



INVESTIGATION SUMMARY FOR PUBLICATION PURPOSES

BACKGROUND

Ms. G began investing with Ms. K at Sentinel Financial Group (Sentinel) in 2003. Before that, Ms. G had invested with Ms. K at another financial institution for about three years. When she started investing at Sentinel, Ms. G was 63 years old, receiving Canada Pension Plan Disability benefits, and had little investment knowledge or experience.

Throughout her life, Ms. G raised five children and they all lived very frugally due to difficult personal and financial circumstances. She owned her home, which she paid \$10,000 for in 1989. At age 65, Ms. G was to receive a small Canada Pension Plan benefit, Old Age Security, and Guaranteed Income Supplement. She withdrew money from her modest Locked-In Retirement Account as she needed it to supplement her income.

Ms. G sold some segregated funds she held with Ms. K and between December 2010 and March 2012, she invested \$55,000 in Enviro-Can Private Placement (Enviro-Can) on Ms. K's recommendation. During this period, her annual retirement income was approximately \$16,000. The Enviro-Can investments were presented as guaranteed investments with the option to choose a one- to five-year term at various rates of return.

In February 2013, the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) contacted Sentinel regarding an anonymous tip it had received that Ms. K was depositing money from investors into a personal bank account. Sentinel conducted an investigation and discovered that Ms. K had recommended Enviro-Can to some of her Sentinel clients and it notified the affected clients. On March 4, 2013, Sentinel terminated Ms. K's employment.

On March 12, 2013, the FCAA issued a cease-trade order against Ms. K. On March 26, 2014, the FCAA issued a Statement of Allegations against Ms. K alleging that she sold Enviro-Can off-book and that she knowingly misappropriated investors' funds and deposited them in her personal bank account. A hearing for Ms. K was set for April 6, 2015. The RCMP has also commenced a criminal investigation against Ms. K.

To date, neither the FCAA nor the RCMP have been able to conclude that Enviro-Can was an actual investment. Ms. G has not recovered any money through the FCAA process or the RCMP's criminal investigation. As a result, she has lost her entire investment of \$55,000.

COMPLAINT

- Ms. G requested Sentinel to compensate her \$55,000 for her investment in Enviro-Can plus a reasonable rate of return.

SENTINEL'S RESPONSE

Sentinel responded by letter in September 2013 saying:

- Ms. K engaged in securities related business activities, which was not carried on for the account or through the facilities of Sentinel by selling, recommending or facilitating the sale of securities investments to Ms. G directly;
- Ms. K failed to comply with the policies and procedures of Sentinel by engaging in this type of outside business activity, which was not disclosed to and approved by Sentinel, thereby interfering with its obligation to supervise her;
- Ms. K's conduct was unbecoming of an approved person and she failed to observe high standards of ethics and conduct by engaging in this type of activity; and
- There was no evidence of lack of supervision or omission by Sentinel.

Sentinel did not offer Ms. G any compensation.

OBSI FINDINGS

In light of the criminal proceedings against Ms. K, we did not interview her. However, we did interview Ms. G and had discussions with Sentinel's President, Mr. C.

Sentinel says that selling the Enviro-Can investment was outside Ms. K's scope of authority and not carried on through Sentinel and therefore it should not be held responsible for the losses Ms. G incurred.

At the time of purchasing Enviro-Can, Ms. G had limited investment knowledge and experience. She had known Ms. K for ten years and relied heavily on her for investment advice. There was nothing about the cheques she wrote, the subscription agreements she signed or the account statements she received that caused Ms. G concern or indicated to her that the Enviro-Can investment was not approved by or made through Sentinel. The cheques Ms. G wrote to Ms. K referenced Enviro-Can, Ms. G had signed third-party investment application forms in the past, and when she received an account statement produced by Ms. K it showed her Enviro-Can investment was performing as Ms. K told her it would. We accept that Ms. G reasonably believed that Enviro-Can was an investment made through and approved by Sentinel.

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. Sentinel acknowledges that Ms. K was engaged in securities-related business when she recommended Enviro-Can to Ms. G. Sentinel is responsible, as a member of OBSI, and vicariously as Ms. K's mutual fund dealer for the losses Ms. G incurred on Enviro-Can. We recommended that Sentinel compensate Ms. G \$55,000 for the losses she incurred but it has refused to compensate any amount.