May 20, 2013

To: Canadian Securities Administration – Mme Anne Marie Beaudoin

CC: Ontario Securities Commission; FAIR Canada

Subject: Submission: 'CSA Discussion Paper and Request for Comment 81-407 Mutual Fund Fees'

I understand that the time period limitation for accepting submissions on this subject has closed, but as I have just recently become aware of this consultation process, I am hopeful that it is not too late to submit my comments.

As a private investor, I have been negatively impacted by the practise of embedded trailing commissions paid to my financial advisor by a Mutual Fund manufacturer.

I came into an inheritance when my husband died in 2002, and I invested almost $1 million with a large Canadian mutual fund dealer. At that time, my investing knowledge was next to nil. When I asked about fees, I was told that there was no "out of pocket" costs to me to invest in mutual funds or for the services of the advisor. I assumed – incorrectly – that, as a representative of the investment firm, he was being paid a salary by the parent company.

There was absolutely no mention of, or explanation about, MER fees or trailing commissions. Nor was I ever instructed in how to read and evaluate the Fund Prospectus. At no time during our 10 year association was I ever informed, verbally or in any of the financial statements that they provided, as to how much I was paying in fees for the advisor's services, in either % or in real $.

It was not until 2012, when I first learned of the existence of MER's, that I took it upon myself to do some research as to how much I was actually paying via these "hidden" fees. I had become disenchanted with the advisor's guidance as well as the poor returns on my portfolio. As I came to find out, the advisor was being paid trailing commissions as part of the MER fees charged in the operating costs, which I was indirectly paying for through reduced returns.

I was shocked and disappointed to find out that, not only are the MER's in Canada among the highest in the world, but that this company also charges the highest fees in the industry. I was paying between 2.4% – 2.94% on the various funds in my portfolio, with an overall rate at 2.6%. That translates to $20,000 – $25,000 per year (depending on the value of my portfolio at the time) with about 40% of that going to my advisor.

Over the course of 10 years, my investments gave me a return of $252,000. I estimate that, without my knowledge or consent, I paid MER fees which equalled or exceeded the amount accrued to me, with me providing all of the capital and carrying all of the risk. Even during the years when my portfolio actually decreased in value, I was paying these MER's! There was very little incentive for the fund managers to outperform the market, because regardless of their results, they were still getting paid!

Had I known that, overall, I was paying out approximately 50% of my portfolio earnings in MER fees, I would not have made the decision to invest in mutual funds.

From my investment portfolio alone, my advisor was earning in the range of $500 to $800 or more per month, unbeknownst to me. To make matters worse, the service provided for this remuneration was, in my opinion, minimal. After the initial "honeymoon" period in which we set up my accounts, we met for a financial review once a year or less. I rarely, if ever, got any communication from the advisor to suggest rebalancing the assets or to make strategic moves based on the economic conditions. In fact, it was me who initiated changes to the portfolio when I deemed that the current asset mix was not meeting my expectations.

A good example of the advisor's failure to give good guidance is that when the markets plunged in 2009, the only action taken by my advisor was to contact me by phone and try to reassure me that I should stay the course and not make any adjustments to the investments I was in. My portfolio dropped $300,000 in the recession, and while I am not one to panic, I was less than reassured by, or satisfied with, the lack of corrective action taken by the advisor. I now realize that one of the serious limitations of being heavily invested in mutual funds is that it does not allow for investors to have any direct influence on timely and responsive asset rebalancing, which in my case severely impacted my ability to ride out the economic downturn with minimal financial loss.

In addition to these issues, I did not receive good value for the exorbitant fees I paid because **1)** my portfolio performance was well below the median norm, falling short of the recovery experienced after 2009 in the industry as a whole (judging by the TSX numbers) **2)** the investment was locked in for 7 years because of DSC penalty fees, and **3)** these were "proprietary" funds, which meant that I could not transfer those investments to another advisor outside that investment firm.

Another key detriment to paying the advisor via trailing commissions, is that none of the fees that I paid over those 10 years were tax deductible! 90% of my portfolio is outside of registered plans, and if the advisor's fees had been paid on a "fee-based" account, I would have been able to deduct those fees from my income, resulting in a substantial benefit to me.

Because of my dissatisfaction, I finally decided to move all of my investments to a fee-based advisor in the Private Client branch of another company in October 2012. I had waited until the redemption schedule period for the DSC penalty fees had expired. However, because of the punitive "proprietary" policies of the mutual fund dealer, I had to sell everything and cash out to move my money elsewhere. As a result, I incurred capital gains for which I had to pay over $8,000 in income tax for the 2012 taxation year. How is that fair to the investor?

What upsets me the most, aside from the disastrous financial injuries that I have suffered, is that, like the vast majority of investors, I completely trusted my advisor. He acted like he was a friend, and I wrongfully believed that he was legally obligated to have my best interests as his primary duty. Instead, I now understand that **the advice he provided was flawed as a result of a direct conflict of interest** because of the way that his compensation was structured. He was being paid by the mutual fund manufacturer; hence his loyalty was to them and himself, but certainly not to me! It was a blatant betrayal of trust.

Based on my experience, here are the regulations that I feel require to be resolved in the industry:

1. Banning of embedded advisor fees in any type of investment, with adoption of a fee-based industry standard, whereby advisor fees are negotiated and agreed to in advance of the investment.
2. A written description, with signed agreement by the client, detailing the services that will be provided by the advisor in exchange for those fees.
3. Written agreement of the parameters by which the investments will be managed, including (but not limited to) rate of return expectations and risk tolerance of the client.

4. Full and transparent disclosure of all ongoing fees, by category, in written format, with historical reporting.
5. Outlawing the practice of "proprietary" investment products that are not transferrable to other management companies and/or advisors.
6. Elimination of DSC redemption schedules that impose penalty fees for early withdrawal.
7. Disclosure to investors, and explanation, of all **Sales Charges** incurred, immediate or deferred, **prior to the purchase of** any investment product.
8. An industry standardized "Investment Fee Information" package that all investment firms are required to provide to new investors, detailing and explaining the fees which accrue to the investor, directly or indirectly.
9. Most importantly, a requirement that any advisor, regardless of the type of accreditation they have or the type of investment organization they work within, be lawfully required to act in a **fiduciary capacity** to their clients, whereby their conduct and decisions must be consistent with the best interests of the client, and not their own. Along with these requirements, there must be diligent oversight, as well as tough and enforceable penalties which include financial compensation to the injured client(s), as well as criminal prosecution with hefty fines and possible incarceration upon conviction.

I would also like to see pressure from the CSA and the provincial securities commissions to lobby for changes to the Canada Revenue Agency rules to allow all investing fees (including both advisor fees and fund operating costs) as being eligible for income tax deduction, whether inside Mutual Funds or not, and whether in or outside of registered plans such as RRSP's. If a business owner is allowed to deduct operating expenses and consultant fees from their gross income, it begs the question of why investors are not afforded the same tax breaks!

In conclusion, it is my opinion that the CSA and the provincial securities commissions owe their first allegiance to Canadian investment consumers. Investors need nation-wide regulations that promote and protect a "best interests of the client" principle, regardless of the type of business model used by the investment firms and advisors, or the jurisdiction in which they operate.

These changes, if enacted, will come too late for me with regard to embedded advisor fees, as I will never again knowingly invest in mutual funds or similar bundled products that incur trailing commissions. Nor will I ever hire the services of an advisor outside of a fee-based account structure. However, I sincerely hope that by sharing my personal experience and disenchantment with the mutual fund industry, I can exert some small influence in the important decisions before the CSA and OSC with regard to these issues.

Sincere regards,

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