



UNIVERSITY OF BRITISH COLUMBIA
NATIONAL CENTRE
FOR BUSINESS LAW

7th Annual Review of Insolvency Law Conference

FRIDAY FEBRUARY 5, 2010

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ThorntonGroutFinnigan
THE RESTRUCTURING & LITIGATION BOUTIQUE

Thursday, February 4, Reception

Cabana Bar & Grille, Kelowna, BC—A tasting of Okanagan wines, generously sponsored by Borden Ladner Gervais LLP and Ernst & Young Inc., 6:00–7:00 pm

Friday, February 5, Annual Review of Insolvency Law Conference

Grand Okanagan Resort, Kelowna, BC, 8:15–5:00 pm

CONFERENCE CO-CHAIRS:

The Honourable Donald Brenner, Farris, Vaughan, Wills & Murphy LLP, Vancouver
Shelley Fitzpatrick, Davis LLP, Vancouver
Larry Prentice, Ernst & Young Inc., Vancouver
Janis Sarra, UBC Faculty of Law, Vancouver

7:15 am

BREAKFAST

8:15 am

WELCOME, CONFERENCE CO-CHAIRS

8:30 am

KEYNOTE ADDRESS

Jonathan Sokobin, Director of Office of Risk Assessment, US Securities and Exchange Commission, Washington DC
Managing Insolvency Risk: The SEC's Current Initiatives in the Regulation of Derivatives and Securitization

9:00 am

PRESENTATION OF THE HONOURABLE LLOYD HOULDEN FELLOWSHIP, CIF

9:05 am

Plenary Panel – The Restructuring of Nortel Globally

Chair: **Madam Justice Marina Paperny**, Alberta Court of Appeal

Derrick Tay, Ogilvy Renault LLP, Toronto (Debtor Counsel), *The Challenges of Restructuring an Integrated International Business: The Nortel Experience*, with co-author **Jennifer Stam**, Ogilvy Renault LLP, Toronto

Murray McDonald, Ernst & Young Inc., Toronto (Monitor)

Stephen Gale, Herbert Smith LLP, London, UK (UK Counsel)

James Bromley, Cleary Gottlieb Steen & Hamilton LLP, New York (US counsel)

10:15 am HEALTH BREAK

10:30 am CONCURRENT PANELS

PANEL A Risk and Return: Operating and Exit Financing in Large Commercial Restructurings

Chair: **Mr. Justice Colin Campbell**, Ontario Superior Court of Justice

Gary Franko, Senior VP, Brookfield Asset Management Inc., Toronto

Mark Caiger, Managing Director, BMO Capital Markets, Mergers, Acquisitions and Restructuring, Toronto

Commentator: **Dr. Janis Sarra**, UBC Faculty of Law, Vancouver

PANEL B Registering Change: Current Issues before Registrars in Bankruptcy

Chair: **Madam Justice Juliana Topolniski**, Alberta Court of Queen's Bench

Scott Nettie, Registrar in Bankruptcy, Superior Court of Justice

Michael Bray, Registrar in Bankruptcy, New Brunswick Court of Queen's Bench, *Current Challenges for Registrars in Bankruptcy*

Commentators: **Pierre Pellerin**, Registrar in Bankruptcy, Québec Superior Court of Justice, Montréal

Murray Blok, Registrar in Bankruptcy, British Columbia Supreme Court, Vancouver

Guyllaine Houle, Pierre Roy Et Associés Inc., Montréal

PANEL C Monitor and Other Professional Fees in Restructuring Proceedings

Chair: **Madam Justice Sarah Pepall**, Ontario Superior Court of Justice

Professor Stephanie Ben-Ishai, co-authored with Virginia Torrie, Osgoode Hall Law School, Toronto, *A 'Cost'-Benefit Analysis: Examining Professional Fees in CCAA Proceedings*

Commentators: **Jean-Daniel Breton**, Ernst & Young Inc., Montréal

Clive Bird, Borden Ladner Gervais LLP, Vancouver

11:30 am CONCURRENT PANELS

PANEL D Insights for Canadian Practitioners Appearing before the US Bankruptcy Court

Chair: **Madam Justice Barbara Romaine**, Alberta Court of Queen's Bench

Hon. Elizabeth Stong, US Bankruptcy Court, Eastern District of New York

Hon. Louise Adler, US Bankruptcy Court, Southern District of California

Hon. Christopher Klein, US Bankruptcy Court, Eastern District of California

PANEL E Pre-arranged CCAA Proceedings, A New and Timely Approach to Business Financial Distress

