

January 30th 2022

Prof. Poonam Puri, Independent Evaluator
pp@poonanampuri.ca

Request for Comment on the Independent Evaluation of the Ombudsman for Banking Services and Investments (OBSI)

https://www.obsi.ca/en/news-and-publications/resources/Public-Consultations/OBSI-Banking-Mandate-Stakeholder-Consultation_Final_updated_EN1.pdf

The opportunity to make this Submission is much appreciated after having had a first-hand experience dealing with the OBSI reviewing and passing an unsatisfactory judgement on an Investor complaint experience involving the Retail Securities Sales subsidiary of one of the six largest Canadian Banks.

In all probability there will be other Submissions to be evaluated that will respond in great detail when commenting on the framed listed "Key matters under review" and the twelve Consultation "Questions" of *Reputation, Accessibility, Governance, Transparency, Impartiality and independence, Accountability, Membership, Coordination with ADRBO, Timeliness and adequacy of communications, Effectiveness, Comparison with other Ombudsman services, Progress.*

Therefore, this will be a minimized Submission that will first centre on raising the question by asking what constructive progress has taken place since the previous 2016 Deborah Battell Independent Evaluation of the OBSI operations.

[Independent Evaluation of the Canadian Ombudsman for Banking Services and Investments' \(OBSI\) Investment Mandate](#)

Six years ago Ms Battell, who was formally the New Zealand Banking Ombudsman, provided OBSI with an 84-page Review which included 19 recommendations. OBSI then published a Response to the External Review Recommendations which was approved by the OBSI Board of Directors.

[Response-to-External-Review-Recommendations.pdf \(obsi.ca\)](#)

Firstly, unfinished business: It is suggested that the current Prof. Poonam Puri Evaluation of the OBSI should list all the Battell previous recommendations and the OBSI responses in order to establish what were the OBSI promised intentions and what progress has taken place to better protect financial consumers in the past 6-years.

<u>#1 Battell Recommendation</u>	<u>OBSI Response</u>	<u>OBSI Action</u>
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXX

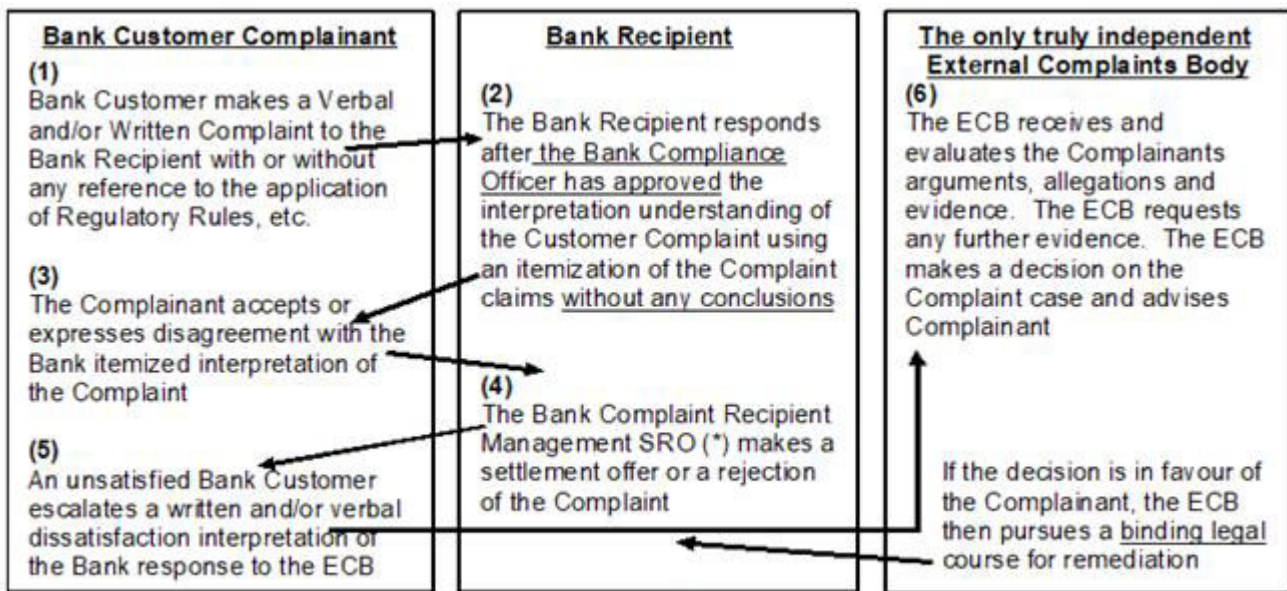
Then secondly, there is another major concern for financial consumer advocates. That is the great expectation that all OBSI efforts aimed at financial consumer protection will not be unfairly influenced by OBSI employees who have had previous indirect and direct communications with the opposing adversaries in a dispute. This subject is explored in the attached files pointing up facts and concerns with the OBSI employee "Revolving Door" syndrome.

There was no reference in the Battell OBSI Evaluation Report to the potential for improper influences with collaboration with their past connections when employees recycle from the financial services industry [FRFIs –Banks] to OBSI. Then again, with their OBSI employment connections and back again to the FRFI-Bank employment.

