

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

RE: [REDACTED] and [REDACTED]

Heard: August 17, 2015

HEARD BEFORE:

BRIGITTE GEISLER

Appeal Committee Member

APPEARANCES:

Nicolas Businger

)

Counsel for Canadian Investor
Protection Fund Staff

)

[REDACTED]

)

On behalf of [REDACTED]
and [REDACTED]

)

DECISION AND REASONS

Introduction and Overview

1. [REDACTED] and [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 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

2. The Appellants sought recovery from CIPF on the basis that FLSI was a Member of CIPF and as such the Appellants were entitled to protection through the Fund which was established to provide coverage in the event of insolvency. CIPF Staff made a decision denying compensation to the Appellants on the basis that the Appellants were not eligible customers of FLSI and thus were not covered under the CIPF Coverage Policy dated September 30, 2010.

3. On August 17, 2015, an Appeal Committee Member of CIPF's Board heard an appeal to determine whether to depart from the decision of CIPF Staff. The appeal hearing was held at Neeson Arbitration Chambers in Toronto, Ontario. The Appellants were not in attendance, but had provided written authorization that [REDACTED] represent them.

Chronology of Events Relevant to the Appellants' Claim

(i) The Appellants' Investments and Claim

4. The claim arises from the Appellants' purchase of First Leaside Expansion Limited Partnership units for a total net investment of \$21,000. CIPF Staff were unable to find evidence of this purchase, however, the Appellants submitted a copy of a certificate representing the ownership of the units, dated January 5, 2010.

(ii) The Appellants' Application for Compensation

5. The Appellants applied to CIPF for compensation for their losses in investments made through FLSI. By letter dated September 16, 2014, the Appellants were advised that CIPF Staff were unable to recommend payment of their claim. The relevant part of the letter reads as follows:

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

Based on the information available to us, CIPF staff have concluded that you are not an eligible customer of FLSI for purposes of CIPF coverage, as you did not have an account at FLSI as at February 24, 2012. As such, your loss is not considered eligible for payment by CIPF.

Analysis

6. On behalf of the Appellants, [REDACTED] indicated that they were not presenting any arguments with respect to the appeal. Their main concern is that they have some definitive document indicating the value of their investment so that they might take advantage of a tax write-off. CIPF Staff and the Appeal Committee advised that the mandate of CIPF was not related to valuation of the securities. CIPF's mandate and its coverage is custodial in nature; in other words, to ensure that the clients of an insolvent member have received their property. It was suggested that the Appellants contact the insolvency trustee for assistance with respect to valuation.

Disposition

7. As the Appellants presented no arguments with respect to the appeal, the appeal is dismissed. The decision of CIPF Staff is upheld.

Dated at Toronto, this 21st day of August, 2015.

Brigitte Geisler