

June 5, 2005

by e-mail csa-acvm-secretariat@lautorite.qc.ca

CSA GENERAL SECRETARIAT
Tour de la Bourse
800, Square Victoria. Suite 4130
Montreal, Quebec, H4Z 1J2

Re: MI 52-111 - CSA Proposal on Governance

Dear Sir;

We read in the National Post that a wide-ranging group of Canadian corporations are outraged that the CSA plans to impose regulations similar to the U.S. Sarbanes-Oxley Act and that the deadline for response is June 6th.

SIPA does not have the resources, capability or time to make a detailed commentary on your proposal, nor would it serve much purpose to do so when you will be overwhelmed by industry comment and lobbying. However we will offer some general comment and append our February 27th, 2004 report "The Small Investor's Perspective of Investor Protection In Canada", our September 2004 joint report with CARP "Giving Small Investors a Fair Chance", and our February 14th, 2005 submission to the Senate Standing Committee on Banking Trade & Commerce "It's a Matter of Trust" as part of our submission.

We ask that you question the motivation of those who would criticize your proposals, and consider what is good for consumer/investors. We believe regulators should be empowered to regulate and not be subject to pressures and unbalanced lobbying by industry to water down regulations conceived by those who would regulate, as has been so evident in the past.

Elliot Spitzer was able to take action in New York to expose widespread practices of wrongdoing because of enabling legislation. Now the world has learned of these misdeeds. Already the same misdeeds have started to be exposed in Canada, but our regulators must be given appropriate tools to enable them to act. Corruption must be rooted out from our society.

Regulators should not have to waste resources waging legal battles in court when an industry uses our justice system to avoid compliance with regulations, and aggressively defend situations that are morally and ethically indefensible.

For too long the investment industry has used legal action, or the threat of legal action, to silence opposition or delay needed reform. There are many Canadians who are opposed to a type of society where leaders employ threats and intimidation rather than the power of reason, and I hope many of our business and government leaders are also opposed. We continue to believe that David

Brown is one of those individuals who believe in a just society, and although he receives much criticism we applaud him for the many actions he has taken that seem to be for the public good.

In the Nova Scotia legislature there has been proposed legislation to make life easier for the investment industry to do business across provincial borders by allowing advisors registered in one province to practice in another province. Fortunately a few brave MPs stood up and said this will effect consumers so shouldn't we consider the impact on the consumer, and ensure that there is appropriate protection for them prior to passing the legislation. This is a socially responsible attitude and should be commended.

We do not oppose simplifying regulation provided there are appropriate checks and balances in place. In spite of the rhetoric suggesting the investment industry is well regulated, and recommended practices and guidelines are all that are needed, history shows that the financial services industry is compliance challenged, and that mandatory requirements are often ignored. There must be rules and restrictions in order to restrain the bad, and these may inconvenience the good.

If there were not so many scandals being revealed on a continuing basis, one could argue for a reduction in regulation and dependence upon the morality, ethics and management skills of our corporate leaders.

Unfortunately it seems that not all of our corporate leaders possess all of the skills that would enable our society to operate in a laissez faire manner that would not compromise the rights and security of individual citizens.

We understand that the industry is outraged. They have failed to provide a brand of governance that provides an adequate degree of protection for the small investors whose life savings are supporting this great country of ours. They don't want change.

Industry is against imposed rules and argues that the cost exceeds the benefit. Whose benefit? They routinely argue that they act in the public best interests and that they want to save the taxpayers' money. Yet their protestations contradict the facts.

At this time we are deeply concerned that investor protection is being eroded. We are seeing provinces across the country introducing or revising legislation that downgrades consumer/investor protection.

The Minister of Finance has maintained the position that our investment industry is well regulated and that investors are protected. He has stated that if the regulatory system fails to provide adequate protection and investors suffer from

wrongdoing, and they are unable to have their disputes resolved by the regulatory system, then they have the right to take civil action.

Although recent legislation supposedly will make it easier in some cases for investors to take civil action, the recent trend to reducing the limitation period from six years to two years or less is disturbing. This is eroding investors' rights and protection.

Consumer/investors who have encountered a life-altering experience (losing all of their life savings due to financial services industry wrongdoing) are devastated and take time to recover sufficiently to be able to function normally. The traumatic effect of substantial financial loss impairs one's ability to function. In many cases there is deep depression and in some cases suicide. The human factor must be considered.

Even those who are able to address the issue of significant financial loss at the hands of those they trusted, often take several years to understand the complexities of our regulatory system and proceed through industry sponsored dispute resolution processes. By the time they have contacted compliance, management, the OSC, the IDA, the bank ombudsman and OBSI they often consume more than two years. A two-year limitation period could result in many victims of wrongdoing being time barred from their right to take civil action to seek restitution.

How can we expect Canadians to have any confidence in our regulatory system if the regulators submit meekly to industry and not take a stand for what is right and good? What are regulators for? Are they there to make the bad guys look good or are they there to make the good guys look good and get rid of the bad guys?

How can we depend upon recommended guidelines and best practices when we continue to see scandals?

The Nortel scandal where governance allowed the CEO to escape with \$125 million while small investors were left with share values plummeting from \$125 to less than a dollar. Where were good governance, accounting and auditing when this happened?

The mutual fund market timing scandal exposed eight of the largest investment firms taking money from the pockets of small investors for their own benefit. They agreed to pay \$200 million and claim they did nothing legally wrong. Does that mean robbing small investors is acceptable to industry if there is no specific law that says they can't? How can we accept anything less than strict rules for those who appear to have no sense of right or wrong?

The Portus Hedge Fund scandal. If the industry is properly regulated, and has good governance with proper accounting and auditing, how can so much investor money disappear in such a short period of time? Is it

possible that industry greed overcomes any sense of social and moral responsibility? The regulators question how so much product could be moved so quickly. Is it simply because the rewards were higher and no consideration was given to the rights of investors?

The Alberta Securities Commission scandal. There were more than 30 anonymous whistleblowers ready to come forward provided they were protected. This was followed by several staff terminations and resultant reluctance of the remainder to speak up. Is this intimidation? Then the mandate of the Auditor General was questioned. Does this inspire confidence in Canadians that even our regulators are able to act as watchdog on an industry that appears to ride roughshod over widows and seniors?

The Gomery inquiry into the sponsorship scandal. How could this corruption happen under the noses of our esteemed leaders? How could our well-paid government officials choose to ignore the rules? How could so many participate in corruption to steal from the taxpayers for their own benefit? Is there no sense of honesty and decency left?

We strongly believe that the majority of our leaders are good men. We fear that they may not always know what is going down in the trenches and seem to be above the battle. David Brown entered the trenches on May 31st. He knows without a doubt. Ask him and he can tell you.

There is a lot of wrongdoing and it is covered up by lack of disclosure. The investment industry is settling complaints with intimidation and cash payments with gag orders. The public does not yet know the extent. The regulators either do not know the magnitude of this problem, or are unwilling to admit it.

If we do not have good governance, we will never have a well-regulated industry where investors can be confident. At present it really is Investor Beware. We believe it should not be. We believe investors should be able to have confidence in the leadership both in government and in industry.

We trust that the CSA will consider the needs and rights of small investors in their deliberations and insist upon revised legislation that will demand good governance and hold industry's management, officers and boards accountable for wrongdoing.

Yours truly

Stan I. Buell

Stan I. Buell
President