

NOVEMBER 30, 2012 ISSUE

MACQUARIE PRIVATE WEALTH REFUSES OBSI COMPENSATION RECOMMENDATIONS

The Ombudsman for Banking Services and Investments (OBSI) today announced the refusal of Macquarie Private Wealth to compensate several retail investors in the amounts of \$74,791 and \$157,274 as recommended by OBSI after investigating the merits of their complaints.

Macquarie Private Wealth is a Canadian investment dealer. At the time of their complaint, Mr. and Ms. S were a married couple from Ottawa with three teenage children getting ready to attend university in the coming years (Mr. S has since passed away.) The other complainant, Ms. M, was in her seventies, retired and living outside of Halifax. Their advisors placed some or all of their portfolios in investments that were unsuitable given their personal and financial circumstances, investment objectives and/or risk tolerance.

The investment dealer that is the subject of the two complaints at issue here has changed names and ownership over the years. During the time period when the investors suffered their losses due to unsuitable investments, the investment dealer was known as Blackmont Capital Corporation and was owned by another financial company. In 2009, the Macquarie Group bought Blackmont and subsequently renamed it Macquarie Private Wealth. Throughout the relevant time period, the investment dealer remained the same and the responsibility to compensate the customers rests with the investment dealer; merely the name changed. When Macquarie Group acquired the dealer, the existing obligations of the dealer remained unchanged.

Macquarie Private Wealth has stated that its vendor of the business agreed to indemnify it regarding the complaints but has declined to fund the settlements recommended by OBSI. In OBSI's view, Macquarie Private Wealth remains responsible for the advisors' unsuitable recommendations that led to the complainants' unsuitable investment portfolios while they were clients of the investment dealer. Macquarie Private Wealth has chosen not to pay to the complainants the amounts OBSI concludes they are owed based on the facts of each case.

OBSI's recommended compensation amounts in these two complaints were arrived at by first calculating the difference between the amount the investors' accounts should have been worth had they been suitably invested and the actual value as of the date they removed their investments from the investment dealer. Interest was then added to compensate the investors for the loss of use of their money, calculated from the date they first complained to the firm.

At the direction of securities regulators, OBSI established a one-time method of independent review of certain cases that were headed towards refusals to compensate. Both of these Macquarie Private Wealth complaints were among them. Firms were offered the opportunity to have credible and experienced former commissioners of the Ontario Securities Commission (OSC) provide an independent assessment of the files in question based on standards consistent with OBSI's Terms of Reference. If OBSI had unfairly considered the facts of the case or our investigation findings were objectively flawed, the reviewer would say so in their report on the matter. Macquarie Private Wealth chose not to take up this offer.

A copy of OBSI's investigation report for both [Mr. and Ms. S's complaint](#) and [Ms. M's complaint](#) is available on OBSI's website. Some names and personal information have been edited from the original version to protect the identity of certain individuals involved, including the complainants.

Where a complaint is found to have merit, OBSI makes a recommendation for compensation where it would be fair to do so, taking into account all of the facts and circumstances of the case. Refusals by firms to follow an OBSI recommendation to compensate mean that OBSI must publicize that

refusal and the details of the complaint under Section 27 of OBSI's Terms of Reference. OBSI has taken [several significant and extraordinary steps](#) to resolve this and certain other complaints that could not be resolved before resorting to announcing a refusal to compensate.

OBSI is Canada's national independent dispute resolution service for consumers and small businesses with a complaint they can't resolve with their banking services or investment firm. As a free alternative to the legal system, we work informally and confidentially to find fair outcomes to disputes about banking and investment products and services. Over 99.8% of the thousands of complaints brought to OBSI since the organization's inception have been successfully resolved.

OBSI looks into complaints about most banking and investment matters including: debit and credit cards; mortgages; stocks, mutual funds, income trusts, bonds and GICs; loans and credit; fraud; investment advice; unauthorized trading; fees and rates; transaction errors; misrepresentation; and accounts sent to collections. Where a complaint has merit, OBSI may recommend compensation up to a maximum of \$350,000.

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For more information, contact:

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