

August 20, 2004

Mr. Trevor Day, Committee Clerk
Standing Committee on Finance and Economics
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2

Re: Submission to the Standing Committee on Finance and Economic Affairs

Dear Committee,

As a media anointed "investor advocate" during my multi-year battle with a bank-owned brokerage through both the regulatory and legal systems, I can attest to the absolute necessity to dramatically amend the status quo in the financial services sector. In recent years, I have worked closely with literally hundreds of investors coast-to-coast in Canada who now have no recourse but to fall back on the public purse for survival in their declining years. Elder abuse has now trumped the abuse of small investors as the cardinal systemic sin in our system! Countless senior citizens (small investors) have been ravaged by those who violate our securities laws, rules and regulations with relative impunity and they all too often find themselves with nowhere to turn for effective redress.

The current regulatory regime resulted from deliberate public policy decisions which saw the delegation of political or governmental responsibility to arms-length entities, both quasi-public and private-sector. This was done to distance the politicians and the political parties from the dirty day-to-day business of cleaning up the mess left by business as usual on Bay Street. Can there be even the remotest lingering doubt that industry self-regulation is simply not working – it cannot work by definition – human nature dictates that fact of life. The record of self-regulation to date speaks eloquently for itself. It has been a disaster for everyone but the “insiders.”

The challenge which confronts us is to develop a viable alternative. Given provincial reluctance to abdicate jurisdiction to the federal government and the fact that the provinces might even go so far as to invoke the "notwithstanding" clause to protect their prerogatives, any attempt to put in place a national mechanism, or anything approaching one, will require great creativity, sensitivity and determination at the most senior levels. An interim strategy that would see Ontario lead by example might be required in the short to medium term.

To do so is not impossible. At issue is whether, we have the will. The means are at hand and are understood. We must introduce radical change sufficient to meet and treat internal problems and to provide comfort to the U.S. and others with multi-national interest in what occurs in Canada.

If the province does not restore accountability, beyond the limited possibilities available through expensive and time-consuming civil action, provincial political independence and economic viability in a multi-lateral context will remain in doubt.

In the United States, legal actions have been started against perpetrators who allegedly violated securities laws and regulations. There have been guilty pleas and sentences applied. There has been nothing of a scale comparable in Ontario. Meanwhile, our top regulators say that things are different here and in fact blame our problems on what happened south of the border.

Revisionist history is no longer the purview of rogue states. We had Bre-X, YBM, Livent, Nortel and other disasters before the Americans ran into trouble, and yet Enron, Tyco and the rest are being blamed publicly (and unchallenged) by the OSC. Some dogs get more than one bite -- Nortel has again adversely affected our markets and our international reputation – while John Roth sits in his mansion and counts other people's money (now his) because of inaction or the lack of appropriate action by the OSC.

Canadian problems are home-grown. When disgraced former senior executives of Nortel were placed on the corporate governance committee of the TSX and the Conservative government of the day bought two-page ads featuring TSX Chair, Barbara Stymiest, to tout investment in Ontario (as a re-election strategy), in light of all that had gone before, something had gone terribly wrong. Ontario Liberals have already suffered a body blow to their credibility over the Budget and Taxation; it would be suicidal for this government to shadow the Tories in a rush to affirmation of the current financial services system and the prevailing regulatory framework.

During the upcoming Review, you will be presented with a number of viable strategies for setting matters to right or to at least make a good beginning. I urge you in the strongest possible terms to draw on the expertise of the presenters and force change upon an industry which seems to have a death wish and may take all of us down with it. Whether what we are seeing is systemic incompetence or corruption – it must be brought to an end. Without action on the political, legal and/or regulatory fronts, this will not happen. The industry will not do the right thing of its own accord – certainly they have shown no interest in doing so – their actions have never mirrored their words.

I congratulate you who find the motivation in the middle of a long, hot summer, when public and media attention is spotty, to try to bring a pressing matter of public interest to the forefront, to show those to whom this Committee will report that the time for action is now. I fear there is not much time left to avert the problems which come with a loss of confidence in the institutions which underpin our democracy and our economy....oil, interest rates, failing pension funds, accounting scandals and terrorism are about to bring matters to a head. It would be nice – if on this occasion – government could be ahead of the curve.

My deepest wish is that your findings – if accurate in their reflection of the sad state of affairs in which small investors (and their advisors) find themselves - will grab the attention of those with ultimate responsibility for the public interest in the financial services sector and that they in turn can be impressed with the necessity to finally act to address the issues which have brought us all so close to the precipice of economic catastrophe in recent years.

If I can assist the Committee in any way, please let me know. The record of the IDA's totally unsatisfactory findings on my complaint are available on their website and the CNW site online – they are in the public domain. My civil action resulted in the standard template confidentiality agreement (gag order) amongst the various parties, but may be accessible to specified agencies under certain conditions. All of the above you would find instructive and, unfortunately, representative of countless similar cases which can be just as easily documented.

Taken en masse, they testify eloquently to the necessity of wholesale change in the regulation of our financial services system in Ontario – while we still have one – and before a third party feels the need to fill the vacuum and do the job for us.

Sincerely,

A handwritten signature in cursive script that reads "James F. Roache, M.B.A.".

James F. Roache, MBA

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