Chair: **Mr. Justice Robert Mongeon**, Québec Superior Court

Jay Carfagnini, Goodmans LLP, Toronto

Doug McIntosh, Alvarez & Marsal Canada ULC, Toronto

Holly Allen, PricewaterhouseCoopers LLP, Toronto

PANEL F Six Challenges for Implementing the New Amendments

Chair: **Madam Justice Christiane Alary**, Québec Superior Court, Montréal

James Callon, Superintendent of Bankruptcy, Ottawa, *The New Rules Six Months Later*

David Wood, Boale Wood & Company Ltd., Vancouver, *Unintended Consequences of the Consumer Amendments*

Kevin Brennan, Ernst & Young Inc., Vancouver, *First Experience with the Commercial Amendments*

12:30 pm LUNCH

KEYNOTE ADDRESS: **Mr. Justice Robert Blair**, Ontario Court of Appeal

1:45 pm CONCURRENT PANELS

PANEL G Faster than the Speed of Light: New Developments in the Treatment of Pension Claims in Insolvency Proceedings

Chair: **Mr. Justice Clément Gascon**, Québec Superior Court

Dr. Ronald B. Davis, UBC Faculty of Law, Vancouver, *On the Cheap, the Restructuring of Pension Plan Obligations in Recent Canadian Insolvency Proceedings*

Mark Zigler, Koskie Minsky LLP, Toronto

Gale Rubenstein, Goodmans LLP, Toronto

PANEL H Creative and Challenging Use of Set-off in Insolvency Proceedings

Chair: **Mr. Justice Geoffrey Morawetz**, Ontario Superior Court of Justice

Bernard Boucher, Blake, Cassels & Graydon LLP, Montréal, *Compensation en équité, stipulation pour autrui et utilisation de la compensation dans un contexte d'insolvabilité: nouveaux développements en ce domaine; Equitable set-off, stipulation for another and set-off in an insolvency context: the latest trends*

Robert Anderson and **Thomas Gelbman**, Osler, Hoskin & Harcourt LLP, Calgary, *Set-off -US Triangular Set-offs within Corporate Group*

Commentator: **Bill Kaplan**, Blake, Cassels & Graydon LLP, Vancouver

PANEL I

DIP Financing Developments

Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice

Kenneth Atlas, Borden Ladner Gervais LLP, Montréal, *DIP Super-Priorities and the Secured Creditor's Dilemma*, co-authored with Kendall Andersen, Borden Ladner Gervais LLP, Montréal

Philippe Bélanger, McCarthy Tétrault LLP, Montréal, *La codification du financement temporaire: La fin des incertitudes, vraiment?*, co-author Jocelyn Perreault

Commentators: **Justin Fogarty**, Davis LLP, Toronto and **Pam Boparai**, KPMG Inc., Vancouver

2:45 pm

CONCURRENT PANELS

PANEL J

Restructuring on the Ground

Chair: **Mr. Justice Sal Lovecchio**, Alberta Court of Queen's Bench

Bill Aziz, President, BlueTree Advisors Inc., Toronto, *Turnaround Insights*

David Bowra, The Bowra Group, Vancouver, co-authored with Heather Ferris, Lawson Lundell LLP, *Real Estate Development Insolvencies, a BC Perspective*

James Grout, Thornton Grout Finnigan LLP, Toronto, *Workouts in the Pulp Industry and Implications for the Environment*

John Sandrelli, Fraser Milner Casgrain LLP, Vancouver

Commentator: **The Honourable James Farley**, McCarthy Tétrault LLP, Toronto

PANEL K

A Matter of Priority, A Matter of Justice

Chair: **Mr. Justice Ian Pitfield**, British Columbia Supreme Court

James Pomeroy, PricewaterhouseCoopers LLP, Halifax, *Ponzi Schemes and the Tracing of Foreign Assets*

Justin Kimball, McInnes Cooper, Halifax

Jane Dietrich, Fraser Milner Casgrain LLP, Toronto, *A Matter of Priority, Tensions between the Bank Act and PPSA*

PANEL L

Developments in Receiverships

Chair: **Chief Justice Robert Bauman**, British Columbia Supreme Court

Professor Roderick Wood, University of Alberta, Faculty of Law, *The Regulation of Receiverships*

Kelly Bourassa, Blake, Cassels & Graydon LLP, Calgary and **Deryck Helkaa**, Ernst & Young Inc., Calgary, *Increased Flexibility in Appointments of Receivers: The Highlights from 2009*

Commentator: **Blair Davidson**, BDO Dunwoody Limited, Toronto

3:45 pm

CONCURRENT PANELS

PANEL M

Consumer Insolvency

Chair: **Madam Justice Karen Horner**, Alberta Court of Queen's Bench

Professor Cheryl Wade, Dean Harold F. McNiece Professor of Law, St. John's University School of Law, Queens, NY, *Subprime Mortgages and Corporate Governance on Wall Street: Monitoring Compliance with the Fair Housing Act*

