

OSGOODE INVESTOR PROTECTION CLINIC

NEWSLETTER | Fall 2021

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THE PERFECT STORM

The COVID pandemic has fueled an unprecedented increase in investor concerns, say IPC Directors

It's been a record-setting year. In fact, the number of Canadians seeking advice from Osgoode's Investor Protection Clinic more than tripled during the COVID-19 pandemic. Our hardworking team of student caseworkers and supervising lawyers completed 57 intake interviews between May 1, 2020 and April 30, 2021, up from 18 in the same period last year.

As we explain in our [2021 Annual Report](#), the unprecedented increase is the result of a perfect storm of market volatility and pandemic isolation.

There was a dramatic uptick in complaints from people who saw their investments decline and not recover with the market, prompting clients to question whether the investment products and advice were suitable. The cases were often exacerbated by physical distancing and quarantine measures that left investors cut-off from trusted sources and vulnerable to high-risk investment products.

In this issue's "What's trending?" column, you'll read about one of the growing categories of complaint supported by our clinic—affinity fraud—and what we're doing to help prevent it.

We also share the story of Anthony O'Brien, a class actions partner at Siskinds LLP and one of our valued supervising lawyers. Volunteers like Anthony are the lifeblood of the Investor Protection Clinic, helping our students respond to the increasing number of investor concerns.

We're also grateful to our partners, including the Mutual Fund Dealers of Association, which recently made a generous two-year commitment to help us expand our capacity to serve vulnerable investors.

All of this, together with our new class of 13 hardworking student caseworkers, means we've got what it takes to weather the storm and respond to growing demand.

We're open for business and ready to receive your referrals.

Poonam Puri
Academic Director

Brigitte Catellier
Associate Director

FIGHTING FRAUD WITH EDUCATION

The IPC is partnering with the Ontario Securities Commission to slow the rising tide of affinity fraud

When a friend and long-time advisor offered to help Sandra Aurora* manage her investments, she jumped at the opportunity.

“Ms. Aurora and her adviser shared a cultural bond,” says Jin Lee, JD’21, the IPC student caseworker who helped to oversee the file. “This is someone who she welcomed into her home. It didn’t occur to her to be cautious. As a single parent, she felt this was finally her chance to get ahead.”

It wasn’t long, though, before Aurora started to see signs that something wasn’t right — unreturned calls, higher than expected fees and then, suddenly, a \$10,000 withdrawal from her investment account without her knowledge or consent.

Before she knew it, she was the victim of affinity fraud.

“We’ve seen a prevalence of cases involving affinity fraud, often targeting immigrant groups that identify with the fraudster based on a shared ethnicity, culture, language and/or religion,”

says Poonam Puri, academic director of Osgoode’s Investor Protection Clinic. Often, fraudsters will use their affiliation with the victim along with influence tactics to gain the victim’s trust.

“The sad reality is by the time people realize a fraud has occurred, their money is probably long gone,” says Tyler Fleming, director of the Ontario Securities Commission’s (OSC) Investor Office. Many investors reach out to the IPC in the hope of securing monetary compensation, but the rate of recovery is often low.

“Prevention is key,” advises Fleming. In addition to offering educational resources for investors, including [getsmarteraboutmoney.ca](https://www.osgoode.yorku.ca/getsmarteraboutmoney.ca) and [checkbeforeyouinvest.ca](https://www.osgoode.yorku.ca/checkbeforeyouinvest.ca), the OSC hosts seminars on a variety of investment topics, sometimes in partnership with the IPC.



Tyler Fleming

Madeleine Worndl

This fall, IPC student caseworkers Madeleine Worndl and Ishaan Kapur joined OSC staff as co-presenters at a virtual outreach session with the PROBUS Club of Mississauga South. Among many tips for preventing investor fraud, they advised their audience to work with a registered adviser, seek second opinions if they’re unsure and to be wary of promises of high returns with low risk.

“Education is an important pillar of the clinic, not only for preventive measures, but also to let clients know they are not alone. Losing money to fraud isn’t something to be embarrassed or ashamed about. It can happen to anyone and there are ways we can help,” says Worndl.

For Aurora that meant help obtaining compensation from her brokerage firm. The IPC represented her during extensive negotiations and saw to it that she was reimbursed in full.

“I recommend this clinic to anyone needing legal help,” she says.

**not her real name*

To learn more about affinity fraud or book your investor education seminar, contact the IPC at ipc@osgoode.yorku.ca or 416-736-5538

A FEW, QUICK WINS

Class action lawyer Anthony O'Brien enjoys helping clients resolve their complaints in months rather than years

In the world of class action law, resolutions can often take years, so when Anthony O'Brien joined Osgoode's Investor Protection Clinic he was in for a bit of a shock.

"We were able to negotiate resolutions to a couple of files and get money into the pockets of our clients in a matter of months,"

says the class action partner at Siskinds LLP in Toronto. "It was a real juxtaposition to my regular practice."

The opportunity to represent investors who have been wronged but aren't eligible for class action was just one of the reasons O'Brien agreed to volunteer at the clinic beginning in 2017. "The financial services industry is extremely complex and disputes will generally be defended quite vigorously, which means it can be expensive to retain a lawyer," he says. "A lot of people can't afford to take that step but have meritorious complaints."

