2376 Gillingham Drive
Burlington, ON
L7P 3Z4

Tel: (905) 332 0458
Email: fredscholl@sympatico.ca
Feb 6, 2004

Manfred F. Scholl

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West, 19th Floor, Box 55
Toronto, ON M5H 3S8

Email: jstevenson@osc.gov.on.ca

Dear Sir,

Re: The Fair Dealing Model: Concept Paper of the OSC, January 2004

I did read about the above initiative in the Hamilton Spectator. The strong objection to this concept by the local Investment Industry raised my interested and I downloaded the document.

As an investor, I congratulate you on this effort as I find the concept presented refreshing and appealing. Just briefly an outline of our experience to date with the 'Investment Industry'.

We did hold GIC's with various institutions, both registered and non-registered. When self-directed investment accounts were introduced by our bank, we switched, moving maturing GIC's into those accounts. As well, we started to venture into Mutual Funds. Very conservative initially, i.e. Bond, Mortgage. Due to my extensive business travel, we eventually ventured into other Mutual Funds, as I could personally judge what was happening in Malaysia or Chile for example. It worked well; we had 'fun' keeping track of investment gains (and losses at times of course). I learned that 'markets' often behave quite differently to what I had witnessed in person overseas.

Upon being forced into early retirement (restructuring), my Pension Fund had to be transferred to a locked-in retirement savings plan. Combined, our pension plans and other savings would ensure a nice retirement at prevailing interest rates on bonds (abt. 6.5%). We had provided for our youngest education. Life was about to be real good, despite the fact that I found myself suddenly unemployed and not eligible for Unemployment Insurance.

The bank decided at that point, that we should be a 'private client'. Up the elevator we go to where all of our difficulties started.

This is what we wanted:

- Everything into bonds, starting with 2005 to 2014 (GIC's still maturing until 2004)
- All income from bonds into equity mutual funds, as even if we lost all of it, we still would be o.k. in retirement. I was confident that I would find employment, and indeed succeeded in doing so.

This is what our 'private investment consultant' wanted, as we supposedly were all wrong with our ideas:

- Half in equity mutual funds, balance into bonds
- No reason to fear security of equities, as the 'specialists' would be in and out of the market as indicated with nothing but substantial gains ahead. Their 'specialists' know when markets are about to decline and move totally into cash at such point.

We finally gave in to:

- Max. 30% in equities balance in bonds, starting with 2005 and absolutely no strip bonds. We want to see the cash.
- All still to mature GIC's to be transferred into our self-directed accounts for future decision as per previously signed transfer forms.

O.k., we have to sign a power of attorney (which later on we discovered to be a blatant lie) and off we go.

Here is what they did, which we mostly found out by accident:

- 50% went into clone mutual fund (extra 1% fee for 'advice')
- 50% into Bonds (incl. strip bonds) starting at 2001 to 2004
- Re-classified us as 'wild eyed investors' with 20%+ loss of our portfolio being no object (this we were completely unaware of and discovered by accident). We were 60 at that time!!!

The first communication we received was some circular that stated that due to declining markets, they had increased the 'cash' portion of the portfolio from 12.5% to 13.5% or something minor like that. The first statement received confirmed, that the equities were loosing. Much of it was in small cap foreign clone funds 'with substantial upward potential' and very high MER.

Then we discovered that all self-directed accounts had been closed and all maturing GIC's had been re-directed to the equity portion, eventually bringing the allocation to 70% equities – 30% bonds. No communication whatsoever, they simply did whatever they felt like.

The 'private investment specialist' did not pick up the phone. We did manage to eventually get them to confirm our original conversation. Their response 'You are correct. Sorry, just a mistake, however, we thought that you wanted to be in the stock market'. The short term bonds were explained as 'since the short and long rates are about the same, we prefer short bonds'.

They were gambling with our retirement moneys in order to increase their revenues!!! We left the bank we had been with for 40 years. Overall we only lost about 10,000.00. They harassed us with telephone calls until after 11 p.m. in the evening. ‘We thought you did not wish to play the stock market. Don’t go with that firm. We know them. They will put all of your money into the stock market irrespective of what they have promised you’ (Now suddenly they appeared to remember us not wishing to be in the stock market). All confidence had been lost at that point and we took it as their attempt to keep us as a client.

Onto the next bank, with exactly the same as above (they also wanted 50% in equities initially).

No power of attorney this time, we now knew better; however, here came our introduction to load mutual funds. We checked out the references – all good. Only on the question of fees, we received vague answers. ‘We don’t pay anything. I think he gets paid by the company who’s investment product he sells’. The investment advisor stated that he got paid based on the success of our portfolio. The more money we make, the more money he makes.

Their forms submitted showed us as ‘wild eyed investors’ as well. We changed that to ‘conservative’, duly initialing changes. We questioned him why he had done so when he clearly realizes that we are very conservative investors. He explained that that was essentially meaningless. All he wanted to do is ensure that there are no restrictions should an opportunity arise. However, no matter, it was only a guideline and we still could do whatever we wanted with the moneys in future. He agreed that investing in equities at this time was a bad idea ‘no one wants to catch a falling knife’.

