



April 29, 2010

Task Force on Financial Literacy
255 Albert Street
11th Floor, Ottawa ON
K1A 0G5

Re: **Financial Literacy**

Dear Sir;

A quote from the Honourable Minister James Flaherty:

"All Canadians are working toward a personal goal, be it retiring, buying a home or attending college or university. As these goals have financial implications, Canadians would benefit by becoming better consumers, investors and savers."

The Small Investor Protection Association (SIPA) was founded a decade ago because we are concerned about the lack of investor protection and the fact that many Canadians are losing their savings due to investment fraud and wrongdoing with little hope of recovery from such a life-altering event.

Our comments are therefore directed to this paramount issue of small investor losing their savings due to fraud and wrongdoing. However, we do recognize the importance of raising fiduciary literacy so that all Canadians will understand that they must manage their money properly. They must know the impact of debt service and the effect of compounding. They must know about risk management and that in addition to market risk, there is product risk and advisor risk.

For decades there has been talk about investor education. The Ontario Securities Commission (OSC) established the Investor Education Fund and they along with other organizations provide excellent materials for investor education. However, until Canadians are told the truth about the need for financial literacy, the probability of change is minimal.

SIPA has tried to raise investor awareness for more than a decade, but with limited resources we reach a limited number of people. We believe that awareness of the facts is the first level of financial literacy. Government should work with and provide support to Non Governmental Agencies engaged in raising financial literacy.

The lack of financial literacy contributes to Canadians losing their savings due to investment fraud and wrongdoing at the rate of \$25 billion per year. This issue must be exposed by Government to encourage Canadians to seek financial literacy.

Ours is a trusting society.



How many Canadians will prepare specifications and call for three bids before asking a plumber to do a job? Usually they will trust the plumber to do the job at a reasonable price because they do not have the knowledge to determine a fair price.

How many Ontarians will ask for a second opinion before following their doctor's advice? Usually they have faith in their doctor and trust them to prescribe proper treatment. They do not see the need to become medical experts when they can rely upon our medical care system to provide them with excellent service. They place their trust in the medical profession.

The financial services industry is also important to Canadians. They are led to believe that they can trust the financial industry. The media advertising suggests that early retirement is possible by placing trust in the industry. Slogans like "Freedom 55" encourage this belief. Products with names like "Income Trusts" or "Principal Protected Notes" sound secure, although many Canadians have lost their savings when they were concentrated in these products. Canadians are told that the financial services industry is well regulated, and that investors are protected. In 2004 the Senate Committee held that belief, as do most Canadians, however their hearings revealed a much different story.

The recent financial market meltdown has exposed many frauds that have operated for decades. The Earl Jones caper in Montreal is an example of frauds that can operate long term in a trusting society. In retrospect it is evident that Jones worked with the banks and investors simply placed their trust in him. The banks did not react to red flag warnings that were apparent. They simply trusted him and facilitated his fraud. Everyone trusted Earl Jones. Would financial literacy have helped them to override this trust?

Today, most Canadians continue to believe their savings are safe when they are invested with the financial services industry. They are not made aware of the facts. They do not know how many Canadians are losing a major portion of their savings when they are retired or near retirement. How much is lost due to unregulated fraud? How much is lost due to systemic wrongdoing in the regulated investment industry? What products are being sold that are unregulated? What products are being sold by the regulated industry that are the result of exemption orders? Why don't regulators make this information available?

The Keith Ambachtsheer study on mutual funds suggests Canadians are losing \$25 billion per year due to excessive fees. Other studies suggest Canadians invested entirely in mutual funds will end up with approximately 50% of what a good pension fund manager could achieve. This fact alone raises concerns about the trend towards defined benefits pension plans which download the responsibility for investment performance onto the pensioners themselves.



Do Canadians know that the industry that is responsible for looking after their life savings is not being held to a fiduciary standard?

Do they know that so called investment advisors (who until recently were registered as salespersons and not registered as being qualified to give advice) are not legally required to put their clients' interests first?

Do they know that the Statute of Limitations has been reduced to two years? Do they know that if they do not start civil action within two years they may be statute barred from seeking justice through civil litigation?

Is this how government and regulators protect small investors?

In 1999, Robert Golden published a book entitled "INVESTOR BEWARE". He outlined the many systemic practices that can cost investors their savings. He tried to warn investors with his book. Many others have also written books in an attempt to teach the public. However the industry uses the media to create a perception that the public can trust the industry and all is well. Regulators and Government support this perception and Canadians are continuing to lose their savings. The truth is still not disclosed.

There are two schools of thought on investing.

One is that held by most Canadians. You can place your trust in the investment industry. The industry is well regulated. If all else fails and you are unable to get restitution for wrongdoing from the industry or regulators, you can seek justice in court.

The other held by most investor advocates is that the industry is deceiving investors by creating toxic products and selling them to unsuspecting investors; the regulators are captured by industry; investors rights to seek justice through the courts has been eroded with reduced limitation periods, and it is indeed an INVESTOR BEWARE investment environment.