This latter revolving door description is substantiated with one person who was employed as an Assistant Ombudsman for 10-years with one of the Canadian big six Banks and then changed employment joining External Complaints Body(ECB) ADR Chambers Banking Ombuds. Then changed again by joining ECB OBSI and then changed again joining another of the Canadian big six Banks. When employed by the first Canadian big six Bank, this person had full collaboration freedom to communicate on a Complaint case with a OBSI. There was nothing improper about this collaboration connection because the Complainant signed an Agreement allowing this communication by the OBSI and the Bank Internal Ombudsman. This conflicting collaboration should not be permitted by the FCAC.

The Reprise: Likewise, nowhere in the previously listed framed OBSI Questions for this Evaluation Consultation does it provide a request for comments on the perception or reality of potential OBSI employee employment conflicts.

Change is badly needed. Here is a proposed Chart that deletes the FCAC STEP THREE and ADRBO from the FCAC Mandated Complaint Handling Process for implementing a more equitable and harmonious Complaint Handling Procedure



(*) The Management person SRO refers to the FCAC named Bank "Senior Complaints Officer" title replacing The Bank Internal Ombudsman title.

> > > > > > > > > > > > 0 <<<<<<<<<<<<<<<<

We trust the commentary in this Submission will be helpful to the Prof. Poonam Puri OBSI Review Evaluation deliberations.

Permission is granted for public posting of this Comment Submission. Any changes to content without our prior consultation are not accepted.

Yours Sincerely
 Peter Whitehouse
 Financial Consumer Advocate

Appendix A

Ombudsman for Banking Services and Investments (OBSI) not exempt from the Revolving Door Syndrome disease



January 20 - 2020

Peter Whitehouse
Financial Consumer Advocate

The following uses the OBSI staff employment standards as an educating exercise: It is important to first give recognition to the purpose for the OBSI By-Law 8.3 (b) (i) 5-year cooling-off time restrictions for Revolving Door candidates applying for a position as the Ombudsman with the OBSI financial consumer arbiter.

It is also important to recognize that there are no such existing restrictions on a Revolving Door candidate who are first hired by the OBSI as Deputy Ombudsman or other positions, who could later be promoted to Deputy Ombudsman or even to the highest position of OBSI Ombudsman and CEO. (There are additional conflicting issues later described when the OBSI TOR Sec 4.4 allows the Ombudsman to delegate any of the Ombudsman's powers to OBSI staff)

There is a universal expectation by legitimate Complainants when referring their unsatisfied complaint against a financial institution to the ECB OBSI, that any negative review outcome will not be unfairly influenced by an OBSI investigator's hidden past employment background.

This expectation can hardly be respected after reviewing the employment background history of many of the Revolving Door employees who have joined the OBSI. Some of whom subsequently left the OBSI to still be engaged with the related financial services.

The OBSI employee histories in this presentation were chosen to explain why the Canadian Securities Regulators must come forward with publicly disclosed pre-employment and post-employment regulatory cooling off minimum time limitations and obligation conditions for all individuals moving to employment with the Regulators and the arbiters ECBs and SROs.

We should also not forget that Revolving Door candidates can be incentivized to seek employment with the OBSI with the prospect of increasing their personal income by using the OBSI as a possible stepping stone up the ladder. These are the same employees who are not presently required to be vented for cooling-off time restrictions related to their past financial industry services employment connections. In fact, it is just the opposite when an **OBSI Senior Deputy Ombudsman brags about the employees past connections when he says that, "almost all of our [OBSI] investigators and managers are from the [financial] industry"** (This OBSI statement should also specifically include the positions of Senior Deputy Ombudsman and Deputy Ombudsman. Added to this, one of the Senior Deputy Ombudsman was actually later promoted to the position of OBSI Ombudsman without being originally vented via the OBSI By-Law 8.3 (b) (i) 5-year cooling-off time restrictions - See later Person #5)

Recognizing the shortcomings of the OBSI By-Laws and Terms of Reference, there needs to be a contractually universal cooling-off time restriction rules and defined obligations applied to all employees before they join the OBSI:

According to the OBSI 2008 Annual Review and current By-Law 8.3 (b) (i), it is reported that a person wishing to become the Ombudsman of the OBSI "cannot have been a government employee or have worked for or been closely associated with a [OBSI] participating firm for **five years** prior to appointment". (The definition of a "Participating Firm" is a financial services firm, against which a Complainant's complaint case can be referred to the OBSI)

To most reasoning people, the purpose for the principle for this 5-year cooling-off time restriction would seem to be logically obvious. It does not require any explanation that there could be the introduction of conflict of interest for OBSI employees if they can freely move their careers to a position as OBSI Ombudsman from employers who have Complainant disputes that the OBSI are requested to adjudicate for a Complainant.

It is therefore imperative that the said OBSI By-Laws should also be extended to make an equivalent restriction on all employee candidates joining the OBSI for the following reasons:

- Under the OBSI's **Terms of Reference Section 4.4**, it says, "The Ombudsman may delegate any of the Ombudsman's powers to OBSI staff"

Conclusion: Therefore, if the OBSI By-Law 8.3 (b) (i) restriction applies directly to a candidate applying for the position of OBSI Ombudsman, it should also apply to all OBSI employees who, in the process of executing their employment responsibilities and obligations, may also be required to act as surrogates following the instructions and powers delegated to them from the OBSI Ombudsman.

As the outcome of a Complainant's legitimate case against a "Participating Firm" can in some way be negatively affected by the directions from the OBSI Ombudsman's "delegation of powers", OBSI investigators and other related OBSI executives should therefore at least be subjected to the previously described By-Law 8.3 (b) (i) 5-year cooling-off restrictions and other obligations rules and regulations.

