

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

RE: [REDACTED] AND [REDACTED], AND
[REDACTED]

Heard: January 14, 2016

PANEL:

PATRICK J. LESAGE) Appeal Committee Member

APPEARANCES:

[REDACTED]) Appellant on behalf of himself,
) [REDACTED] and
) [REDACTED]

NICOLAS BUSINGER) Counsel for Canadian Investor Protection
) Fund Staff

DECISION AND REASONS

1. [REDACTED] and [REDACTED] and their private company [REDACTED] [REDACTED] (“the Appellants”), were clients 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 (“OSC”) 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 the day after FLSI 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 in relation to an appeal heard on October 27, 2014, released on December 17, 2014.¹

Background

2. [REDACTED] emigrated from Germany to Canada just more than 50 years ago. They were both pastry chefs. They worked very hard from the time of arrival in Canada, eventually owning their own bakery. From 2009 to 2011, they and their family's limited company invested their life savings, almost \$1.2 million, through FLSI. Now, in their senior years their life's work, their life's savings are gone. They are elderly, they are devastated. "Our whole life's savings, our retirement, is all gone."

3. [REDACTED], after being approached in 2009 by FLSI to invest, made inquiries about First Leaside. All the responses he received were positive. He called the OSC and received no adverse comments. This call occurred after OSC had themselves begun to make enquiries, or as [REDACTED] expressed it "after OSC had commenced their investigation". [REDACTED] learned that Leo DeVeber, a person who had an outstanding reputation, was a supporter of First Leaside. He was assured by First Leaside Staff and by FLSI employees that his investments were insured to one million dollars by CIPF. [REDACTED] advised, 'every document I received from FLSI was impressed with the CIPF logo'. The [REDACTED] believed their investments were insured against loss up to one million dollars.

4. [REDACTED] asks, "Why did the OSC, why did IIROC not properly investigate and regulate FLSI"? "Why does CIPF allow their logo to be used and abused by FLSI"? "My investments in 2011 of which approximately \$165,000.00 were made after the Grant Thornton Report was provided to FLSI, OSC and presumably IIROC and CIPF. These investments were made because I believed I was investing in an entity which was purchasing specific pieces of real estate. That did not occur. It appears my monies were used for the very purpose that Grant Thornton in their Report said could not continue, and the OSC knew that. Still, the OSC, IIROC and CIPF permitted the product to be sold."

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

5. As has been stated in so many Decisions of the Appeal Committee, CIPF insurance does not cover losses that may flow from diminution of the value of the investment(s); investments that may have been made as a result of misrepresentation, material non-disclosure, misleading, false or fraudulent statements or conduct on the part of First Leaside Group generally or specifically by members of FLSI, unless it includes failure to return client's property that is being held or should be held by the insolvent broker or there has been unlawful conversion.

6. Although I accept there were misrepresentations on the part of FLSI, particularly regarding the 2011 investments, the Appellants provided specific Directions to FLSI to make the investments that were made. The investments were made by FLSI. The certificates were transferred to the Appellants. There was no unlawful conversion.

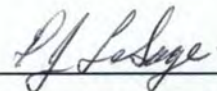
7. All of the certificates and any cash or other assets held by FLSI on behalf of the Appellants have been transferred to the Appellants.

8. This case is yet another example of the hardship, the tragic results that flowed at least in part because of the fraudulent misconduct of the principles of FLSI and the First Leaside Group of entities.

9. The Appellants are not covered by CIPF. There was no unlawful conversion. The decision of Staff denying coverage must therefore be upheld.

10. The appeal is dismissed.

Dated at Toronto, this 27th day of April, 2016



Patrick J. LeSage