



## **INVESTIGATION SUMMARY FOR PUBLICATION PURPOSES**

### **BACKGROUND**

In February 2006, Ms. K opened several investment accounts with Ms. L, an investment advisor with yourCFO Advisory Group Inc. (yourCFO). Ms. K began investing with Ms. L in 1998 while she was an advisor at another investment firm. Ms. K transferred her investments to yourCFO after Ms. L moved there in November 2005. When she started investing at yourCFO, Ms. K was 49 years old and had limited investment knowledge.

In October 2006, Ms. L presented Ms. K with an opportunity to invest in Lakepoint Mortgage Investment Fund 1 Inc. (Lakepoint). Lakepoint was a single purpose private company set up to lend money to Trinity Diversified North America Limited (“Trinity”), an unrelated private company investing in second mortgages. The promoter and owner of Lakepoint was Ms. L’s husband, Mr. L.

In November 2006, Ms. K invested \$100,000 in Lakepoint. Ms. K was pleased with the monthly income she was receiving from Lakepoint and in October 2007 she invested an additional \$100,000.

In October 2010, Ms. K stopped receiving monthly income payments from Lakepoint. In September 2012, Trinity declared bankruptcy and it is unlikely Ms. K will recover any of the money she invested.

### **COMPLAINT and yourCFO’s RESPONSE**

Ms. K requested yourCFO to compensate her for her investment in Lakepoint.

YourCFO responded to Ms. K saying that her investment in Lakepoint was not purchased on the books of yourCFO, was not handled by yourCFO or Ms. L, and neither yourCFO nor Ms. L received any compensation from Lakepoint. yourCFO added that Ms. K was directed to seek independent legal advice before proceeding with the Lakepoint investment and that she was advised Lakepoint could be a riskier investment.

### **IIROC PANEL DECISION**

The Investment Industry Regulatory Organization (IIROC) took enforcement action against Ms. L with respect to her involvement with Lakepoint. In a Decision on the Merits dated January 2, 2014, an IIROC Hearing Panel concluded that “[Ms. L] did make recommendations to the clients concerning their investments in Lakepoint; that she did not make reasonable inquiries to satisfy herself that the issue of the securities of Lakepoint to the clients was exempt from prospectus requirements under securities laws; and that this constituted conduct unbecoming and not in the public interest contrary to [IDA] by-law 29.1.”

## **OBSI FINDINGS**

During the course of our investigation yourCFO said that it is not responsible for Ms. K's losses in Lakepoint and that all responsibility lies with Ms. K. It said that if Ms. K had done a minimal amount of due diligence, she would have discovered that Lakepoint was not a registered security and therefore could not be sold by yourCFO. It said Ms. K never received trade confirmations for her investment, Lakepoint never appeared on her official yourCFO statements and the income she received was not paid from yourCFO.

When Ms. K purchased Lakepoint, she had limited investment knowledge. She began investing with Ms. L in 1996 and relied heavily on her for advice. There was nothing about the cheques she wrote or the participation agreements she signed that would have caused Ms. K concern or indicated that the Lakepoint investment was not approved by or made through yourCFO. While Lakepoint did not appear on the account statements Ms. K received directly from yourCFO, Ms. L provided Ms. K with periodic reports prepared on yourCFO letterhead that included her Lakepoint investments. We accept that Ms. K reasonably believed that Lakepoint was an investment made through and approved by yourCFO.

Case law is clear that mutual fund dealers and investment dealers are vicariously liable for the actions of their investment advisors in regard to securities-related business. yourCFO is responsible, as a member of OBSI, and vicariously, as the employer of Ms. L, for the losses Ms. K incurred due to Ms. L's recommendation to invest in Lakepoint. We recommended that yourCFO compensate Ms. K \$139,000, representing her initial investment less income she received. yourCFO denies any liability and has refused to compensate any amount.