- **Here is the case of a person (see later Person #4) being hired by the OBSI to immediately be employed as Deputy Ombudsman after previously being employed just a 1-year earlier and for the previous 11-years by the Canadian Imperial Bank of Commerce (CIBC). Of this time, 6-years were spent with CIBC banking, then the last 5-years as the *Executive Director of the CIBC Wood Gundy Retail Investment subsidiary*.**

While the pre-employment 5-year cooling off restriction applies to persons being considered for the position of OBSI Ombudsman, the same restriction does NOT now apply to OBSI hiring a person for the position of "Deputy Ombudsman".

As the position of Deputy Ombudsman would obviously be working as a surrogate under the directions from the OBSI Ombudsman's instructions and "delegation of powers", candidates applying for the position of Deputy Ombudsman should therefore also be subjected to the previously described By-Law 8.3 (b) (i) 5-year cooling-off rules that apply to the candidates for the OBSI Ombudsman position.

- **Here is a more impressive example of an action that circumvents the OBSI By-Law 8.3 (b) (i) 5-year cooling-off rule. This is where a person was hired by the OBSI to immediately take the position of "Senior Deputy Ombudsman". This person (see later Person #5) was then later promoted to be THE OBSI Ombudsman & CEO.**

This is a person who left their position at Canadian Imperial Bank of Commerce in **May 2003** after serving as General Manager in various roles for **over 6-years**. This person was hired by the OBSI only **3-years** later in **May 2006** as "Senior Deputy Ombudsman". This person was then promoted just **3-years** later in **May 2009** to the position of **The OBSI Ombudsman & CEO**.

Technically speaking, this **3-year** revolving from a senior executive position with CIBC to be hired by the OBSI as their "**Senior** Deputy Ombudsman" was not a violation of any existing OBSI By-Law cooling-off restriction, because none exists.

However, the **Senior Deputy Ombudsman** can be expected to act as a surrogate performing the Ombudsman **influencing functions**. That being the case, surely the **5-year** cooling-off time restriction from employment as an executive with the CIBC should also have been applied to this Senior Deputy Ombudsman ENTRY position ! (This Revolving Door individual is detailed as Person #5 in a later list of OBSI employees)

This is issue is especially pertinent when the said person then became THE OBSI Ombudsman & CEO for almost 6-years and was able to exert their influence without originally qualifying for the position under the related OBSI By-Laws.

- **Conclusion:** Therefore, if the OBSI By-Law 8.3 (b) (i) restriction applies directly to a candidate immediately applying for the position of OBSI Ombudsman, it should also apply to all other OBSI employees who, in the process of executing their employment responsibilities and obligations, are also be required to act as surrogates by following the instructions and powers delegated to them from the OBSI Ombudsman & CEO.

On this basis, as the outcome of a Complainant's legitimate case against a "Participating Firm" can in some way be affected by the directions and influence coming from the OBSI Ombudsman & CEO, or the Ombudsman's "delegation of powers", all related OBSI executives should therefore be subjected to the previously described By-Law 8.3 (b) (i) 5-year cooling-off restriction rules **and other obligations**.

There is a false assumption that the Securities Regulator, the ECBs and SROs are the exclusive beneficiaries when Revolving Door persons become their employees: When this question of job applicants moving from financial services organizations to a Securities Regulator, an ECB or an SRO is raised with these same bodies, the tune is all the same. Each side will claim they will benefit from knowledge gained from the prospective employee's previous financial services employment experience.

This assumes there will be a Revolving Door person's guaranteed dedication to the obligations of the new job with the Regulator, ECB or SRO. That seems like an allusion that needs an explanation ! On the other hand it is hardly an allusion when ex-employees take their experiences with the Securities Regulators, the ECBs and SROs to later join the Financial Services Participating Firms (FSPF). With this rotation, the FSPF are able to establish inside track shadow personal relationships that at some later date could also be useful connections of conflicting influence to favour the FSPF.

With no employment exit contractual restrictions, prior employment with Regulators, ESBs and SROs can be conveniently used as the motive escalator to sell the Revolving Door person's knowledge for greater financial self-enrichment. This has to be the case. Why would a Revolving Door person make any career change to join a financial or other related organization for a lower income ? This characterization relates to motives and ethics that that need to be considered very seriously.

The OBSI justification for employing ex-financial service company employees:

In a published 2016 Presentation, the **OBSI Senior Deputy Ombudsman** even goes as far as claiming that there is "*no perceived conflicts of interest*" in the way the OBSI runs its operations. Which is surprising when, in the same Presentation, they also say that "*almost all of our [OBSI] investigators and managers are from the [financial] industry*"

(Comparing these statements seems like creating an oxymoron if there ever was one. This last OBSI statement is well supported when examining the employment history of key OBSI employees which will be detailed later in this presentation)

The theory that the Regulators or ECBs or SROs are the sole beneficiaries from a financial services industry ex-employee bringing with themselves beneficial attributes for more effective investor adjudication can be easily debunked. The real motive for a Revolving Door employee moving their career from employment with a financial services institution to the Regulators or ECBs or SROs and vice versa does not have to be debated. A broadening of knowledge opportunity from a career position change provides the stepping stone motive for a Revolving Door employee. In turn, they can then sell their gained experience when pursuing the next career change for greater personal financial self-enrichment. Later you will see a good example of this assertion with the listed **Person #3** profile.

