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## Ponzi Canadian-style?

**A pair of alleged frauds – in Alberta and Quebec – evoke once again the legacy of Charles Ponzi who, by the way, honed his skills in Montreal**

"When they say it's not a violent crime, ah, bulls---" says financial investigator

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**JENNIFER WELLS**  
FEATURE WRITER

MONTREAL—Donalyn Marpole – Donnie to her friends – is just days from celebrating her 50th wedding anniversary, one of those signal moments in a union that has resisted fissures and frailties, an alliance to be celebrated by friends and family.

Life at its zenith, you might say, accessorized by an elegant and warm home in the Town of Mount Royal, occupied by Donnie and her husband Derek for 40 years.

Such domestic contentment. You'd never guess that a guy named Earl Jones blew through here with some regularity, with that wide, Cheshire cat grin of his, offering promises and reassurances. Such a nice man. Until every penny of the Marpoles' hard-earned savings disappeared.

But that's jumping ahead a scene or two.

Through the doorway from the dining room, you can see the heart of the home, the kitchen in which Donnie makes the tourtière for Christmas Eve dinners – her mother's recipe, with grated potato as the key trick ingredient. "It keeps it nice and moist," Donnie confides. "Christmas Eve at the Marpoles' " has for decades been one of those must-attend seasonal excitements. Eighty-seven people in '87!

In the dining room itself, Derek Marpole is seated at the family table across from his wife. A cardiologist, Derek is now a trim 72. Having "retired" three years ago, Derek had kept his hand in, working one day a week, for which the Marpoles today thank their lucky stars. "I was very lucky that I hadn't let it go," Derek says of his licence. "We would have been out of here by now I guess."

Together the Marpoles recall an early summer's day. June 15, to be precise. Sharp on the nose of 11 o'clock, Earl Jones parked his steel grey Series 3 BMW across the foot of the driveway – he had never done that before, the Marpoles noted, as if the financial adviser were planning a quick getaway – and assumed his usual place in the chair in which Donnie Marpole, an attractive woman in a periwinkle blue cardigan, now sits. The Marpoles' financial adviser had with him the yellow foolscap sheets he always carried and upon which he would vigorously scribble figure upon figure with dates and underlinings – notes of comfort in monetary terms from a man who seemed not exactly up with the times. He carried no BlackBerry; worked no spreadsheets; is said to have had



GRAHAM HUGHES/THE CANADIAN PRESS

Earl Jones, right, accompanied by his lawyer Jeffrey Boro, left, is taken into police custody in Montreal, July 27, 2009.

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a phobia about computers.

No matter. After 30 years of entrusting Jones with their financial affairs, after 30 years of shovelling every spare penny Jones's way, the Marpoles had built, or so they thought, well in excess of \$1 million in "bank accounts," which sat atop a couple of insurance policies, the house, a cottage and separate sums set aside to cover trips and such family contingencies as birthday monies for the grandchildren. Set for life, in other words.

In retirement the couple drew \$5,000 monthly and had considered increasing that sum. "Well there's \$2,000 or \$3,000 you're not using. We can put that in," Jones said reassuringly, a moment the Marpoles retrospectively observe with great irony. The money man had been hard to reach of late, and Derek had pretty well blown a gasket when his request for a specific sum to clear a credit card bill had not been sent. At the time of the meeting Jones seemed fatigued. He said he had been travelling a great deal, putting out unspecified fires with unnamed clients. He kept brushing aside the lock of hair that persisted in falling into his eyes.

These are the fine details the Marpoles remember.

That, and the fact that three weeks after that meeting they called a financial adviser at investment firm MacDougall, MacDougall & MacTier. "We called him and said we were unhappy and that we were wanting to change," Derek recalls. "He said, well, I've just seen on Facebook Earl Jones is AWOL."

The million-dollars-plus? Vanished.

After 50 years of marriage and 40 years in the pretty home with the blue toile wallpaper, the Marpoles' current strategy is, says Derek, "to save the home." Later on this day they will meet with a notary whose purpose is to check the deeds on the house and so on. "They were requesting our marital status," says Donnie, sounding stricken. With nothing to rely on in cash terms but their government pensions, the Marpoles need to arrange a home equity line of credit. "We were absolutely wiped out," Donnie says, the welling of tears accompanying the memory of taking sums of money left to her by her parents and passing them directly to Jones.

