

IN THE MATTER OF AN APPEAL TO THE APPEAL COMMITTEE
OF THE CANADIAN INVESTOR PROTECTION FUND

RE: [REDACTED]

April 10, 2015

PANEL:

Patrick J. LeSage

Appeal Committee Member

APPEARANCES:

[REDACTED]

Appellant, on his own behalf

James Gibson

**Counsel for the Canadian
Investor Protection Fund
Staff**

DECISION AND REASONS

Introduction and Overview

1. [REDACTED] (the “Appellant”) was a client of First Leaside Securities Inc. (“FLSI”), an investment dealer through which over 1,200 customers made investments in various affiliated companies, trusts and limited partnerships (collectively the “First Leaside Group”). FLSI was registered with the Ontario Securities Commission and was a member of the Investment Industry Regulatory Organization of Canada (“IIROC”). It was also a member of the Canadian Investor Protection Fund (“CIPF” or the “Fund”) until its suspension by IIROC on February 24, 2012, being the same date that FLSI was declared to be insolvent and sought protection under the *Companies’ Creditors Arrangement Act*. The relevant history leading up to these events and the role of CIPF

with respect to claims to the Fund are set out in detail in the Appeal Committee's decision dated October 27, 2014.¹

2. The Appellant made various investments totalling \$327,179.00 between October 2008 and August 2011 in First Leaside Group entities. Because of various distributions received, his loss claimed is \$267,583.00. The CIPF Staff decision of 8 December 2014, denied compensation on the basis that his "loss was caused by a change in the market value of your investments and not a loss resulting from the insolvency of FLSI".

3. The Appellant informed the hearing that he was aware of the decisions made to date on the FLSI insolvency claims, and that, as he expressed it, and I paraphrase, he did not expect the Panel to reverse Staff's decision but he would like to send a message to CIPF and/ or OSC that some changes should be made. He indicated that CIPF can do with an outside view which he hoped to provide.

4. The Appellant filed clear, succinct written materials and testified in a straight forward, articulate fashion. He explained that he dealt with John Wilson a Senior Sales Representative for the First Leaside Group. The Appellant said, "I explained to him [Wilson] that I thought what he was trying to sell me looked like a Ponzi scheme. Wilson explained, "I am an IIROC member" and "CIPF would cover losses if the First Leaside Group companies went into receivership". The Appellant confirmed that FLSI was part of IIROC and that CIPF was providing coverage.

5. The Appellant continued, "CIPF needs to much better explain to the public what its limitations are. I never received any material from FLSI about CIPF. There should be much better information provided by CIPF, they need to ensure the broker provides full information on the extent of CIPF coverage".

6. When questioned by CIPF staff counsel, Mr. Gibson, the Appellant acknowledged that he had not sought further information on the extent of CIPF coverage. The Appellant also acknowledged that the Client Statements he received from FLSI, set out under the

¹ This decision is available on the CIPF website and will be referenced throughout as the "October 27, 2014 decision".

subheading “Member CIPF”, the following: ”Accounts are protected by the Canadian Investor Protection Fund subject to certain limits and restrictions. A brochure describing the limits and restrictions of coverage is available upon request.” The Appellant acknowledged he had not made such a request.

7. The Appellant’s written material contained a page titled Basis of Appeal, which reads as follows:

That a sales representative of First Leaside provided false and misleading information to the investor about the nature of coverage provided by the Canadian Investor Protection Fund [CIPF].

That the CIPF fails to mandate that IIROC members provide potential investors with the CIPF published information about what type of protection they are providing to Canadian investors.

That if CIPF does mandate that IIROC members provide potential investors with CIPF published information about what type of protection they are providing to Canadian investors they fail to monitor whether members are following that directive.

That the CIPF fails to monitor whether members are accurately describing the protections that CIPF makes available to potential investors.

That CIPF is a misleading name that provides potential investors with a false and undeserved sense of security.

That the CIPF logo that is used by IIROC members fails to alert potential investors that the protection is limited to specific situations.

That the CIPF logo that is used by IIROC members fails to alert potential investors that they should seek further information about the limits of coverage.

That due to the above situation, potential investors are lead to believe that they would be protected in the case of fraudulent behaviour by an IIROC member.

That until the above situations are corrected, the Canadian Investor Protection Fund is obligated, to a certain degree, to *Protect Investors* when an IIROC member is found guilty of fraudulent behaviour.

That the OSC has found “Wilson” guilty of behaviour unbecoming.

8. The purpose of CIPF coverage is limited to custodial coverage. As was indicated in the October 27, 2014 decision, the CIPF brochure outlines the limitations on coverage. Furthermore, had any misrepresentations in relation to CIPF been made, they were made by FLSI or First Leaside Group. Oversight of members is primarily the jurisdiction of IIROC, with additional oversight by the Ontario Securities Commission.

9. As in the October 27, 2014 decision, while I may have considerable sympathy for the Appellant’s position, I conclude that his submissions in this appeal, while articulate, informed and thoughtful, do not give rise to a legally valid claim for compensation from CIPF.

10. The appeal is dismissed. The decision of CIPF Staff is upheld.

Dated at Toronto, this 22nd day of June, 2015

Patrick J. LeSage