What rationalization do the Regulators and the ECB and SRO employers come up with when these same Revolving Door employees decide to exit with newly acquired knowledge and connections and on to another new employer ? **This question is especially important when the Revolving Door employee jumps over the fence from the investor protection side to employment back to the financial services institution firm's side.** (Examples to follow in this presentation)

The use of Non-Disclosure Clauses (NDCs) by the ECBs and SROs unequally silences the Complainants at the same time it protects the Revolving Door employee: The foregoing considerations prompts the need for public disclosure of the specific clauses, including post-employment NDC clauses, which should be included in employment contracts [if any] signed by new employees joining the Regulators, ECBs and SROs. Without Revolving Door employees swearing allegiance to their new responsibilities of competence, objectivity and thoroughness by applying full Regulatory Rules and Guidelines to Complainant's cases, it would be difficult to hold the Revolving Door person accountable for any discretionary shortcomings while employed by the Regulators, ECBs and SROs.

(Later evidence will be presented to substantiate experience with this short-coming)

There is an interesting comparison when a Complainant asks for assistance from the OBSI to pass judgement on the alleged wrong-doings of an employee of, or a financial services firm. This is when the Complainant is required to sign a complaint adjudication services review Agreement letter, not a Consent letter. The said letter can include an NDC clause barring the Complainant from making public disclosure of details of resulting communications of a complaint. This means that a Revolving Door OBSI employee has the protection of the NDC applied to the Complainant. However, the Complainant has no equal right to publicly expose and challenge the shortcomings or errors in an adjudication review or investigation, by an OBSI Revolving Door employee, of the Complainant's case.

(The way in which the OBSI handles a Complainant's Request for Reconsideration of an OBSI rejected unsatisfied complaint is dealt with later in this Presentation)

Consider the case of a Revolving Door employee being loyal to a financial institution employer by protecting their interests by influencing the rejection a Complainant's case:

Then, the next day, after revolving to a position with a new Regulatory or ECB or SRO employer, can you imagine the same Rotating Door person actually assisting in an enforcement action against their previous, or other, financial institution employer? This question is especially pertinent if the Rotating Door person may be later looking for future employment in the financial services sector.

With this in mind, the OECD paper expresses the need to expose the extent of the effects of the Revolving Door syndrome:

A study of the employment histories of a number of personnel job applicants moving from and to the financial services industry and a Securities Regulator or ECB or SRO should be undertaken to show the extent of this potential Revolving Door influencing practice.

This information should then be related to the financial complaint decision making positions and influences engaged in by each Revolving Door employee. This applies especially to cases where employees move from financial institutions to positions with Securities Regulators, ECBs or SROs and then back again to the financial institutions. This practice does actually take place, without relative pre or post-employment Regulator or ECB or SRO cooling off restrictions that are believed not to exist.

Here is some advice from the Ontario Securities Commission (OSC) that is worth heeding and needs to also be applied to the Revolving Door individuals who are making judgement calls on Complainant's unsettled cases.

Here is an extract from an OSC document -

The mandate of the OSC is to provide protection to investors from unfair, improper or fraudulent practices, to foster fair and efficient capital markets and confidence in the capital markets, and to contribute to the stability of the financial system and the reduction of systemic risk. Investors are urged to check the registration of any persons or company offering an investment opportunity and to review the OSC investor materials available at www.osc.gov.on.ca.

After examining the possibilities of historical carryforward influences of some employee personnel and employer partners participating in the Revolving Door Syndrome, Complainants need to be advised by the CSA or OSC to check out the employment history of the OBSI persons appointed to investigate their complaints.

From experience, the expectation of impartiality, objectivity, competency and thoroughness of personnel who have come through the Revolving Doors to the ECBs and SROs might be proved to be not as credible and objective as is being billed.

It would be naïve to underestimate how the Revolving employee's past employment connections with past fellow employees would not in some way detrimentally influence the outcome of a complaint against a financial industry institution, or for the matter an ECB or an SRO. **This is why there has to be an independent complaints adjudicating process whereby a Regulatory or ESB or SRO employee can be held responsible for unsatisfactorily not applying the appropriate Regulatory Rules and Guidelines.** With this obligation included in a Regulatory or ESB or SRO employment contract, all employees would then be more vigilant in pursuing their responsibilities and fearing the consequences from their inadequate interpreting of Regulatory violations in a Complainant's case.

Included is the case of a Complainant appealing to the OBSI for an adjudication review and later reconsideration of allegations of wrong-doing against a couple of employees of a Bank-owned Retail Investment Dealer. The details in the way the case was handled should also raise red flags about the basic principles of questionable on the job lack of dedication coming from Revolving Door syndrome personnel. Although this case originated 8-years ago, it should still be considered because there was an unsatisfied victim resulting from this experience.

Listed Person #1: The Complainant first point of contact with OBSI was in November 2011. The person employed by OBSI was a Consumer Assistance Officer and later titled as a Case Review Officer. This person joined the OBSI in April 2011 after working for the Canadian Imperial Bank of Commerce (CIBC) as a Financial Service Associate.

This person departed OBSI after 1-year in November 2012, then on to a 1-year employment with the Parliament of Canada and then on to the Law commission of Ontario.

Listed Person #2: The case was not assigned to an OBSI investigator until May 2012. That is a 6-months delay, when the adjudication **results** from the OBSI should be sent to the Complainant within 90-days !