Earl Jones was arrested July 27, charged with four counts of fraud and four counts of theft, freed on bail, and is due to make his next court appearance on the 28th of this month. His lawyer, Jeffrey Boro, says that won't happen. "Disclosure is far from being complete," says Boro, who will ask for a postponement. His client has entered no plea. Nor has he given any comments to the media. "He's in survival mode for the time being," says Boro. "He's taking his life one day at a time."

Tomorrow, RSM Richter Inc., the Montreal receiver handling the Earl Jones insolvency, will interview Jones's three office assistants, to be followed in two weeks by Jones's wife, Maxine. Jones's own date with Richter has not yet been determined.

Derek Marpole has gone back to work as full-time as he can, splitting his time between clinics. "You know those bicycle generators that you use to run your TV? As long as I can work we can save the home, but when I stop bicycling the lights go out."

**THERE'S A PONZI SCHEME** born every minute, and, unlike the Jones affair, they usually go something like this.

Cindy Schug had never heard the term Ponzi back in December 1999, when a former Nortel co-worker suggested she attend an information session for an irresistible investment that Schug admits she really didn't understand very well.

She describes a meeting in downtown Calgary for a company called Capital Alternatives Inc., which was in effect a selling agent for a buffet of investments, including something called "Syndicated Gold Depository S. A.," which listed an office address in the Bahamas and which, Schug understood, was financing Merendon Mining Corp., a gold and silver mine in Honduras.

"They had bags of gold, silver. ... They were showing the potential, the wealth, the returns or whatever, passing them around in little Ziploc bags. ... They said they were using the funds to make your income grow by using the money to run this mine in Honduras." She remembers there was a glossy and professional-looking investment booklet. "When you're looking at all the fancy paperwork, everything's looking so cool and interesting."

Schug – single, never married, no kids – imagined a retirement kicking around Alberta farm country and the promised returns of 3 per cent *a month* would expedite that.

According to Schug's first investment statement, she had an opening balance in January 2000, of \$42,322.15 in Syndicated Gold, though Schug says her actual deposit was the \$80,000 home equity line of credit she took out against her Calgary home. She later added retirement funds from Nortel worth about \$50,000 (she was laid off in 2002) plus a further \$25,000 from Nortel stock for a total investment of \$155,000.

In November 2002, Schug's stated balance of \$174,626.32 was transferred to Freedom International Investments Inc., with a corporate address in Montenegro. "FII's mission is about the 'freedom,' the freedom to choose who we are and what we wish to become," said the company's welcoming letter to Schug. "We have chosen to support financial freedom to create safe and secure investments as well as creating Ascension centers supporting the awakening of the people and the planet."

As if channelling John le Carré, Schug attempts to recall the highlights of why she was unable to get her money back. "They said the money was being held in trust by Lloyd's of London because of the American government investigating overseas terrorism. ... They said the money was being moved to Belize, then the Belize government was tying things up too," and something about "the government in Montenegro being beaten up and thrown in a bag and put on a plane never to return."

After repeated attempts to extract her investment, Cindy Schug was told by her former co-worker that the money was gone. Schug is 49. "Basically I have nothing for my future. ... I have nothing saved."

Last Sunday, Calgary RCMP laid fraud charges against Milowe Brost and business partner Gary Sorenson alleging a "Ponzi-like scheme" run through a number of phony companies. Brost and Sorenson are both well-known to the Alberta Securities Commission. A summary list of enforcement actions taken by the commission begins in July 1998. In July 2007, Brost was banned from the Alberta market for life and handed a \$650,000 administrative penalty. "At heart, this was a deception," wrote the commission, detailing Brost's role as CEO of Capital Alternatives through which money was funnelled to various offshore ventures. "We consider that Alberta investors and the Alberta capital market are at risk if there's any prospect of Brost regaining access to the capital market."

Jim Patterson, who heads the fraud group at law firm Bennett Jones in Toronto, said the RCMP's charges against Brost, which put the value of the alleged fraud at a minimum of \$100 million and as high as \$400 million, is the largest he's seen. Bennett Jones is handling two class action lawsuits on behalf of aggrieved investors.

