



**SIPA**

SMALL INVESTOR PROTECTION ASSOCIATION

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

September 17<sup>th</sup>, 2016

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Financial and Consumer Services Commission (New Brunswick)  
Nova Scotia Securities Commission  
Ontario Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan

***CANADIAN SECURITIES ADMINISTRATORS CONSULTATION PAPER 33-404  
PROPOSALS TO ENHANCE THE OBLIGATIONS OF ADVISERS, DEALERS, AND  
REPRESENTATIVES TOWARD THEIR CLIENTS***

[http://www.osc.gov.on.ca/en/SecuritiesLaw\\_csa\\_20160428\\_33-404\\_proposals-enhance-obligations-advisers-dealers-representatives.htm](http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20160428_33-404_proposals-enhance-obligations-advisers-dealers-representatives.htm)

The Small Investor Protection Association (SIPA) was founded in 1998 with a mission to raise public awareness of how the industry operates, to provide guidance to investors with an issue, and to advocate better regulation. In the eighteen years of our existence we have seen little significant improvement in the investment environment for small investors despite numerous studies, reports, roundtables and discussions.

Canadians are still losing vast sums of their life savings when they place their trust in an industry they believe is, well regulated and that their "Financial Advisor" will look after their best interests. That is the trusting nature of Canadians.



SIPA's opinion is based upon experience and the hundreds, if not thousands, of victims interviewed since 1998. When you hear the victim's stories you realize how the investment industry and their regulators have misled and deceived the Canadian public while fleecing them to enrich the industry.

Although ordinary sales persons with false titles such as "Financial Advisor" make more than doctors, and regulators receive high six figure salaries that are more than a Prime Minister, yet Canadians are losing billions of dollars every year due to industry fraud and wrongdoing.

As a result many Canadians are losing not only their savings but also their hope for the future and their family legacies. These are widespread life-altering tragedies that are covered up and not disclosed. The "Gag" orders used in dispute settlements prevent victims from speaking out.

The public is being misled into thinking the industry is well regulated when they read about headline grabbing fines but these fines are rarely collected. In April 2016 SIPA produced a report "Unpaid Fines a National Disgrace". The report is available on the SIPA website at <http://www.sipa.ca/library/SIPASubmissions/500%20SIPA%20REPORT%20Unpaid%20Fines%20A%20National%20Disgrace%20-%20April%202016.pdf> the report shows that almost one billion dollars in fines remains uncollected.

The majority of Canadians believe their advisor is mandated to act in their best interests. The industry itself daily reinforces this image to the public through their advertising. In response to this deception SIPA published a report in May, 2015 entitled "Lack of Truth in Advertising" [http://sipa.ca/library/SIPASubmissions/720\\_SIPA\\_Report\\_Deception\\_20150505.pdf](http://sipa.ca/library/SIPASubmissions/720_SIPA_Report_Deception_20150505.pdf).

This false advertising, in and of itself, should impel regulators into categorizing these agents as de facto fiduciaries via a best interest standard. They claim in their advertisements to put the interests of investors ahead of their own, but then later deny any such duty, when it comes to a client complaint being made.

The small investor's future is in the hands of his or her "Financial Advisor". As long as commission driven sales persons do not have a fiduciary duty to look after the clients best interests, the small investor will be at risk of falling prey and losing out. Many simply can't afford the legal expertise to successfully argue against the industry. Some even end up statute barred due to the scant two years allowed to file a claim in many jurisdictions.

To date regulators have allowed financial services to be de facto represented as in the interests (best interests) of investors without in large part their having the necessary processes, disciplines, tools and training to do so. This has to change. The industry cannot continue to be able to freely represent itself as such without the corresponding liabilities. To continue to allow this misrepresentation is negligent.



The outdated transaction based model, does not reflect client expectations nor does it even reflect the industry's own desire to be seen as a respected wealth management profession. It should be an advice based industry. Canadians believe they are dealing with a professional fiduciary, not a salesman. Industry advertising and titles reinforce that perception. Common sense and decency tell us that a person handling another person's hard earned savings needs to be held to a fiduciary duty to properly reflect the responsibility being entrusted to them.

Fiddling with rules and regulations is not the answer for investors. Even implementing a Best Interest Standard or Fiduciary Duty will be insufficient unless there is statutory change and an exemption from reduced limitation periods for victims of financial crime. To be effective regulators must provide remedial investor protection and have a mandate that allows them to enforce the revised statutes effectively.

The fact that OBSI is touted as a means of dispute resolution when they have no mandate to enforce their recommendation also indicates a total lack of regard for the rights of small investors by the industry and their regulators and is yet another facet of the deception.

Victims of life-altering financial loss due to the failure of the investment industry and its regulators to treat them fairly never fully recover and certainly are unable to deal with such a major issue and take civil action within a two year limitation period.

The time for writing and talking is over. All the information needed has been gathered indicating the great need for investor protection laws to be put in place.

There needs to be an overriding investor protection legislation to protect investors if industry regulators continue to be unwilling or incapable of providing meaningful investor protection and a workable dispute resolution mechanism. History shows that the self-regulatory organizations are not willing or capable to do so.

The concept of fiduciary responsibility is well established in law. Doctors and lawyers have it. Many in the financial industry like to compare themselves to these professionals. Some lawyers do not see why investment advisers should not have a fiduciary requirement. Even some industry representatives accept there should be a fiduciary responsibility.

You must act immediately to protect financial consumers across Canada. This is your moment to step up and ensure that those who are entrusted with safeguarding Canadians assets, life savings and pension funds, are held strictly accountable to the highest possible standard.

Yours truly,

Stan I. Buell  
Founder & President



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