This person was classified by OBSI as a Manager and Senior Investigator Level III, but where was the related prior experience ? This Investigator joined the OBSI in March 2007 **immediately** after working for the Financiere Banque Nationale for 3-years. Prior to that, this person worked for BLC Financial Services for 2-years. Prior, this person worked for Banque Laurentienne for 2-years.

This person departed OBSI in October 2013 for a 2-year stint in industry and then to V-P at the Montreal Exchange. (This person rejected the Complainant's case in a letter dated August 30th 2012. That was **10-months** after the complaint was filed with OBSI. Included was an NDC reminder that the details of the complaint rejection should be kept confidential by the Complainant. This is even though there was a serious lack of consideration of violations of Regulatory Rules and Guidelines which were later delivered in detail to the then OBSI Ombudsman who never responded to the evidence)

Listed Person #3: In January 2013, an appeal for a reconsideration of the OBSI rejected Complainant's case was made to OBSI. The Complainant was directed to the Manager of Investigations (MOI) who agreed to undertake reconsideration of the evidence of the Complainant's case. This was confirmed in a conference call to the MOI with the Complainant and an Advocate Intervenor. Further documents were supplied to the MOI.

However, **after 10-months** of promises and procrastinations this Manager of Investigations person did **not** deliver the promised reconsideration of the Complainant's case. What happened to the published OBSI obligatory **90-day** response time limit for reconsiderations ?

After repeated communications to OBSI through the then Deputy Ombudsman, the Complainant later discovered that the OBSI Manager of Investigations had departed from the OBSI in **October 2013** without any completion or rebuttal interaction of the promised reconsideration of the complaint against the OBSI rejection of the Complainant's case. Therefore, one has to question the sense of dedication of this OBSI Manager of Investigations to their promises and obligations to the Complainant.

Who was supposed to be supervising this Revolving Door Manager of Investigations person when the Deputy Ombudsman and the Senior Deputy Ombudsman allowed this circus act to continue ?

It then took 1-year (January 12th 2013 to January 6th 2014) for the Deputy Ombudsman (Listed Person #6) to do a stand-jn for the departed Manager of Investigations and send the Complainant a further rejection letter. The letter made a bogus statement that after "reconsideration" there was no new information that would cause the OBSI to "change the previous conclusions". This is an ersatz moment if there ever was one. This expression was a very convenient way for the Deputy Ombudsman to avoid actually refuting the itemized evidence which should have been interpreted as violations of Securities Regulations and Guidelines.

January 20th & 23rd 2014 - As the Complainant had received no response, a further email was sent to the Deputy Ombudsman requesting a response to the rebuttal of the explanations for rejecting our submission.

On **January 24th 2014** the Complainant was advised by the said Deputy Ombudsman, Investments that the Complainant's case had been escalated to a Mr Sasha Angus, the Senior Deputy Ombudsman. **There was never any response from this person.**

Here is the **Senior** Deputy Ombudsman responsibilities described in the OBSI **2014** Annual Report. "*Sasha Angus Senior Deputy Ombudsman and COO Mr. Angus became Senior Deputy Ombudsman (SDO) and Chief Operating Officer (COO) of OBSI in 2012. He is responsible for the last step in a complaint's review before it is escalated to the Ombudsman (if necessary)*" There was no reference to this person in the OBSI 2015 Annual Report !

As there had been no response from this OBSI Senior Deputy Ombudsman, the evidence from the Complainant was summarized and shortly afterwards submitted directly to the then OBSI Ombudsman (**see Person #5**) who chose to ignore it by refusing to respond to the facts as presented.

The finer details of this Complainant's experience are enumerated on page-6 of the Complainant's submission to the Deborah Battell February 2016 Report request on the OBSI operations. In particular, the OBSI reconsideration failings experienced in the documented complaint process needs to be scrutinized in detail.

https://www.obsi.ca/uploads/20/Doc_636445205515279317.pdf?ts=637021943574300242

----- **0** -----

Background of the OBSI Manager of Investigations (MOI): This person was directly hired by OBSI for this MOI position in **November 2011**. There must have been no pre-employment cooling off restrictions as this person previously was a Vice-President /Legal Counsel defending the interests of a CSA registered securities company. Prior to this position, was 1-year employment at a legal firm.

After **only 2-years** employed by the OBSI, this MOI person departed from OBSI (**October 2013**) for a position of Legal Counsel with the OSC Office of the Investor. This move to the OSC Investor Office was perhaps helped as the OSC Office of the Investor say they provide oversight of the (OBSI) Ombudsman for Banking Services and Investments. That's a pretty close Revolving Door relationship and convenient connection opportunity to move up the ladder for a greater financial benefit.

This must have been quite an escalator ride for financial self-enrichment. The new position with the OSC Investor Office paid \$143,395.72 in 2014. Subsequent years paid \$176,145.46 in 2015, then \$196,289.99, in 2016 and then \$216,765.06 in 2017.

After working for five years with the OSC Office of the Investor, this person then recycled back in **December 2018** to a financial services institution **by joining TD Bank Group** as Senior Manager-Regulatory Change Management. That career change comes with all the inside knowledge and connections gained from employment at the OSC Office of the Investor and the OBSI.

It is understandable why the TD Bank would be interested in hiring this person [for the right price]. **Where were the Revolving Door post-OBSI employment "cooling off" contractual restrictions ?**

A Revolving person taking their talents, or lack of dedication to higher principles, from a position in the financial services industry employer to the OBSI and OSC Securities Regulator and back to the TD Bank must attract the attention of the CSA and OSC to introduce stringent employment cooling off regulations that do not presently exist.