Classically, says Patterson, a Ponzi scheme promises fantastic returns, often on an investment pitched as esoteric, or rare. (Patterson recalls one scam involving the shortage of glycol, an ingredient in antifreeze.) Typically, "lulling payments" are issued early on to investors. "The investor cashes that check. It's real money. He can't believe it," says Patterson. "The investor brings in his mother, his brother."

The scam goes viral. "The exponential growth is quite remarkable." Patterson continues. "You invest and you tell two friends and they tell two friends. ... It just never ceases to amaze me."

Of course, there is no investment. Funds from new investors are used to pay existing investors and so it goes until the merry-go-round stops.

Charles Ponzi himself, who was trained in the art of fraud and legerdemain in Montreal 90 years ago, found his own trick in International Reply Coupons, used as international postage exchange and redeemable for postage stamps. Ponzi offered fantastic rates of return. "Double the money within three months," was one Ponzi-pumping headline that ran on a front-page story in the *Boston Post* in July 1920.

Given the long, arduous process of today's investigations it's worth noting the brevity of Ponzi's reign. Before July was out, the *Post*, which would win a Pulitzer Prize for its Ponzi coverage, was warning that the get-rich-quick scheme could not last. "Governments are not going to allow themselves to be mulcted (swindled) on this scale indefinitely, and it must only be a question of a few weeks before the golden goose is cooked," ran an editorial.

By mid-August Ponzi was under arrest. As a resident of the county jail in Plymouth, Mass., he wrote notes on personalized stationery engraved, simply, "Charles Ponzi, Plymouth, Mass."

**JOEY DAVIS BELIEVES** this time is different. And it can't hurt that the Milowe Brost charges have come roaring into the news like a freight train just as Davis's fight to amend sentencing guidelines for white-collar crime is gaining traction.

Last Tuesday, Davis, an earnest man unused to the limelight, took his place alongside federal Justice Minister Rob Nicholson as Nicholson announced new legislation, which, the minister said, the government intends to introduce this fall: mandatory prison sentences for those who commit "serious fraud" being key.

I met with Davis just after Labour Day at the Au Pain Doré on rue Monkland in Montreal. Davis's mother, Margaret, is among the more than 170 who entrusted their financial affairs to Earl Jones, many of them having met the financial adviser decades ago at one of the many Women in Finance courses that would feature Jones as a guest speaker. Across the café table sits Kevin Curran, whose mother, Karlene Kennedy, is also a member of the victims group. A group of offspring, including Davis and Curran and Ginny Nelles, was suddenly forged by the crisis, and they have committed a stunning amount of time both to helping the victims in practical ways – negotiating breathing room on mortgage payments, for example – and to making the Earl Jones story the cause for change.

Gilles Robillard, who is handling the Jones insolvency for RSM Richter, and thus is the man on the hunt for documents and bank accounts and phantom assets, has handled numerous high-profile fraud cases. "This is the first time of any bankruptcy file or any type of file that I've done that I've seen such a committed group," he says.

Committed. Organized. And angry.

"We were sitting at this table when Jack Layton called," remembers Davis, leaning into the reporter's microphone to ensure his voice comes through clearly. "He said, 'Come to Ottawa. We want to meet with you.' "

This would have been at the beginning of the development of what Davis calls "the whole political angle." After Layton came Prime Minister Stephen Harper, and after Harper came Quebec Premier Jean Charest, and after Charest came Bloc Leader Gilles Duceppe, then Nicholson, Finance Minister Jim Flaherty, then Nicholson again. The list is actually longer than that. It was a good summer for sound bites and photo ops. "We're calling ourselves the Canadian Coalition Against White Collar Crime," says Davis.

It's quite a crew. Curran, the laid-back California man in fisherman's sandals and linen pants who has something to do with Disney ("I have a year. I can do this. I don't have any kids. I don't have any ties."); Davis, who has the appearance of perpetually preparing himself for his first day of school; and Nelles, an effervescent mother of two who can recall many family holidays shared with Earl Jones and his wife, Maxine, at Goose Rocks Beach in Kennebunkport, Me.

