

Lawyer appointed to negotiate settlement for Pace clients

JAMES BRADSHAW BANKING REPORTER

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Exteriors of the PACE Savings & Credit Union branch at 550 Matheson Blvd West in Mississauga, Ont. are photographed on Mar 12 2019.

FRED LUM/THE GLOBE AND MAIL

PACE Savings & Credit Union Ltd. is attempting to negotiate a settlement with investors who claim they were misled about the riskiness of \$46-million in investment products that suffered steep losses and which were sold through a subsidiary of the credit union.

A court order issued last week gives PACE – a Vaughan, Ont.-based credit union with 40,000 members and nearly \$1.2-billion in assets – until Oct. 15 to reach a settlement to compensate investors. Until then, any other potential litigation is on hold, giving the credit union an opportunity to avoid a protracted and legal battle.

The Ontario Superior Court appointed Paliare Roland Rosenberg Rothstein LLP, a law firm with experience in class-action lawsuits and commercial litigation, to represent investors. Those investors bought preferred shares in two companies promoted by investment advisers at Pace Securities Corp., an investment dealer

that was owned by the credit union but operated separately and is now being wound up.

For most of the past two years, PACE has been ensnared in a separate legal battle between its former senior executives and a provincial regulator over allegations of fraud and self-dealing at the credit union.

Barbara Dirks, who was named PACE's new chief executive in April, said it is too soon to say how the credit union would fund a settlement with investors, or what role insurers, regulators or former officers might play. John Roberts, a partner at Gardiner Roberts LLP, will represent PACE in the settlement talks.

"From a member's perspective, obviously something that comes together more quickly, that puts dollars and cash back in people's pockets ... is preferable," Ms. Dirks said. "We're going to give it our all to make it happen."

The investments at issue were in Pace Financial Ltd. and First Hamilton Holdings Inc., a pair of investment vehicles run by Joseph Thomson, the CEO of Pace Securities. Advisers sold preferred shares – a type of investment that has characteristics of both stocks and bonds – in those companies that paid generous dividends of up to 7 per cent annually to retail investors, some of whom were retirees and also members of PACE Credit Union. Mr. Thomson's team borrowed against the proceeds from the share sales to invest in high-yield corporate bonds, which plunged in value after the onset of the coronavirus pandemic.

Several investors who have spoken to The Globe and Mail say they were looking for a low-risk way to earn interest on savings when advisers recommended the preferred shares to them, and never understood the true risk. While independent reports commissioned by Pace Securities classified the shares as medium-risk products, the Investment Industry Regulatory Organization of Canada (IIROC) describes them as "high-risk" in a continuing disciplinary action against Mr. Thomson and another former Pace Securities executive.

Liquidators are still working to value those shares, but some lost up to 92 per cent of their value, according to IIROC. Some individual investors put hundreds of thousands of dollars each from savings, inheritances or retirement funds into the products.

Max Starnino, a partner at Paliare Roland, said he is "encouraged" by PACE's efforts to fund a settlement. "We hope that they will come through with a proposal that addresses the very real needs of this vulnerable group of investors, many of whom we understand to be well past retirement age and therefore unable to make up for their losses," he said.

In June, PACE Credit Union launched its own investigation into whether the preferred shares were improperly sold, which is being led by Garth Foster, a partner at Fasken Martineau DuMoulin LLP. The results of that probe will inform the settlement negotiations, Ms. Dirks said. “We want to put our members first. We don’t just want to chatter and do reports and review. We want to take action,” she said.