Professor Jacob Ziegel, University of Toronto, Faculty of Law, *Consumer Insolvencies, Consumer Credit and Responsible Lending*

Andrew Diamond, Registrar, Ontario Superior Court, *Emphasizing the "Criminal" in Quasi-Criminal: Prosecution under the BIA*

Commentator: **Dr. Thomas Telfer**, UWO Faculty of Law, London, Ontario

PANEL N

Travel Tales: The Workout of GM and Chrysler

Chair: **Mr. Justice Jon Sigurdson**, British Columbia Supreme Court

Steven Golick, Osler, Hoskin & Harcourt LLP, Toronto

Matthew A. Feldman, Willkie Farr & Gallagher LLP, New York

Stephen Karotkin, Weil (invited, not confirmed)

D. Farrington Yates, Sonnenschein Nath & Rosenthal LLP, New York

PANEL O

The Use of Business Corporations Statutes in Insolvency Restructuring and Other Recent Innovations New Issues in Commercial Restructuring

Chair: **Mr. Justice Pierre Dalphond**, Québec Court of Appeal

Susan Grundy, Blake, Cassels & Graydon LLP, Toronto

Sean Dunphy, Stikeman Elliot LLP, Toronto

4:45 pm CONCURRENT PANELS

PANEL P **Section 363 Sales**

Chair: **Mr. Justice Joel Silcoff**, Québec Superior Court, Montréal

Professor George Triantis, Harvard Law School, *Tussle with Toussa: Intercorporate Guaranties and Fraudulent Transfers*

Commentator: **Mary Buttery**, Fraser Milner Casgrain LLP, Vancouver

PANEL Q **Principles for International Cooperation**

Chair: **Madam Justice Brenda Brown**, British Columbia Supreme Court

Professor Bob Wessels, University of Leiden, *The ALI-III Global Principles – New Strategies for Cross-Border Co-operation*

Commentator: **John Grieve**, Fasken Martineau, Vancouver

PANEL R **Point-Counter-Point: The Utility and Risks of pre-Monitor Reports**

Chair: **Madam Justice Lynne Leitch**, Ontario Superior Court of Justice

Patrick McCarthy, Borden Ladner Gervais LLP, Calgary (opposed)

Richard Morawetz, Alvarez Et Marsal Canada ULC, Toronto (in favour)

5:15 pm CONFERENCE ENDS, CLOSING RECEPTION

Accommodation

DELTA GRAND OKANAGAN RESORT AND CONFERENCE CENTRE

1310 Water Street Tel: 250-763-4500
Kelowna, BC, V1Y 9P3 Fax: 250-868-5605

For room bookings contact the Reservations Department at 250-763-4500 or the Global Reservations Centre at 1-800-465-4651. Callers must identify themselves as being with *UBC Annual Review of Insolvency Law (ARIL)* for ease of booking and to receive the group rate.

Reservation requests must be made by **December 20, 2009** in order to qualify for your group rate.

Delta Standard Rooms	\$129.00	Signature Club Rooms	\$169.00
Premier Rooms	\$149.00	Two Bedroom Condominiums	\$359.00
Deluxe Rooms	\$159.00		

Registration

Conference fee is \$900 (no GST), \$200 for Judges, articling students, full time academics/Juges, étudiants stagiaires et professeurs à temps plein.

To register for the Annual Review of Insolvency Law Conference visit www.ncblevents.com.

The complete program will qualify for 7 MPD hours for CAIRP members./ Le programme complet donne droit à 7 heures de PPO pour les membres de l'ACPIR. This event also qualifies for CLE credits in British Columbia, Alberta and Ontario. For information on CLE credits in any other province or territory, please contact Michelle Burchill at businesslaw@law.ubc.ca.

Flights and Skiing

Air Canada is the Official Canadian Airline for the Annual Review of Insolvency Law Conference. To receive a 10% discount please book your flight at aircanada.com and enter promotion code 4CBV43W1. **Please note this discount is only valid for flights to Kelowna, YLW (BC) during the travel period of Thursday, January 28, 2010 and Friday, February 12, 2010.**

We have arranged for ski packages at Silver Star Resort and Big White Resort. Information can be found on the registration site at www.ncblevents.com under the 'Ski Packages' link.



There are a limited number of subsidized places for practitioners for whom cost is a barrier, please contact Janis Sarra (sarra@law.ubc.ca)/ Quelques places sont disponibles pour les personnes pour qui le coût pourrait être un obstacle. Si c'est le cas, SVP communiquez avec Janis Sarra (sarra@law.ubc.ca).

For more information please contact/Pour tout information n'hésitez pas à communiquer avec Michelle Burchill, 604-822-5018 or/ou businesslaw@law.ubc.ca. Mailing address: 1822 East Mall, Vancouver, BC, V6T 1Z1.

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