**REGULATORS NEED TO TAKE ACTION BEFORE INVESTORS LOSE THEIR MONEY AFTER BEING SOLD THEIR INVESTMENTSTS AS THEY ARE NOT FULFILLING THEIR GOVERNMENT MANDATES OF PROTECTING THE PUBLIC**

The securities regulators including the Ontario Securities Commission (OSC), mortgage regulators including the Financial Services Regulatory Authority (FSRA), which replaced the Financial Services Commission of Ontario (FSCO) and the law societies including the Law Society of Ontario (LSO) only take action after investors have lost money. They are complaints based. These regulators, despite knowing that a lot of investors, **including wealthy individuals**, do not read documents and are financially illiterate, take the position that because there is disclosure, they have protected the public. Under this system, once the investors have lost their money, if they still have some money left, they have to sue to be compensated. The court process can take years cost, a lot of money and there is no certainty for these investors that they will win. I have been told by investors that using the legal system is thought to be “throwing good money after bad”. In addition, most defrauded as we have learned from the Fortress fiasco, about 14,000 investors and about $920 million and Tier 1, about 1,500 investors and $120 million, have not taken action.

Securities regulators and mortgage regulators should have staff, and both could have the same staff, to act as undercover agents to learn what is being offered in the marketplace. Not a lot of staff would be required, say five in Ontario and also less time would be spent creating paperwork that is not read by investors. These people would attend investment seminars, industry association conferences, continuing education seminars, read advertisements, listen to radio and tv infomercials, and other promotional materials, search the internet and YouTube, and as well local and ethnic newspapers. They would tell the promoters and others who sell investments that they are interested, have money to invest and know of other investors who would invest. When they are presented with opportunities, they would need the expertise to determine if they were fraudulent or being misrepresented. Once they determined they were, they would file their report with the regulator, who would the have knowledgeable inspectors or examiners who would go to the promoters to obtain all the documents related to the investment. These parties would not only be looking for the compliance with the respective legislation, but also with the Criminal Code. If they determined there was non-compliance, they would then take action, including contacting the police.

Each province should have specially trained staff who have the skills and expertise to investigate and take action. These police forces should have either staff or retain experts in forensic accounting and law. Perhaps the regulators and police could have the same staff or retain the same forensic accountants and lawyers. Funding for this should come from fees charged to those regulated and not from the government/public.

Laws might have to be created in order to facilitate this and as well to ensure that the perpetrators can be convicted.

The parties involved in exempt market securities, real estate and mortgage investments, usually need lawyer’s assistance in facilitating their frauds

Enablers with benefits

* ‘Enablers’ in the form of lawyers, accountants, and officials in key ‘access’ positions *not only* facilitate corporate crimes but are also often the beneficiaries.
* These facilitators are not always merely ‘hired’ experts but may be the creators and drivers of the international schemes and set-up and head the criminal corporate operations.

I have attached to this memo Professor Margaret Beare’s PowerPoint on lawyers facilitating frauds.

The law societies should have rules that restrict lawyers from facilitating frauds. Lawyers are required to know who their client is and not assist them in committing illegal acts, which includes fraud. Any seasoned lawyer, after discussions with their client, would know if their client was retaining them to facilitate a fraud and refuse to act. If that lawyer acted, then the lawyer and his firm, should be responsible for all of the losses. For example, what seasoned lawyer after learning that Jawad Rathore had been banned by the Mutual Fund Dealers Association (MFDA) in 2005 and both Jawad Rathore and Vince Petrozza had been sanctioned by the OSC, would agree to act for them in their syndicated equity development mortgage investment proposal, especially since the returns offered to investors was below market rate?

For unseasoned lawyers, especially those who have a hard time earning income from their practice, could be more susceptible to acting for these promoters. The law societies should have rules that limit these transactions to only lawyers who specialize in these areas. Giving the lawyer who acted for the 120 Chinese Black Bear syndicated mortgage investors who lost $9 million because of Gary Fraser, who had been convicted of fraud and served 30 months in prison, the benefit of the doubt, he would not have been allowed to act.

<https://www.cbc.ca/news/canada/toronto/syndicated-mortages-1.4078124>

In addition to these recommendations, the provinces for its regulators and the law societies for its members, should create compensation funds, funded by those it regulates, to compensate victims when “a deal falls through the cracks”. These funds could have limits so that the regulators are not insurers of these failed investments. Perhaps a limit of $100,000 per investor as is the case with the Canadian Deposit Insurance Corporation.