

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

RE: [REDACTED]

Heard By Teleconference: August 13, 2015

PANEL:

PATRICK J. LESAGE) Appeal Committee Member

APPEARANCES:

[REDACTED]) Appellant on her own behalf

MAUREEN DOHERTY) Counsel for 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, 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

2. The Appellant made a single investment of \$100,000.00 in First Leaside Wealth Management Fund in January 2011 through FLSI. This investment was made to her RRSP account. She received one interest payment which was transferred to her bank prior to the FLSI insolvency. She also received a distribution of approximately \$6,500.00 from the Receiver.

3. At the August 13, 2015 hearing the Appellant advised that she had made her investment, at least in part, because she had been assured by Mr. Phillips of FLSI that her investment was fully insured by CIPF. She also advised that she understood that her position was really no different than many if not most of the appellants in earlier Appeal Committee hearings.

4. The Appellant did express a particular concern about her inability to transfer her First Leaside Wealth Management Fund certificates from Fidelity to her RRSP account at her current Broker.

5. I inquired for Counsel of CIPF Staff what they knew of the transfer problem or what they might do to assist [REDACTED].

6. Both, Counsel for CIPF Staff and the CIPF Staff member present, Ms. Godfrey, agreed to look into this issue. At this point it was agreed the hearing would be adjourned to permit Counsel and CIPF Staff to make inquiries and report back to [REDACTED], copied to me. It was also agreed that [REDACTED] would have the opportunity to respond to CIPF's Report to her, copied to me by email. On or about September 8, 2015, I received a written report from CIPF Staff Counsel addressed to [REDACTED] and myself. In that Report, attached as Appendix "A", Counsel provided what I considered to be a thorough review of the issue.

7. Having heard nothing from the Appellant, on October 1, 2015 I made an inquiry of CIPF Staff. My inquiry was whether they had heard anything from the Appellant. If not, would they contact her to ask her if she had any further comments or questions. I was informed they contacted her and passed on my query. On November 10, 2015, still having heard nothing from the

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

Appellant, I made a further request of Staff to contact the Appellant to ascertain if she had been successful in receiving her certificates. In that November 10, 2015 request of Staff, I also stated ... "I would appreciate any help/assistance that could be provided [REDACTED]". I believe that was done.

8. I have heard nothing from the Appellant since our last contact during the August 13, 2015 teleconference. I apologize for the inordinate delay in delivering this decision. I was hoping I would hear from the Appellant and quite frankly the matter escaped my attention.


9. As referred to earlier, the Appellant's principal concerns at the Teleconference Hearing and as expressed in her written materials were that there needs to be more education of the public as to what is and what is not covered by CIPF. She expressed the view, which doesn't totally surprise me, that even some brokers don't understand it. She was also frustrated with the difficulty in having her certificates transferred to her new broker.

10. She expressed her understanding of the fact that although disappointed, her investment was not covered by CIPF. She was correct in that understanding. The loss suffered by [REDACTED] was the result of the diminution of the value of her investment, a loss not covered by the CIPF policy.

11. I trust the transfer of her certificates has occurred. I express my regret that the transfer became so complicated and I express my appreciation to CIPF Staff for assisting the Appellant to resolve the transfer problem.

12. In the result the decision of Staff denying coverage is upheld and the appeal is dismissed.

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



Patrick J. LeSage

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September 8, 2015

BY EMAIL – [REDACTED]

Dear Mr. LeSage and [REDACTED],

In accordance with the endorsement of Mr. LeSage dated August 17, 2015 in the matter of an appeal before the Canadian Investor Protection Fund ("CIPF") in the name of [REDACTED] (the "Endorsement"), CIPF Staff made inquiries into the issue of why Fidelity Clearing Canada ULC ("Fidelity") may not have fulfilled [REDACTED] instructions to have her securities in First Leaside Wealth Management Fund (the "Units") transferred from her RRSP account at Fidelity to an RRSP account at RBC (the "Issue").

On August 18, 2015, CIPF Staff made inquiries with the Chief Operating Officer at Fidelity. Consistent with the information received on the call, and at CIPF Staff's request, a notice was subsequently posted to Fidelity's website to assist former customers of First Leaside Securities Inc. ("FLSI") with common questions regarding their Fidelity accounts, including information with respect to account transfer requests (the "Fidelity Notice"). The Fidelity Notice is attached to this email and can be accessed at the following link:

<https://clearingcanada.fidelity.com/app/literature/doc/952559/notice-for-clients-with-accounts-with-first-leaside-securities-inc.html>

As a result of CIPF Staff's inquiries into the Issue and as set out in the Fidelity Notice, CIPF Staff is of the view that [REDACTED] may be able to transfer the Units by directing her request to Grant Thornton Limited, which is in the position to authenticate her transfer request and is the proper contact for providing account transfer instructions. As [REDACTED] transfer request does not appear to have been directed to Grant Thornton Limited, this may explain why the request has not yet been carried out. The relevant portion of the Fidelity Notice states:

While we are holding your accounts, we do not have access to First Leaside records and documentation in regards to your account. This is all being maintained by Grant Thornton Limited, as receiver for First Leaside Securities Inc. In order to ensure that we are disbursing funds to the correct individuals, we require you to provide your instructions directly to Grant Thornton Limited, who will authenticate them, and then pass them along to us for processing. They may be reached by phone at 1-855-883-2474 or by email to firstleaside@ca.gt.com.

As well, [REDACTED] must specifically request that the contents of the relevant accounts be transferred. CIPF Staff is not aware of all of [REDACTED] communications with her broker and Fidelity. However, in [REDACTED] correspondence dated August 26, 2015 (attached to this email), [REDACTED] broker advised [REDACTED] that her transfer request that had been previously submitted related to a cash balance only and was not a request to transfer the entire account. If Fidelity did not receive a written request from [REDACTED] to transfer the account, it would not be in a position to carry out a transfer, which may be another reason why the transfer was not carried out.

Finally, RBC must be willing to accept the Units in the transfer from Fidelity. CIPF Staff is aware of certain brokers who have been willing to accept First Leaside securities. As set out in the Fidelity Notice, however, it is up to each broker to determine whether it is willing to accept the Units and CIPF has no regulatory powers to compel a broker to do so. In this case, however, [REDACTED] indicated at the hearing that RBC was willing to accept the Units and it accordingly does not appear that this issue will impede a transfer.

Yours truly,

BORDEN LADNER GERVAIS LLP

Per:


Maureen Doherty

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