Listed Person #4: While the By-Law 8.3 (b) (i) 5-year cooling-off restriction rules and other employment obligations cooling-off restriction applies to persons being considered for the position of OBSI Ombudsman, the same restriction does NOT seem to apply to the positions of "Deputy Ombudsman" or "Senior Deputy Ombudsman".

Here is a person who spent 5-years with the Canadian Imperial Bank of Commerce (CIBC), then 5-years with the CIBC Retail Investment subsidiary then being hired 1-year later to directly be the OBSI "Deputy Ombudsman" !

Under OBSI Corporate By-Laws **4.4 Ombudsman May Delegate** – The Ombudsman may delegate any of the Ombudsman's powers to OBSI staff. Therefore, with the OBSI Ombudsman's freedom to delegate to the new Deputy Ombudsman, why would the cooling off restriction not also apply to the "Deputy Ombudsman", when they can be seconded to do the actual work of the OBSI Ombudsman, even though they were NOT subjected to a **5-year** cooling-off restriction ?

Listed Person #5: This person left their position in **May 2003** after serving as General Manager in various roles (**for 6-years**) at the Canadian Imperial Bank of Commerce (CIBC). This person joined the OBSI just **3-years** later in **May 2006** as **Senior Deputy Ombudsman**. This person then became **THE OBSI Ombudsman** just **3-years** later in **August 2009**.

Technically speaking, this **3-year** revolving from the CIBC to be hired by the OBSI as their "**Senior** Deputy Ombudsman" was not a violation of an OBSI restriction which says, "A person wishing to become the Ombudsman of the OBSI *cannot have been a government employee or have worked for or been closely associated with a [OBSI] participating firm for **five years** prior to appointment*". However, as the **Senior** Deputy Ombudsman can be expected to and should be able to perform the functions as delegated by the Ombudsman, surely the **5-year** cooling-off from employment with the CIBC should also have been applied to this position. This is especially pertinent as the said person later became **THE OBSI Ombudsman & CEO in 2009**.

There is a major issue related to this Person #5 OBSI Ombudsman & CEO which came about on February 14th 2014. (This Ombudsman & CEO resigned from the OBSI in May 2015)

On **February 14th 2014**, the then OBSI Ombudsman reconfirmed by letter that the original OBSI rejection of the Complainant's case remained unchanged with no refuting of the facts of the case. In connection with the Complainant's allegations of fraudulent misrepresentation of investing related information by a particular Financial Advisor employed by a Bank-owned Retail Investment subsidiary, the Ombudsman's response comments were beyond belief.

This OBSI Ombudsman suggested that if the Complainant felt strongly enough about the Complainant's accusations of fraudulent misrepresentation, it was commented that it should be brought to the attention of the Bank's regulators, ie. IIROC^(*) and the OSC.

(*) That's another story in itself

Also, if the Complainant felt it warranted, it could be brought to the attention of the police.

With this non-response from the OBSI Ombudsman & CEO, on **February 19th 2014** a letter was sent by the Complainant to this OBSI Ombudsman & CEO via Registered Canada Post. The four-page Complainant's letter took issue with the OBSI Ombudsman's (who was a lawyer) explanations that could not stand up to the facts as presented in the Complainant rebuttal letter. It was then not surprising that this person who held the position as THE OBSI Ombudsman did not respond even though they continued to be employed by the OBSI for the next year ?

Listed Person #6: After spending about 3 ½-years with a couple of financial sales organizations, this person was hired by the OBSI directly as a "Senior" Investigator. This is also a case of a person joining the OBSI at a lower level and then after 3 ½-years being promoted to the position of "Deputy Ombudsman"-Why would the cooling off time restriction not also apply to this person when they initially joined the OBSI as a "Senior" Investigator and then be promoted (assumedly at a higher salary) to the Deputy Ombudsman position who could do the work of the actual Ombudsman ?

Listed Person #7: This person spent 24-years with the TD Bank Group ending as ending up in 2013 with the position of TD Bank internal Assistant Ombudsman. From this position, after **1-year**, this person was hired in **2014** by the OBSI as a Senior Investigator.

(As a side note, this person was a TD Bank internal Assistant Ombudsman when the author of this presentation had an extensive dispute with the TD Bank Ombudsman investigator's handling of authors complaint case)

Listed Person #8: This person was the OBSI Manager of Investigations for 16-years until 2013. This person was then elevated to "Deputy Ombudsman". This is the time when the **Person #3** was hired by OBSI to directly become Manager of Investigations. This was immediately after they were employed by financial services companies.

Listed Person #9: This person spent 10-years with the Canadian Bank of Commerce (CIBC), the last five of which were with the CIBC Wood Gundy retail sales operation. This was immediately before this person was hired as a Senior Investigator with OBSI. (There seems to be a lot of CIBC to OBSI connections ?)

Listed Person #10: This person spent **4-years** as Director of Corporate Affairs ending with Director of Corporate Affairs and Communications with the Scotiabank. Subsequently spent 5-years as CIBC Vice-President Internal Communications. This was **immediately prior** to joining OBSI as Director Communications and Stakeholder Relations in 2015.

