

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

RE: [REDACTED]

Heard: September 14, 2015, by teleconference

PANEL:

PATRICK J. LESAGE

Appeal Committee Member

APPEARANCES:

[REDACTED]
Nicholas Businger

-) Appellant, on his own behalf
-) Counsel for the Canadian Investor
Protection Fund Staff

DECISION AND REASONS

1. [REDACTED] (“the Appellant”) was a client 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. This was 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, 2014.¹

¹ This decision is available on the CIPF website and will be referenced throughout as the “October 27, 2014 decision”, although it was released on December 17, 2014.

2. The Appellant, through FLSI, invested \$25,000 on December 10, 2010 and \$125,000 on August 22, 2011 in First Leaside Group entities. This last investment was three days after FLSI received the Grant Thornton Report, which had not been made public either by FLSI or the OSC.

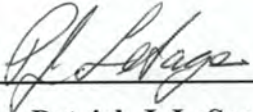
3. [REDACTED] accepts that it is highly unlikely his appeal can succeed in light of the Appeal Committee's earlier decisions on similar or identical issues. He is, unfortunately, correct in that conclusion. CIPF coverage is only available if the loss was due to the failure to have property held in his account at the date of insolvency returned to him or the property was unlawfully converted by FLSI. In this case, the securities were delivered to the Appellant in certificate form and he directly or indirectly approved the purchases made on his behalf by FLSI.

4. The Appellant's losses resulted from the declining value of his investments, losses that are not covered by CIPF policy, which expressly excludes coverage for losses "that result from changing market values of securities, unsuitable investments, or the default of an issuer of securities".

5. The Appellant also cannot succeed on his submission that he was an inexperienced investor who relied on representations from John Wilson, his investment dealer at FLSI, to the effect that his investment was protected by CIPF so that the Appellant understood it was safe and fully insured. As set out in earlier decisions of the Appeal Committee, CIPF coverage excludes claims even if FLSI provided the Appellant with misleading or fraudulent information about the scope of CIPF coverage.

6. [REDACTED] has suffered a loss. I sympathize with his plight, but there is no recourse available to him under the CIPF coverage. The appeal must therefore be dismissed. The decision of the CIPF Staff is upheld.

Dated at Toronto, this 19th day of October, 2015



Patrick J. LeSage