We feel it is appropriate that Government launch a program for financial literacy that includes disclosure of the ugly truth. It is essential that the problem be properly identified before a valid solution can be formulated. Financial literacy is only a small part of the solution. Certainly investors should be made aware of:

- how the investment industry operates
- how it is regulated
- the qualifications of dealer's representatives and their limitations
- the fact that there are exemptions from the rules
- the fact that unregulated products are being sold
- unregulated persons are defrauding large numbers of investors
- the fact that the regulators generally will not get your money back



- the fact that those who claim to provide investor protection did nothing to prevent the limitation period from being reduced to two years
- the fact that the law does not require that so-called advisers are not required to put clients' interests first
- the fact that the law does not hold the industry to a fiduciary standard
- the fact that the industry will hold that the investor is responsible for mitigating loss even though the loss may be due to industry wrongdoing

If you have your car towed to the garage because it won't start, replacing a dead battery may seem like the solution but that may not be the real cause. It may be that the alternator is not functioning or some other fault. The car must be analyzed to determine the cause of the fault.

When you go to the doctor he must properly diagnose the problem before he can start a successful treatment or prescribe effective medication.

It is not enough to propose financial literacy or investor education as a solution before diagnosing the problem. Canadians must be involved. Town Hall events are effective means of hearing from Canadians. Why hold individuals responsible when institutions fail to provide good governance or deal fairly with the problem. The Goldman Sachs hearings are revealing an attitude of insatiable greed and a cavalier attitude towards investors' savings. Firms that deal with Canadians financial futures must have a fiduciary responsibility and be held accountable. Legislation is required to establish this responsibility and accountability, as well as to provide appropriate penalties for failure to comply and mandatory restitution for victims of white collar crime.

In our society most people are busy with careers, family and social responsibilities. They do not have the time to become an expert plumber, an expert mechanic, or gain sufficient medical knowledge that they can evaluate their doctor's diagnosis. They also do not have access to the resources that would be needed by these specialists. They simply trust and depend upon those in whom they place their trust.

The services of the plumber and the mechanic are unlikely to be critical to survival but the doctor's services may well be.

So too, the services of a financial adviser may well be critical to their survival.

When people lose all of their savings due to fraud or wrongdoing the impact is devastating. The realization that life's dreams are shattered and there is insufficient time to start over or recover can drive individuals into depression, create stresses that impact health and family, and can result in suicide.



As a minimum it leads to a life far different from that which was earned by someone who worked a lifetime to save for a comfortable retirement. It can mean no more winter holidays, giving up cars, taking on menial jobs to eke out an existence, and struggling to save homes and meet mortgage payments. It also means the family legacy has been lost to future generations.

Beyond the direct impact of financial loss, victims lose their faith in others, the capacity to trust and the essentials of hope and love. Their lives are effectively destroyed. Does Government know how many victims there are? What is Government doing to assist these victims?

In order to prescribe an approach for financial literacy or investor education the public must first be made aware of why it is so important for them. Government must reveal the ugly truth so that the public can realize the necessity to gain financial literacy including investment awareness.

With the trend from defined benefit pension plans to defined contributions it is becoming critically important for the public to become aware. In future many more will lose their savings and also their pensions. They will be left destitute and at the mercy of our welfare system, unless appropriate changes are made.

At present the tendency is to accept the investment industry as it is and download the responsibility onto the individual. The regulators say the individual must become better educated in investment, do his own due diligence before investing, and when something goes wrong he must take action to mitigate the damage. Does this mean he can no longer place his trust in the investment industry, that the industry has no fiduciary duty, that the regulators are incapable of regulating, that the police are not able to protect the public, and that the courts are there for a game that lawyers play and not to provide justice for citizens? Is this really the society that we wish upon ourselves and future generations?

The alternative would be to revise our legislation to introduce a fiduciary standard for the investment industry so all of those who sell investment products would have a fiduciary responsibility to their clients. That they would need to place their clients' interests first. Legislation should make it a criminal offence to sell investment products without a license, or without appropriate insurance to protect client's investments.

Regulators should be revamped to have civilian oversight, and regulators should be enabled to investigate and order restitution to be paid from funds provided by the industry for that purpose. (The proposed new national regulator may approach this solution).

Special police units and courts to deal specifically with white collar crime should be established that are not under the control of the industry. The impact on victims of



white collar crime must be recognized and resources developed to deal with them. In many cases the impact can be far greater than the impact on victims of violent crime.

Government needs to introduce legislation to ensure that the investment industry and its regulation are transformed to recognize values inherent in our society so that in future we may be able to place our trust in the investment industry confident that they will provide good governance and place clients' interests first rather than allowing unbridled greed to lead to the development of complex products unsuitable for most small investors but nevertheless sold to trusting investors who end up losing their savings.

Government action is needed if Canada is to be perceived in future as a "*just society*" rather than the wild west of investing and a land where we live by the law of the jungle.

Let's call a spade a spade and deal with the issue. There are two options:

1. Reveal the truth and warn all Canadians that it is INVESTOR BEWARE.
2. Reveal the truth and take action to introduce legislation that places responsibility where it should be rather than place it on the shoulders of individual Canadians.

To take no action will result in even more Canadians losing their savings due to investment fraud and wrongdoing.

Financial literacy may be a part of the solution but what is needed is a total solution that will be effective to prevent the devastation currently caused by the failure of Government and regulators to protect the investments and savings of individuals.

We believe the investment industry should have a fiduciary responsibility and that victims of investment fraud and wrongdoing should be exempted from current reduced limitation periods due to the fact that the devastating impact of losing life savings makes it impossible for most Canadians to react rationally and determine a course of action within two years.

I consent to the disclosure of our submission in its entirety including my name

Stan I. Buell, P.Eng.
Founder & President
Small Investor Protection Association