchased: _________: ___% 1 YR, ___% 2 YR, __% 3 YR, __% 5 YR

Benchmark comparable index to fund: _________: ___% 1 YR, ___% 2 YR, __% 3 YR, __% 5 YR

15 MO$T COMMON INVE$TMENT FUND RI$K PERFORMANCE TERM$ & RANKING CRITERIA

1. Alpha: _____
2. Beta: _____
3. Correlation Benchmark: _____
4. Downside Risk: _____
5. Downside Frequency: _____
6. Downside Magnitude: _____
7. Jensen's Measure: _____
8. Mornigstar Rating: _____
9. Mean: _____
10. R-Squared: _____
11. Sharpe Ratio: _____
12. Skewness: _____
13. Sortino Ratio: _____
14. Standard Deviation:_____
15. Treynor's Measure: _____
16. Other__________: _____

$ALIENT TRAN$ATION DETAIL$: CO$T$ + ADVI$OR REMUNERATION

PO$ Tran$action Charge$:

__ % F-E $ervice Charge $____
__ % No-load; Low-Load $____
__ % D$C* rear-end load $____
__ % Level Load 4* D$C $____
__ % $eries "F" Units $____
a **D$C*** begins @ ___% on the: __ Book Value *or* __ NAV falling to zero % after ___ Year$.

❶ D$C Rebate__% $_______

❷ Admin. Co$t To Buy: $____

❸ Monthly Account Fee: $___

❹ Early Withdrawal Penalty: is ____ % within ____ day$.

❺ Direction$ To $ell Must Be: received by:___Phone, ___Fax ___ E-mail before ___:___ _**M** to obtain same day closing price

❻ Admin. Co$t To $ell: $_____

Management Expen$e Ratio (MER): The fund manager deducts an annual **MER of ___%** on a pro-rata basis before the fund's NAV is calculated. **The fund manager pay$ a Trailer Fee Commi$$ion of _% from the MER to your advisor.**

❶ MER/Trailer Fee Rebate__%

❷ EXTRA Advi$ory Fee$: Fund of fund$/Wrap: __ %

❸ MER Performance Bonu$: ___% above __ benchmark.

❹ This is an ___ Arm's Length *or* a ___ Proprietary Fund.

____

ACKNOWLEDGMENT INITIALS MM/DD/YR

$tmt of Inve$tment Policy:

A$$et Mix Guideline Range$		As At _/_/_
Ca$h	___ to ___ %	____%
Fixed Income*	___ to ___ %	____%
CDN Equities	___ to ___ %	____%
Intern. Equities	___ to ___ %	____%
Real Estate	___ to ___ %	____%
Derivatives	___ to ___ %	____%
Max. $hort $ales	to ____ %	____%
Max. Leverage to	____ %	____%

***Portfolio Turnover:** ___% / Yr.*

Unit Value$	**Fixed Income*
Book $_____	*Av. Term ____*
NAV $_____	*Duration ____*
% Capital Gains ____%	*Min. Cr. Rating ___________*

10-15-07

"Better disclo$ure induce$ '<u>investorism</u>' and enhance$ industry integrity!"

❶ **<u>Educating the difference$ between *"Mutual" "$egregated" "Wrap" "Pooled" "Hedge", "ETF", etc. fund$*</u>:** "Caveat emptor" is not good enough when consumer / investors have never been taught their now needed "Financial Literacy Survival" skills during their core curriculum. Financial products are **not all** created equally: they do **not all** meet the same regulatory rules, regulations, terms and / or FINE PRINT EXCEPTION(S) conditions!
The antidote cure: "point-of-being-SOLD / purchase" fill-in-the-blanks educating 1-pagers **!!**

❷ **<u>There is a "Need To Know" both the Fund's Taxable *Book + NAV Market Unit Values*</u>:**
With two-thirds of the monies invested in Canadian investment funds being taxable investments (***i.e.*** only one-third are tax shielded RRSP, RPP, RRIF, DPSP, RESP, etc.), the treatment of capital gains by Canada Revenue Agency triggers the fiduciary need for securities distributors & financial advisors to disclose both *market* and *book* values: it's the annual capital gains pay me in advance surprise! This CRA caveat must become a point-of-sale imperative **!!**

❸ **<u>There are conflicts of interests *"Tied Advice"* issues in the "trailer fee commission</u>:**
IF fund companies and distributors were required to show the dollars ($$) and cents (¢¢) amounts of the MERs deducted **+** the trailer fee commission components of the MER paid to whom **<u>NAME</u>** on consumer / investors quarterly statements **+** a financial sales-person's employer remuneration payout grid levels **+** how a particular fund's trailer fee compares to the high, low, median, and average category ranges **+** any salesperson trailer fee-based retirement gratuity formula(s) **+** the low trailers paid on money market funds, etc., consumer / investors would clearly see *"tied advice / tied sale"* skewing issues **!!**

❹ **<u>Relatve *v.* Absolute Fund Manager Performance Remuneration Bonus Formula</u>:**
Prospectuses rarely disclose the relative formula(s) that may be / are used by a fund company to calculate a fund manager's market performance based remuneration bonus! These formulas are usually based on a fund manager's ability to beat a peer group and / or portfolio related market indices, **i.e.** if the comparable S&P TSX Small Cap Index is minus (-) 30% and the fund is only minus (-) 25% **=** **earns** the fund manager a 100% performance bonus **!!**

❺ **<u>The Undisclosed Cumulative Power, Politics & Governance Vote That Investment Funds Are Allowed</u>:** We give discretion to a fund manager to invest our sacred retirement savings — our *"financial euthanasia avoiding"* savings in order to achieve above average returns with limited risk while also providing us with a simplified prospectus, audited statements, quarterly portfolios, trading records, an Annual Information Statement, etc.
BUT: nowhere in the prospectus do our securities regulators require the fund manager to disclose when they vote the **"material fact"** common stock shares that are owned by a fund's unitholders. Nor is there any requirement that the fund manager must disclose how many shares they vote, how and why on specially designated issues and proposals **!!**

A CON$ERVATIVE ACTUARIAL A$$ET MIX LIFECYCLE GUIDELINE

YEARS BEFORE RETIREMENT	GROWTH (EQUITY)	GROWTH & FIXED INCOME	BONDS / FIXED INCOME	SHORT-TERM ASSETS
0 - 5 YEARS	10%	20%	55%	15%
5 - 10 YEARS	20%	25%	40%	15%
10 - 15 YEARS	30%	30%	30%	10%
15 - 20 YEARS	50%	20%	20%	10%
20+ YEARS	60%	15%	15%	10%

<u>GOC BOND DURATION VOLATILITY</u>

<u>10 YEAR PAR GOC BOND</u>

INTEREST YIELD		DURATION	NAV/MKT VALUE
RISE 2% to	7.36%	7.21	86.75
COUPON	5.36%	7.48	100 PAR
FALL 2% to	3.36%	7.75	116.00

<u>20 YEAR PAR GOC BOND</u>

INTEREST YIELD		DURATION	NAV/MKT VALUE
RISE 2% to	7.80%	9.66	82.00
COUPON	5.80%	10.44	100 PAR
FALL 2% to	3.80%	11.22	123.75

<u>30 YEAR PAR GOC BOND</u>

INTEREST YIELD		DURATION	NAV/MKT VALUE
RISE 2% to	7.58%	11.44	78.00
COUPON	5.58%	13.37	100 PAR
FALL 2% to	3.58%	15.50	133.25

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