.=====.
In Summation: Following a review of the OBSI employee connected histories, a thorough examination of employment histories of persons of influence who are, or have been employed by the Regulatory industry complex and the other External Complaints Body, ADRBO and the SROs of IIROC and the MDF should also be made public. This especially applies to the SRO IIROC who have several key staff members who have revolved from the financial services industry. The ADRBO staffing personal histories should also reveal expected close connections with the financial services industry.

The key operative word here is "influence". Who knows what goes on behind closed doors ? Influence can manifest itself in many subtle ways that can subvert justice for the powerless investor Complainant.

The Regulatory industry complex must apply more tighter controls to enhance and protect Complainant's needed interests.

Conclusion: There is too much of an affinity relationship between the power of the Canadian Banks and the agencies who are supposed to be overseeing and protecting the interests of the powerless financial consumers.

Recommendations

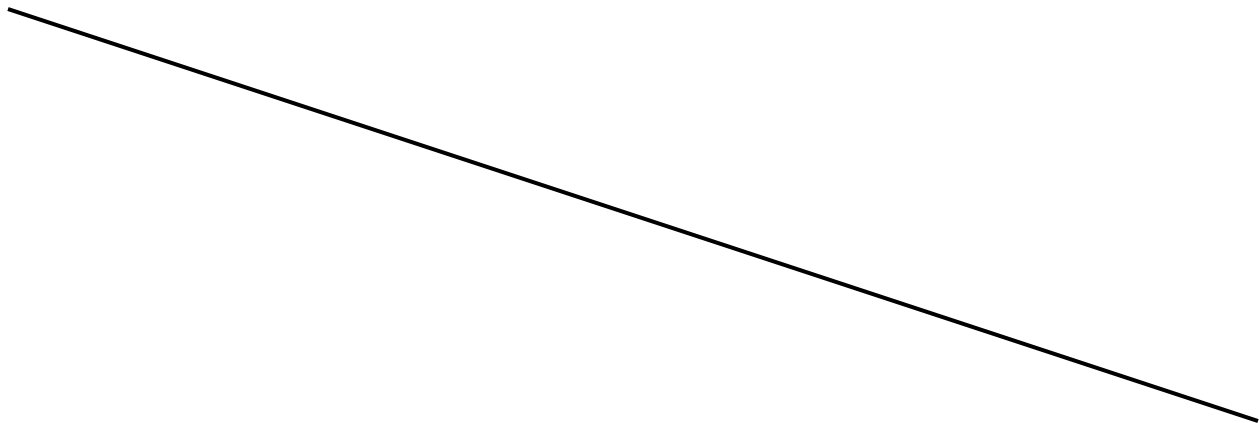
- (a)** Persons applying for a position with the OBSI must be subjected to a cooling-off time restriction as well as the requirements of the OBSI By-Laws if they have previously been employed by a financial services company or Government agency.
- (b)** Persons applying for a position with the OBSI must sign an agreement with Pre-Employment and Post-Employment OBSI terms and conditions of their employment that they must comply with.
- (c)** The OBSI handling of a Complainant's case review should be treated in two-stages.
 - (i)** First, every individual item in a complaint should be listed and analyzed by the OBSI adjudicator by interpreting and translating them into statements. These statements should then be claimed by the OBSI adjudicator to either be, or not be, violations of Regulatory Rules and Guidelines and so stated.
 - (ii)** This analysis should then be reviewed by an OBSI Supervisor and the sent to the Complainant. The Complainant should be asked to comment on the accuracy and completeness of the OBSI interpreted/translated statements.

(This process then introduces an obligation for the OBSI adjudicator to thoroughly recognize all the Complainant's qualifying evidence using the highest level of impartiality, objectivity and competency. This will circumvent the possibilities of the OBSI adjudicator cherry picking items to reject in the complaint, at the same time ignoring very pertinent Complainant supplied information. This process puts the OBSI adjudicator on notice that they will be held responsible for any lack of impartiality, objectivity, competency and thoroughness when adjudicating a complaint)

.=====.

Disclaimer: *The sole intent of this Presentation is to bring together publicly available information that, in totality, can be used to convince the Canadian Securities Regulatory complex to recognize that they must take appropriate action to introduce cooling off restriction and obligations regulations to improve the prospects for better investor protection against potential complaint handling abuses.*

.=====.



The following are examples of a real life information sources referred to in the presentation -

This is Person #4

OBSI Announces New Deputy Ombudsman

Sarah P. Bradley, Ombudsman and CEO, Ombudsman for Banking Services and Investments (OBSI) today announced that Grace McSorley will be joining the organization in the position of Deputy Ombudsman, effective July 4, 2017. Ms. McSorley has an extensive legal and business background, with significant negotiation and leadership experience in the financial services sector.

"Grace has a tremendous track record of managing litigation, regulatory investigations and regulatory and client complaints in both the banking and investment sectors," said Ms. Bradley. "Consumers and participating firms that rely on OBSI's services for fair dispute resolution will benefit greatly from her knowledge and expertise."

Ms. McSorley joins OBSI from CIBC Private Wealth Management, where she served as Executive Director, Front Line Business Effectiveness. Previously, she was Executive Director, Business Risk, Regulatory Affairs and Governance at CIBC Wood Gundy and Litigation Counsel at CIBC. Ms. McSorley has practiced law in Ontario and New York and speaks French fluently.

"I am very proud to join OBSI, an organization that is recognized for the quality of its work and that has made a difference in the financial lives of so many Canadians," said Ms. McSorley. "OBSI provides a vital public service, and I look forward to playing my part in ensuring it continues to strengthen confidence in the Canadian financial sector by working to impartially and effectively resolve consumer disputes."