The moneys were transferred, bonds in kind and equities in cash.

Here is what happened in order of occurrence once the transfers had been fully completed.

- He insisted that we had agreed to a 50% split and wanted to buy load mutual funds, which we could buy with 2% commission or commission free.
- He wanted to buy strip bonds as we insisted ‘no equipities until the bonds were in place’.
- He did buy one bond, always pushing mutual funds throughout.
- We bought load mutual funds with 30% of our funds (the free type)
- He called stating that the bonds we want cost 140.00 to 150.00, i.e. we would loose up to 50% of our money and he recommended that ‘all’ of our moneys goes into mutual funds. In fact, we should consider selling some of the bonds we already hold.

When I told him that his statement was complete nonsense as I am aware of bonds available at around par that generated abt 6%, he wanted to know where I get such information. He was unaware of the existence of such bonds. He became quite aggressive ‘we should trust the advice he gives us’. In retrospect, timing likely was an issue to him – get it done before they receive the prospectus. I ended up telling him from the Globe and Mail what bonds he was to purchase as we wanted our moneys invested.

When we received the prospectus on the mutual funds, we realized what those ‘no fees’ funds were all about. Well, with one purchase alone, this firm earned $15,000.00 in commission. No wonder he only wanted to sell mutual funds.

I wish we had known at that point that we still had time to cancel those purchases after receipt of the prospectus. We possibly could have saved ourselves $90,000.00, our eventual loss in those ‘save’ equity mutual funds.

(I am leaving out quite a bit of our dealings with this fine institution. We had signed transfer forms to cover GIC’s that matured over the next couple of months. One of our favored is their letter requesting that we sign a stack of blank transfer forms as they had transfer forms on hand for GIC’s that would mature the following year, but none for those to about mature. ‘Please urgently sign and return ….in order to ensure a smooth transfer….’)

We stayed with that bank for 3 months and now are back where we started. We have self-directed accounts with yet another bank who from time to time calls to inquire whether we need some help with our investments. No thank you – no more ‘helping yourself to our money’. As well we have deposits with a foreign bank whose motto of ‘integrity’ is appealing. We found it necessary to educate ourselves and handle our own investments vs. dealing with what we consider a ‘corrupt’ industry. We are doing fine and are back at where we were 4 years ago. We have no mutual funds, except abt 50,000.00 in labor funds. We do have some Canadian stocks that also trade on the U.S. exchange so that Mr. Spitzer can keep an eye on our investments.

Having traveled quite extensively on business in developing countries, I am familiar with embezzlement and corruption. I even manage to morally justify that someone that earns $200.00 a month, while the cost of living is $400.00 for a minimal subsistence of his family; may resort to illegal methods to achieve the difference in income required. What we have witnessed with our investments however appears to be totally based on ‘greed’. There was no sign attached to our bank of 40 years ‘We have changed our policy. We no longer value honesty and integrity. We now merely pursue ‘greed’, buyers beware’. We thought that we were still dealing with an institution with old fashioned values.

As you can see from the above, the ‘know your client’ is being abused to the extreme by the financial institutions.

What could have helped us at the time is ‘complete disclosure and transparency’. If we had known how we had been classified, we would have changed it. If we had known that our ‘financial advisor’ made $15,000.00 in commission on one transaction alone, we would have been alerted to his interest in pushing mutual funds. We did not even know that he marked up the bond prices for his own commission over and above selling rates. We bought those bonds at substantially higher prices than quoted elsewhere. We did not know that our ‘financial advisor’, backed by the finest research department in the industry according to him, was only licensed to sell mutual funds. His card did not state this. We discovered this well after the fact researching him on the internet.

Why did we not pursue this matter with the OSC for example? Well, with our original bank we did not loose very much and we had been with them for 40 years. We left them due to what we considered unethical practices. With the second bank, long disclaimers started to appear on their emails, holding them harmless. As well, our 'investment advisor' told us, that email exchanges would not hold up in a court of law. Anyone that is in blatant pursuit of business practices as described above has some Bay Street lawyers behind them to guard against 'unreasonable and unjustified' claims by the investment public. Any pursuit clearly is pointless.

The irony of it is that we would be quite happy to have an advisor with 'integrity' handle our affairs. We are absolutely certain that such people and institutions exist. However, at this point we trust no one. We cannot afford to do so any longer, our retirement is at stake.

Our reasons for no longer investing in mutual funds are that we feel that there is something seriously wrong with that industry. For example, the CDIC ran an ad mentioning that mutual funds are not covered under the CDIC. We know that, in fact have known that since when we purchased the first fund. Therefore, why is some official of that industry so defensive 'No point upsetting mostly elderly client with such information. Our advisors are being contacted to clarify this matter'. If someone is that upset over a complete non issue, there has to be something wrong.

Thank you for permitting for me to submit my comments.

Yours very truly,