Ginny's father, Talbot, worked in estates at Montreal Trust. "Firm, fair, diplomatic," that was

Talbot's motto. He mentored Earl Jones, who launched his career at Montreal Trust before striking out on his own in 1979 or so. "There was always something about Earl," says Ginny. "Dynamic. Charming. Fun." She describes Maxine as quieter, more reserved. Ginny used to play Barbies with the two Jones girls.

Talbot Nelles died in May 2004. Jones approached Ginny and her brother, Don, at the funeral. "The Nelles's have done so much for my family. I'd like to help you now," he said with such sincerity. Lickety-split the estates of Ginny's father and grandfather, worth well over \$1 million, were being managed by Jones. Ginny recalls that the chartered bank that had been managing the estates had been earning a paltry 1 to 2 per cent – "And that was when the market was flying" – and the estate management costs were high. It seemed smart to make a move.

There are a number of shared characteristics among the Jones victims. Ginny's mother, Wendy, was encouraged to refinance her home to free up capital for investment. The pitch: you have an asset, why not have it make money for you? Wendy Nelles's home, valued at \$410,000, carries a \$325,000 mortgage today. "She has no money, not a single penny, and a mortgage of \$325,000 to pay off," says Ginny. Gilles Robillard believes that the mortgage idea came relatively recently, as Jones found it increasingly difficult to draw in new investors. "He was getting people to mortgage at four (per cent) and paying them eight," says Robillard. As the lulling payments arrived month after month on those investments, there seemed no cause for alarm.

What were the warning signs anyway?

Mary Coughlan, a fiercely sharp and athletic-looking 77-year-old with tanned, freckled skin, cropped copper hair and a keen interest in tennis star Rafael Nadal, says as far as she was concerned there were none. "There was an article in the paper about what you should look for in a financial adviser. One of the things it said was to check on his lifestyle. Well, how would I know? He comes into my apartment looking like anybody."

Coughlan, who, like so many others, attended one of those women in finance seminars, started investing with Jones sometime after her husband died in 1979. She thinks it may have been 1984 or so. She had a house, then, in Stowe, Vt., which she sold for \$150,000. The cheque went to Jones. When her Montreal house was sold, the proceeds went to Jones to be managed, as all the investments were, through the Earl Jones in Trust account. She recalls the house sold for \$525,000 in the fall of '03, though the day before our meeting she had been informed by the notary handling the sale that there were two \$100,000 mortgages on the property, bearing her signature. "I don't remember why I did this," she says. "The police keep saying, 'Don't you remember, why can't you remember?'"

She estimates her total loss as something on the order of \$1 million. "The thing I told him when I first started with him was that I had two goals," she recalls of her instructions to Jones. "One is to maintain my capital and the other is never to be dependent on my children." She cries when talking about how nurturing her four children are, upon whom she must now financially rely.

Many of Jones's clients were advised to extend mortgage loans to other Jones clients, which is how I come to meet a woman we will call Janine. A resident of a small Ontario town, Janine has asked that her identity be withheld because no one in town knows of her predicament and the *Toronto Star* is widely read in her community.

The one-bedroom home is summery, pretty and extremely modest, with matching floral valances running across every window and door. Digging deep into fat files that she has accumulated over the years, Janine is still trying to reconcile what happened to her investment portfolio, managed by Jones. One investment, \$30,000, was advanced as a mortgage to a "Dr. D. Marpole," upon which she would earn 14 per cent per annum, later amended to 13 per cent. Among Janine's paperwork there is a notation in her own handwriting: "Is there a better way to invest \$30,000 other than private mortgage lending which is only making 13 per cent?"

Through all the years when the Marpoles were, they believed, maxing out their RRSPs, sending thousands, annually, to Jones, they never took out a mortgage with Janine. There's lots of that in

the Jones saga.

On July 10, Janine's bank notified her of a bounced cheque for \$300, the monthly stipend she drew from her account with Jones. Her local bank teller called the Bank of Montreal in Pointe Claire upon which the cheque had been drawn. "He's cleared out the account, there's nothing left," the teller told Janine. "Whenever I had money I would put it aside with Earl," Janine says. "It's totally devastating."