Ms. McSorley replaces Ms. Brigitte Boutin, who retired from OBSI in March after 20 years of service to the organization.

For more information, contact:

Mark Wright
Director, Communications and Stakeholder Relations
416-287-2877 ext.2225
publicaffairs@obsi.ca

Debra Foubert

Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission (OSC)

Debra Foubert joined the OSC in October 2012 as the Director, Compliance and Registrant Regulation Branch. Prior to joining the OSC, Debra held the position of Associate Vice President, Compliance for TD Bank Group (2007-2012) with Compliance oversight responsibility for TDBG's investment management businesses, including investment fund manager and Private Client Group. In 2010, Debra was seconded to the OSC for a one-year term as Director, Derivatives Branch. While at the OSC, Debra and her team led the development of a framework for regulating over-the-counter derivatives in Ontario which was incorporated into the Ontario Securities Act through legislative amendments. She obtained her B.B.A. from the University of Toledo in 1987 and a Juris Doctor from the University of Toledo College of Law in 1990.

END

Appendix B

An Open Letter to the Chair of the OBSI Joint Regulators Committee

How the OBSI Employee Revolving Door Syndrome reveals inappropriate operation

The attached email associated communication describing the effects of how the OBSI Employee Revolving Door Syndrome has been allowed to operate is being brought to your attention In case you are unaware of the Syndrome's presence.

The attached said email entitled, "Ombudsman for Banking Services and Investments (OBSI) is not exempt from the Revolving Door Syndrome disease" holds the factual substance to support this communication to you.

There is however an equally ominous issue that calls for your attention and action. That issue is the strangely questionable co-incidence between the number of OBSI operational employees and executives, with prior Bank-related employment and the OBSI using the Canadian Bankers Association (CBA) Director, Human Resources in the OBSI recruiting process. These are the same OBSI employees who have had the responsibility for the OBSI adjudicating Complainant's cases, most of which have been disputes with the banking establishments and/or their subsidiary investment retail operations.

You cannot deny the suspicion being created when there are such a large number of OBSI employees with previous employment in the financial services industry and especially from the banks. This did not happen overnight. Someone was able to direct this imbalanced course over a fairly long period of time without the attention and intervention of a higher authority. In other words, it has been a purposeful willful systemic process.

Using the Canadian Bakers Association Director, Human Resources to handle applications for positions with the OBSI is not some incidental clerical process. The Director, Human Relations, Krista Derksen has held the position of Director, Human Relations with the CBA for 14-years. In this capacity, this HR Director is able to intercept candidate's applications and to some degree influence the acceptance or rejection of the candidate who can best serve the interests of the Canadian Bankers membership. In effect, this seems like a major inherent conflict of interest. **Why should the Canadian Bankers Association get PRIVATE advance information of persons applying for a position with the OBSI ? This would seem to be contravention of the federal Privacy laws for allowing this to continue.** (This situation explains the incontestable evidence in the 10 bios shown in the "Revolving Door" email associated attached document)

Maybe this issue would not have developed in such a pronounced way if the OBSI had followed the Battell recommendation and have allowed a consumer/investor advocate seat on the OBSI Board of Directors to spot this incongruity. Of course, the OBSI Board rejected the Battell recommendation.

Can you believe this OBSI directive to prospective OBSI Candidates ?

Please see the bottom of the linked OBSI announcement of how to apply for an Investigator position with the OBSI.

You might want to make some enquiries as to why the Canadian Bankers Association (CBA) were used as the recruiting agent for the "independent" and "impartial" OBSI !

This could explain why, in the past, there have been so many financial services (née banking) ex-employees who have chartered their career paths through the "Revolving Door Syndrome" to and from the OBSI.

This is not idle speculation. The indisputable facts that questions the OBSI past attraction for the said bank employees and those employees using this past-employment leverage for their own self-enrichment is clearly spelled out in the attached "The Revolving Door Syndrome" presentation.

How are the Regulators going to neutralize this situation to improve the basic principles of balance to be more in favour of Complainants ? The recommended solution is included in the "Revolving Door" Presentation.

Here is the compiled OBSI linked announcement –

https://www.obsi.ca/en/about-us/resources/Documents/Senior-Investigator2_2018.pdf



Job Title: Senior Investigator (one French/English bilingual, one where bilingualism would be an asset)

Is the OBSI deadly serious when they tell the prospective candidate to send their application to the Canadian Bankers Association ? ? ? ? ?

Here's the OBSI direction >

To apply:

Please submit your application to kderksen@cba.ca and include a resume and cover letter indicating Senior Investigator in your application.

Important - Shortly after this forgoing critical communication was sent to the Chair of the OBSI Joint Regulators Committee, the forgoing OBSI linked information disappeared and was replaced with the following display -

A screenshot of a website error page from OBSI. The page features the OBSI logo and name at the top left. The main text reads: "The page you requested is not available. This is most likely because we've launched our new website. Please try the search box below to find the information you are looking for, or go to our home page." Below the text is a search bar with a magnifying glass icon. On the right side of the page, there is a cartoon illustration of a green, bean-like character with a sad face, standing on four yellow, coin-like shapes.

Very Important - There was never any acknowledgement or thank you for bringing this matter to the JRC's attention. Later OBSI recruiting advertising referred the applicant to the OBSI's own Human Resources Department ? ? ? ? ?