

An Open Letter to Canadians

While what follows is not intended to besmirch or otherwise impugn the character of anyone, I am angry and provoked. This is because I just read John Reynolds' book *Naked Investor*.

It also brought to mind experiences I had while a branch manager with Fortune Financial (1994-1998), Equion (1998-1999) and Assante Financial Management Ltd. (2000-2002).

Let me begin with my last dealer first.

Assante, as you may know, was the brainchild of Michael Nairne and Martin Weinberg and was hatched back in the mid-1990s. Their plan was to take the original company, Equion, which was a small Winnipeg-based investment firm, and use it as a core around which to build their new company and launch it as a public company in 2000.

Their strategy was to buy out other small financial planning and investment firms and lock them into the new Assante structure. They did so by way of a complicated share-swap scheme.

If this conversion venture proved successful, both Nairne and Weinberg stood to pocket millions of dollars as Assante's publicly-traded shares increased in value.

As a new branch manager with Equion I had reservations about this plan.

You see, before joining Equion I had been a successful branch manager at Fortune Financial, Richmond Hill. With 22 brokers and financial planners under my direction, my branch office was rated one of the top producing offices in the country.

After three years at the helm I was unceremoniously dumped by the principal shareholder and owner of Fortune, David Singh. I angered Mr. Singh because I would not buy any of his company's shares and "support" his enterprise. Neither would I support his new proprietary mutual fund products called Infinity Funds.

When asked by attendees of my public seminars about Fortune's Infinity Funds, I suggested people interested in them purchase the funds on a dollar-cost averaging basis since they were new and unproven. I recommended that people not invest large lump sums in Fortune's proprietary funds at the time.

After moving to Equion in June 1998, I witnessed a similar kind of development.

I was offered an opportunity to buy privately-held shares of Equion before the scheduled transformation of the firm into Assante in 2000. I politely declined the offer, preferring to wait and see how Equion's transformation transpired.

Like Fortune before it, Equion, too, had been developing a range of proprietary investment products called Artisan Portfolios and Optima Funds.

In 1999 I attended a company-wide sales meeting in Mississauga, Ontario. At this meeting Artisan and Optima products were introduced and promoted heavily by Mr. Nairne and included glowing testimonials from senior Equion sales representatives.

The presentation for these products was based on two ideas. First, as “managed” portfolios, both Artisan and Optima products allowed sales people more time to market their franchises and build their businesses rather than continue to worry about the choice and monitoring of third-party mutual funds offered by manufacturers such as Mackenzie, Templeton and Trimark.

Second, Equion executives told the audience that the mutual fund industry was becoming increasingly litigious. Financial advisors who sold mutual funds would be held increasingly liable by their clients for portfolio performance. Artisan Portfolios and, in particular, the Optima Strategy product would act as a bulwark against such developing industry trends.

The assertion was, of course, that diversified portfolios and managed portfolios required little or no mutual fund advisor input. The conclusion was, and the representatives I talked to after the presentation understood, that putting clients’ capital in Artisan and Optima products would better protect Equion’s mutual fund sales people from client wrath and future stock market risk.

I had only one nagging issue. Would Artisan and Optima products live up to the billing?

With the Equion transition complete, Assante was launched and got its systems up and running in 2000. Once accomplished, the company again turned its attention to the promotion of its Artisan and Optima products.

I had already researched Equion’s original Artisan and Optima product-presentation and concluded that as a group Artisan and Optima products were young, below-average performers, and expensive to own when compared to alternative mutual fund products previously available in Canada’s investment marketplace.

Out of two hundred or so clients I serviced as a Chartered Financial Planner, I had only one client who purchased Assante’s Optima Strategy product, a kind of fund-of-funds management format. After two years of watching her capital go nowhere, she left Assante, much to my dismay.

With one or two exceptions, Optima products had not done that well over the years. It hadn’t helped either when an oversight on Mr. Nairne’s part resulted in Optima funds being performance-rated before management fees, which resulted in better investment performance than the funds actually had achieved.

Assante admitted to its sales force that those of its proprietary products that were poor performers were due to a restrictive management style.

Assante promised that, in future, a more comprehensive management style would be applied to help mitigate the effects of future securities market risk.

As time passed, many managers and their sales reps, some of whom were top sales producers and Assante stock holders, sold their clients out of their original third party mutual fund portfolios and poured millions of dollars in proceeds into Assante's Artisan and Optima products.

I, for one, did not participate in this conversion process.

My partner and I then attended a branch manager and Assante executive meeting at the Sheraton Toronto North Hotel on Highway 7 at Leslie Street on or about April 22nd 2002.