Osgoode's Investor Protection Clinic is helping to fill that gap with free legal aid for clients in financial need.

In addition to helping deliver successful outcomes, O'Brien enjoys the chance to work closely with the clinic's student caseworkers who he describes as "extremely capable, committed and bright." He sees his role as that of a "mentor" who guides the students through the thinking and practical applications of the law, while giving them the freedom to make their own choices about how to move the file forward.

"This is both a learning experience and an opportunity to help a client," he says.



Anthony O'Brien

And the lessons learned aren't limited to the students either. "I've focused on securities class actions for a large part of my career, but these files are different. I see parts of the financial services industry that I might not otherwise see and I learn new things from every single file and every single client," O'Brien says.

Including what it feels like to deliver a quick win.

To learn how you can support Osgoode's Investor Protection Clinic as a supervising lawyer or donor, contact the clinic at ipc@osgoode.yorku.ca or 416-736-5538

PARTNERS IN INVESTOR PROTECTION

MFDA and IPC engage in a joint effort to support vulnerable investors

The Mutual Fund Dealers Association of Canada (MFDA) has made a two-year financial commitment to help Osgoode's Investor Protection Clinic meet the growing need for free legal services for vulnerable investors who have suffered harm through the mishandling of their investments.

“Osgoode’s IPC is a great organization and a worthwhile cause. Since its inception, the IPC has provided an important public interest function through its focus on protecting investors and, after several years of operation, the MFDA is pleased to help the clinic to expand its capacity,”

says Mark Gordon, MFDA's president and CEO.

The MFDA is the self-regulatory organization (SRO) for Canada's mutual fund dealers and their approximately 80,000 advisers. As an SRO, the MFDA is responsible for regulating the operations, standards of practice and business conduct of its members and their representatives with a view to enhancing investor protection and strengthening public confidence in the Canadian mutual fund industry.

“The MFDA has been supportive of our clinic since the beginning and this latest commitment further strengthens our relationship,” says IPC academic director Poonam Puri. “The funds will allow us to create added value through client support and investor education, while also helping advance our research to inform public policy and practice in investor protection. We couldn't do this without the support of the legal community.”



Mark Gordon

Demand for the IPC's services tripled during the COVID-19 pandemic. Despite the rapid growth, the IPC continues to offer intake interviews to every complainant, although not every file is selected for representation.

In addition to the MFDA, Osgoode's Investor Protection Clinic is supported by the Law Foundation of Ontario, the Investment Industry Regulatory Organization of Canada, Osgoode Hall Law School and York University.

To explore a partnership with Osgoode's Investment Protection Clinic, contact the clinic at ipc@osgoode.yorku.ca or 416-736-5538

RAISING THE BAR

IPC's student caseworkers continue to exceed expectations

Welcoming Osgoode's newest student caseworkers

After a year of unprecedented demand, Osgoode's Investor Protection Clinic is strengthening its capacity to respond with a team of 13 student caseworkers.

The Osgoode JD and JD/MBA students will be on the clinic's front lines in 2021-2022, helping to support investors through legal aid and education. Four of the students bring valuable experience to the role, having worked for the clinic throughout the summer.

"Over the summer, I was a part of more than 10 intake interviews, which gave me great experience in interacting with clients and moving their case along," says Osgoode JD candidate Rhea Thakore. Under the guidance of the clinic's supervising lawyers, Thakore drafted complaints for submission to small claims court and the Ombudsman for Banking Services and Investments (OBSI), and helped several clients seek justice through the internal review process at their investment firms.

"I will be taking these experiences into the clinic this fall and am happy to be running presentations to teach the new IPC caseworkers what I've learned."

Welcome to our 2021-22 caseworkers

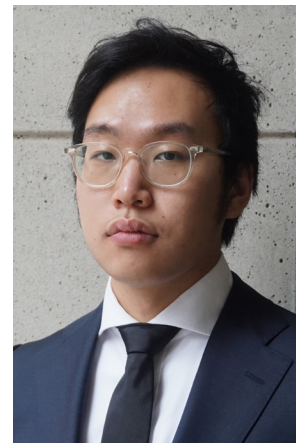
| | |
|--------------------|------------------------|
| Mo Bakri | Jaylene Olson |
| Erin Bertens | Brandon Orr |
| Cristian Delfino | Karen Randhawa* |
| Mitchell Hamilton* | Rhea Thakore* |
| Ishaan Kapur | Madeleine Worndl* |
| Vivian Lao | Joanna Emily Zbroinski |
| Angeli Li | |

**Also 2021 summer caseworkers*

Jin Lee receives first Bennett Jones Prize

The summer students also received a helping hand from an award-winning former student caseworker.

Jin Lee, JD'21, is the inaugural recipient of the *Bennett Jones Investor Protection Clinic Prize*, created by the law firm earlier this year to recognize outstanding leadership and contributions to the Investor Protection Clinic.



Jin Lee

"I'm quite grateful to Bennett Jones and its lawyers not only for this award, but also for spreading an important message," says the new Osgoode graduate and articling student at DMC LLP. He sees the Bennett Jones award as a catalyst for "future generations to be mindful about the kind of lawyers they want to be and excited about serving their community."

Lee took his first step to paying it forward this summer when he coached the 2021 summer caseworkers on what to expect from their new roles.

"It reminded me of how much I love this work and the idea of giving back."

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