



LEGISLATURES MUST ACT IN WAKE OF SUPREME COURT DECISION

Healthy and transparent capital markets need clear rules for shareholder remedy

Vancouver, BC (December 4, 2015) – The Supreme Court of Canada’s decision today in the case of *CIBC v. Green* underscores the importance of legislative action across Canada to ensure that shareholders have a clearly articulated process and timeline for seeking a remedy from the courts when public companies make misrepresentations.

The procedural matter before the Supreme Court related to whether investors had missed the deadline to obtain leave to proceed with a statutory claim for misrepresentation under the Ontario Securities Act. CIBC argued that under the Act, investors must obtain leave to proceed with an action for misrepresentation within 3 years of the misrepresentation having taken place.

The Shareholder Association for Research & Education (SHARE) intervened at the Supreme Court to argue that investors should not be prevented from advancing their claims because of procedural difficulties related to the three-year time limit within which they were required to obtain leave to pursue legal action. Many factors outside of their control (such as overburdened courts) can make obtaining a timely determination in such a case impossible, even when investors had filed the documentation necessary to seek leave.

The Ontario legislature has already acted in advance of this ruling to stop the running of the limitation period once investors file their motion for leave. Today’s Supreme Court decision points directly to the need for legislative reform in other jurisdictions to level the playing field across Canada.

“Investors’ ability to seek a remedy for public company misrepresentations is critical to healthy and transparent capital markets” said Peter Chapman, SHARE Executive Director. “Investors, including our clients, depend on accurate disclosure from companies and a blatant failure to provide accurate information to investors must be actionable. That’s why we intervened in this case. Ontario has taken the first step; we’d like other jurisdictions to follow their lead.”

“While the court made it clear today that judges have discretion to extend the limitation period where the court’s process and other factors delay the determination of leave, investors cannot be assured that their rights are protected if factors beyond their control delay the process. We need other provinces to enact legislation clarifying that investors will have access to justice even if the court process is delayed due to factors beyond their control. The conflicted nature of this decision underlines the importance of the need for clarity,” said Bonnie Roberts Jones of Groia & Company, who acted for SHARE at the Supreme Court of Canada.

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SHARE (Shareholder Association for Research and Education) is a leader in responsible investment services for Canadian institutional investors. SHARE coordinates and implements responsible investment practices on behalf of institutional investors. Created as a not-for-profit organization in 2000, SHARE has carried out this mandate by providing responsible investment services, including proxy voting and engagement services, as well as education, policy advocacy, and practical research on emerging responsible investment issues. www.share.ca

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