She kept a phone recording of Earl's voice, left when she was trying to hunt him down earlier in the summer, demanding an explanation as to what was happening. She resaves it every couple of days. "Hi (Janine), it's Earl in Acapulco, Mexico, sipping tequila," comes the coughing voice. "We've got a problem at the office with a client suing a brother and sister and of course I oversee the account so they brought me in and the guy is absolutely berserk. He's harassed and just about physically attacked Maxine, destroyed our front door and put all – terrible sayings on it. Anyway, I won't bore you. As a result, of course, all our commercial accounts and trust accounts have a 24-hour hold until both lawyers work something out."

That's the last Janine heard from Earl Jones.

Ginny Nelles was in New York City with her daughters when she heard the news of Jones's disappearance. It was Thursday, July 9. "I was in Central Park with the girls. My brother phoned. It was one of those gorgeous days I'll never forget. The sun's coming down. Four o'clock in the afternoon. I'm pushing the girls on the swing. Everything is in slow motion."

**GILLES ROBILLARD** says he should, very soon, take receipt of the final boxes of Earl Jones documents. At the time of his first creditors' report, he noted that eight years of bank statements were missing. Much of that has since been unearthed. There have been no surprises.

ATM withdrawals, cash transfers, payments to Maxine, cars and furniture. The tally on the personal draws will likely exceed \$20 million. About 160 victims have filed claims totalling \$74.5 million. Mortgages on the condo in Dorval, from which Jones was evicted last week, and the homes in Boca Raton, Fla., and Mont Tremblant approach \$1 million, deflating any hopes of significant returns. Offshore accounts? "We haven't found anything, anywhere," he says, though a bank in Boca has been uncooperative about sharing information.

Robillard says the questionable dealings are evident as far back as the early '80s. "It was just a Ponzi scheme," he says. "The money keeps growing and the wheel keeps turning." Until it doesn't.

It's been wrenching to hear the calls from victims asking how one files for personal bankruptcy. "They shouldn't be put in front of that in their old age," he says. "When they say it's not a violent crime, ah, bulls---, it's a very violent crime."

So many victims. Trudy, who wafts into the West Island Community Resource Centre on a cloud of baby powder with her eyebrows perfectly sketched upon her face. Women here, some of whom have had to rely on food stamps to get by, would rather stay out of the media.

If nothing else, the victims I met with seem pleased that their plight has become a catalyst for action. They don't know the ins and outs of what that action should be. Stephen Griggs, executive director of the Canadian Coalition for Good Governance, says the issue of how harshly people should be treated after they are convicted is one thing. "The reality is, very few people are actually investigated and if they are investigated and found to have done something wrong, it's often the case that the prosecution, the crown attorneys, are not interested in pursuing those cases aggressively. ... The problem we have is the criminal justice system has not been dealing with white dollar crime in a meaningful way in many, many years."

Griggs has a list of issues, starting with the training of police officers to deal with complex accounting issues. "Our perspective is that the investigation side is woefully under-resourced both in terms of expertise and money." The coalition has been pushing for an agency – Griggs says the Canada Revenue Agency is a good model to look to – that would focus on investigating and

prosecuting white-collar crime. (Karlene Kennedy recalls the day a member of the Sûreté du Québec came to her home to interview her about her lost investments. "Is this your normal job?" she wanted to know. To which came the reply, "No, madam. I work with the Hell's Angels.")

As to sentencing, Griggs wants to know: "Why is it that just because some kid who didn't have a hope in hell ended up in a life of crime – why is he being treated differently from someone who went to a fancy school and has an MBA and steals your money? It doesn't seem logical to me."

**THE THING** of it is, Donnie and Derek Marpole weren't looking for any get-rich-quick schemes. They are not flashy people. They are savers. They worked hard. They wanted to sleep at night. Simple stuff.

Derek seems fastidious. "If our pension cheques would sit there for a few days Derek would say, 'Get those to Earl Jones,' " Donnie remembers.

Chloe the shelter dog – part boxer, part something else – is splayed out on the living room settee. Birds are, literally, singing. This was to be it, the apogee, life's great moment.

It's Donnie who tartly targets the former charmer known as Earl Jones. "We knew nothing about what a bastard he is."