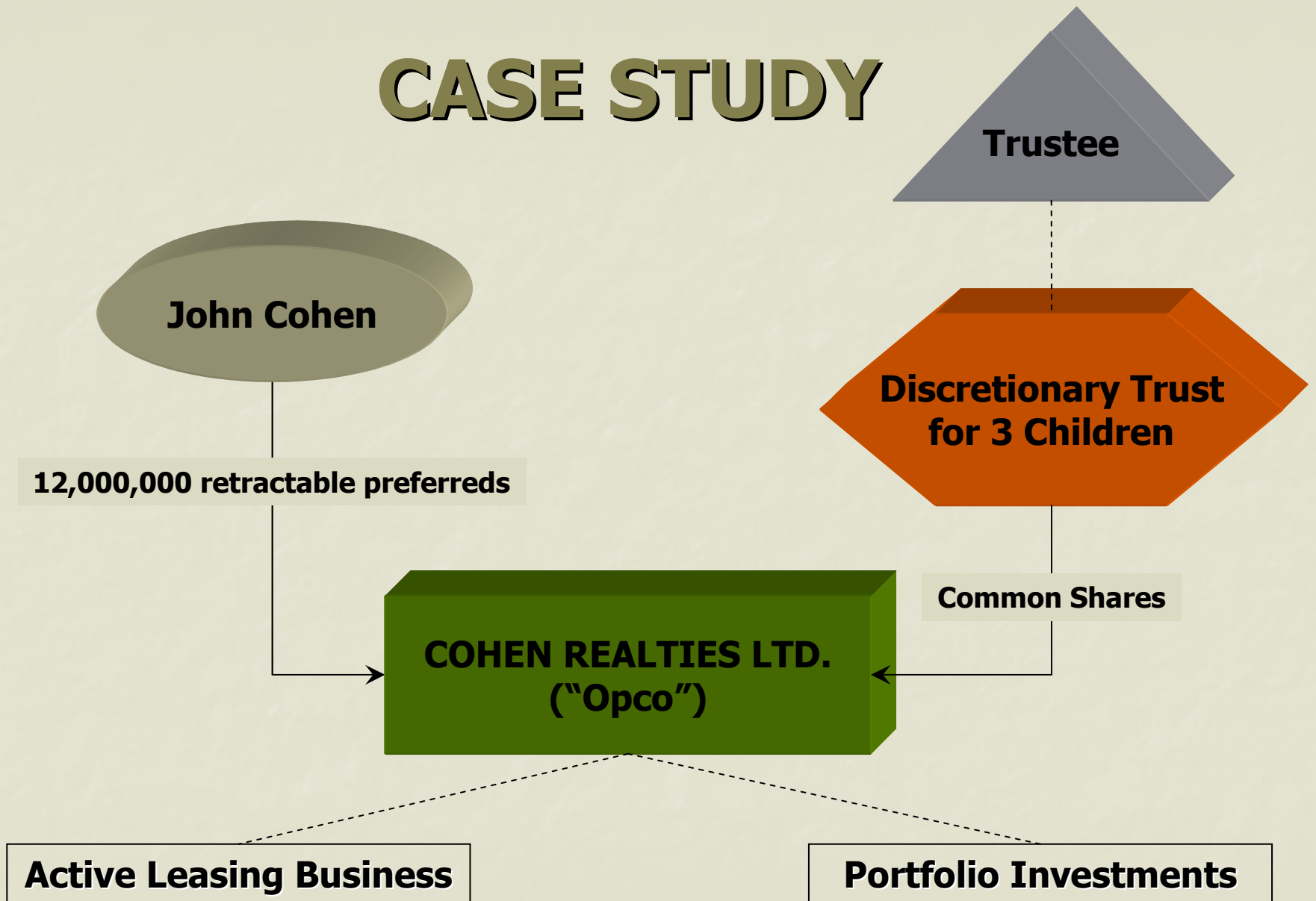


CASE STUDY



VALUATION ISSUES RELATE TO:

- **Retractable preferred shares of Opco**
 - **Valuation**
- **Common shares of Opco**
 - **Valuation**
- **Opco's portfolio investments**
 - **Discount**
- **Embedded taxes on accrued gains on portfolio investments**
- **Discretionary trust (which holds Opco common shares for John's 3 children)**
- **FMV: Canada vs U.S.**

VALUATION OF RETRACTABLE PREFERRED SHARES ("FREEZE SHARES")

SOME CONSIDERATIONS

- **Share rights and conditions (voting, dividends, etc.)**
- **Financial ability of Opco to redeem shares upon retraction request by holder**
- **FMV at transaction date might not be equal to FMV at issue date**

VALUATION OF RETRACTABLE PREFERRED SHARES ("FREEZE SHARES")

SOME CONSIDERATIONS (CONT'D)

- **Will retraction subject holder to personal tax on deemed dividend under subsection 84(3)?**
- **Shares were issued by Opco one year ago, rather than by newly-incorporated holding company (shell)**

RETRACTABLE PREFERRED SHARES

ITAK INTERNATIONAL CORP. v. CPI PLASTICS GROUP LTD.
2006 CanLII 22117 (Ont. S.C.)

- **Court disagreed with company's refusal to honour retraction request, considering:**
 - **Share characteristics**
 - **Impact of retraction on company's banking covenants, financial position and remaining shareholders**
 - **Business judgment of Board**
 - **Possible oppressive conduct**
 - **Scope of company's business and financial obligations**
 - **Expectations of the shareholders (of retractable shares as well as other shares)**

VALUATION ISSUES

- **Common shares of Opco (held by children's discretionary trust)**
 - a) **Value of Opco's leasing business**
 - b) **Key-man discount?**
 - c) **"Portfolio discount" on Opco's portfolio investments**
 - d) **Embedded taxes on accrued gains on Opco's investments**
 - e) **Considerations re depreciable leasing assets: Recapture of CCA (liquidation scenario) OR loss of tax shield (going-concern scenario)?**
 - f) **Control vs minority interest considerations**
 - g) **Buy-sell agreement between John and Trust?**

VALUATION OF COMMON SHARES OF OPCO

PORTFOLIO DISCOUNT ON INVESTMENTS HELD BY OPCO

Portfolio investments – Shares of public companies

10,000	AER.UN	@	\$	7.65	=	\$ 76,500
7,000	CAE	@		7.10	=	49,700
2,800	HBM	@		7.50	=	21,000
3,000	BIR	@		6.25	=	18,750
1,800	COS.UN	@		26.55	=	47,790
5,000	ACE	@		5.45	=	27,250
4,000	YRI	@		12.00	=	48,000
5,000	RET.A	@		13.30	=	66,500
3,000	K	@		21.45	=	64,350

Aggregate value of investments	419,840
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LESS: Portfolio discount, say 5%	-20,992
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Fair Market Value of portfolio	\$398,848
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PROFESSIONAL ADVISORS SHOULD BE MINDFUL OF

- **Third-Party Civil Penalties on Tax Planners' and Preparers' "Valuation Activities" (IC 01-1)**
- **CRA's views regarding Price-Adjustment Clauses (IT 169)**
- **Potential reassessment re holding company freezes (para. 85(1)(e.2))**
- **Potential reassessment re recapitalization freezes (ss. 86(2))**
- **CRA Policy Statement on Business Valuations (IC 89-3)**