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YOUR SUPERANNUATION FUND - PROTECTING AGAINST LOSSES

From the late 1990's through to 2005 we were engaged in a large number of compensation claims on behalf of elderly superannuants who had lost significant sums of money through mismanagement of their superannuation funds. In those cases, the allegation centred on one investment advisor in the ACT who exploited the apathy and ignorance of his clients and traded their shareholdings heavily in options and other derivatives. In those years we enjoyed a 'bull' market and aggressive trading often led to significant profits but when the tide turned there were significant losses. Many of our clients lost everything. We were able to recover a substantial portion of their losses through proceedings brought in the ACT Supreme Court which were eventually settled at a series of mediation and settlement conferences.

Since the most recent GFC, other clients have consulted us about losses suffered by their superannuation fund. Of course the ordinary market forces causing fluctuations in the stock market cannot be the responsibility of investment advisors, however in each case we have examined the manner in which clients are advised and the instructions they gave their investment advisors. These circumstances may give rise to an entitlement to recover.

One significant case we resolved last month concerned once again the aberrant option trading of one broker. The main allegation of negligence was the total absence of communication or authority to engage in high risk trading practices. Our client therefore sought recovery of his losses. The proceedings took significantly longer on

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this occasion because of the involvement of a number of parties, however in the final outcome a settlement was reached at a formal mediation process.

The experience we have developed in these cases highlights a number of important yet simple lessons that can be applied by all clients involved in investment strategies whether they be associated with self-funded superannuation funds or stock portfolios operating outside superannuation funds:

1. Read the material provided by your investment advisor. The relevant legislation requires investment advisors to supply substantial information under the general heading 'Know Your Client' category and invites you to fill out information so that a risk profile can be assessed.
2. Be careful what you sign. Make sure the document you are asked to sign contains information that you are happy with. If the investment advisor says "I'll fill in the details later" – be aware that you are putting your life's savings on the line.
3. If your advisor introduces the topic of options or other derivative trading, be alert. These are high risk practices which entail a whole new paradigm of opportunities and risks. Understand what you are getting yourself into. If you are not comfortable with the proposed strategy, say 'No'.
4. Keep every piece of paper sent to you by your broker. Don't throw away anything. It may be necessary to retrace and recreate the history of transactions if things go wrong.
5. Spend time obtaining independent accounting advice or legal advice. Every professional has his own area of expertise and for example, an investment advisor may not understand the full implications of a certain strategy on your taxation arrangements. Similarly, the legal consequences of signing a certain document may warrant a meeting with your lawyer.
6. If you are averse to any risk at all, then say so. There are investment strategies which will provide no risk and will protect your capital albeit with lower returns.

When in doubt, ask again and keep asking until you are satisfied with the answer. If you require any assistance, please call Bill Andrews, Snedden Hall & Gallop on 6285 8087