At this meeting we were horrified to hear Mr. Nick Mancini, Executive Vice-President, Assante, tell us that Assante executives and other principal shareholders expected all managers and sales representatives to redeem up to 80% of their clients' money that was not invested in Assante investments and reinvest the proceeds in Assante's Artisan and Optima mutual funds.

Mr. Mancini gave a number of reasons why such a conversion to Assante-owned mutual funds was a great idea. Here are three of them:

1. Such activity would be good for all Assante shareholders. This is because Assante's fee income charged to clients of its Artisan and Optima funds was higher than fee income Assante received from third party fund companies such as Trimark. By raising Assante's cash flow the company's balance sheet would look much better and attract other potential Assante stockholders.
2. Assante shareholders could benefit from an increase in the price of the company's publicly-traded shares.
3. Those Assante managers and sales reps who sold their clients into Assante's own products would benefit not only because of increasing Assante stock prices, but they would retain greater control of their clients' monies through the company's Artisan and Optima products.

I couldn't see any advantage to my clients to convert a portion of their third-party mutual funds and I refused to do so. I couldn't justify moving my clients out of above-average performing and less costly mutual funds to Assante's Artisan and Optima products.

On September 30th 2002 the axe dropped and I was "fired without cause" by Assante. The transfer of my securities licence was cleared with restrictions on January 2003.

During this period my clientele and business equity were allocated to another Assante representative.

After 21 years of service I have since left the financial services industry as a product-selling advisor.

But, this little story doesn't end here.

You may be wondering why I waited until now to convey this one small experience of Fortune, Equion and Assante.

Over the past few years I have listened to similar accounts from other mutual fund sales people and have watched as similar stories passed in and out of the media, all without consequence or resolution. The final provocation for me occurred with the following:

- Jon Chevreau's brave call for further investigation of apparent breaches of securities law by an established sales rep and one-time founding member of a national financial planners association called *Advocis*. See Chevreau at <http://regulators.itgo.com/PI/1166.htm>.
- According to a respected source, Mr. Chevreau's attempts to investigate these issues further have been spiked by his handlers which, as an investigative reporter and journalist, I know often occur when a company or person receives threatening letters, impending lawsuits or "slap suits" as they are otherwise called, or is the object of collusion by parties with similar, vested interests.
- The release of John Reynolds' expose of the self-serving, turtle-like acts of our Canadian securities regulators and their appointed Self-Regulatory Organizations (SRO's) such as the Investment Dealers Association (IDA), the newly minted Mutual Fund Dealers Association (MFDA), and our very own securities *Ubermensch*, the Ontario Securities Commission (OSC). See Reynolds at http://www.penguin.ca/nf/Book/BookDisplay/0,,0_0143016237,00.html.
- I was recently informed that a courageous securities industry "whistleblower" with boxes of incriminating evidence once in his possession, was found dead under as-yet-to-be-determined circumstances on Christmas Eve 2004.

His death represents, at the very least, an example of the ultimate consequences of corporate and regulatory sweep-it-under-the-rug-and-hope-it-goes-away business practices that have plagued Canada's financial services industry for decades.

Consumer and industry rights advocate, Joe Killoran, goes so far as to call the unfortunate death of this one-time mutual fund sales assistant a "blatant collective murder" where government regulators, SROs, and corporations should be held accountable.

On the other hand, remember Royal Trustco? How about Bre-X? What about our big banks' involvement in the Enron fiasco? Has Air Canada's humiliating bankruptcy and fall from grace, and the wealth of thousands of stock holders who were dragged down with it, been investigated properly?

Oh yes, let's not forget Nortel, and the recent imbroglio of mutual fund market timing. The list goes on and on.

I am truly amazed.

Canadians should start thinking seriously about what's been happening to their fortunes over the years and why.

Just how long will we continue to tolerate the greed, manipulation and rot that appear to permeate our financial service industry from top to bottom?

How long will we continue to ignore the damage and pain that has been inflicted, and continues to be inflicted, on investors and advisors alike by a financial system that is clearly out of control in its duplicitous, self-dealing drive for profits?

Where is the raft of class-action lawsuits by Canadians who have been suckered by corporate robber barons who hide behind entire law firms, manipulate the media and infect an already twisted, self-serving and conflicting regulatory environment?

And not the least, how will Canada's financial services community and industry regulators compensate a struggling, conscientious young man who wanted to better the financial system by revealing transgressions of the most lurid kind, but got death instead?

Something sure stinks in Canada's financial services industry. Where is Eliot Spitzer?

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