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**THE THIN LINE BETWEEN STOCKMARKET LOSS AND PERSONAL DAMAGE**

**- New wave of investment advisor litigation ramps up -**

(TORONTO – JULY 17, 2009) – As the shock from the 2008 market plunge begins to calm, and people find the courage to look at their brokerage statements, a new wave of litigation against investment advisors is brewing.

According to the Investment Industry Regulatory Organization of Canada (IIROC), complaints filed this year with brokerage firms are up 35 per cent, and up 90 per cent since 2007.

Peter Weinstein, a partner with Stern Cohen LLP, is one of the rare professionals in Toronto who is both an Investigative and Forensic Accountant (IFA) and a Chartered Business Valuator (CBV). Over the past five years, he has been called in by both defendant and plaintiff lawyers to quantify potential investor damages in close to 30 situations involving investment advisor litigation.

“I expect most of the cases filed will be from people who are nearing retirement or recently retired,” said Weinstein. “They were at, or near, the peak of their savings and with a limited investment horizon will have difficulty recovering these losses. I recently had a client who, retired and then needed to go back to work.”

Weinstein recommends lawyers suggest to their clients that they identify the following before embarking on what can be a financially arduous litigation process:

**What was put into the account to date?:** Were the gains on paper or actual capital? Often, one of the big challenges is looking at what an investor put in and what they took out. “If a stock had significant appreciation, the loss should be looked at in relation to the funds invested, rather than only from its peak value,” said Weinstein.

**Determine what the money should have grown to:** Identify what the investment income or losses should have been if the capital was invested appropriately in equity, bonds or a combination of the two. “Often, it is more complicated with portfolios containing a mix of the two, as well as a combination of Canadian, U.S. and international investments,” said Weinstein. “This is also when issues start to arise about whether or not a portfolio was

sufficiently diversified.” He suggests comparing what would have been made with relevant indexes to see if the portfolio under or over performed. He cautions people, however, to carefully consider which index is relevant to avoid another common disagreement.

**Think about management fees and expenses:** These are necessary expenses and should be tallied and deducted from what would have been earned .

**Remember what was taken out:** “I have had cases where people remember what they put in, but forgot when they took out \$10,000 here and \$20,000 there,” said Weinstein. “Also, think about when you took it out. If it was three years ago, you may not have earned the returns you think.”

Stern Cohen LLP was founded in 1963 and is now among the top 50 accounting firms in Canada serving clients in the Greater Toronto Area and beyond. Clients range from multi-million dollar owner-managed corporations to sole proprietorships in industry, finance, culture as well as the professions.

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