



UNIVERSITY OF BRITISH COLUMBIA
**NATIONAL CENTRE
 FOR BUSINESS LAW**

5th Annual Review of Insolvency Law Conference

5e Conférence annuelle de droit en insolvabilité

February 22, 2008 Vancouver, BC

UBC Faculty of Law, 1822 East Mall ■ In Partnership with Industry Canada

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BDO Dunwoody Limited
 Financial Recovery Services

Thursday, February 21, 2008

6 pm to 7:00 pm

OPENING CONFERENCE RECEPTION

The Vancouver Club - 915 West Hastings Street
 Generously hosted by Borden Ladner Gervais LLP and Ernst & Young Inc.



AGENDA

Friday, February 22, 2008

8:15 am

REGISTRATION AND CONTINENTAL BREAKFAST

9:00 am

OPENING

Shelley Fitzpatrick, Davis LLP, Vancouver, Conference Co-Chair
 Madam Justice Brenda Brown, British Columbia Supreme Court, Conference Co-Chair

9:05 am

KEYNOTE SPEAKER

Kenneth M. Bagshaw, Q.C., Chief Legal Officer, VANOC

The Solvency of the 2010 Olympics: Sustainability for the Games and Beyond
 Introduction: Brian Pawluck, PricewaterhouseCoopers, Vancouver, Conference Co-Chair

9:30 am

PLENARY PANEL

Optionality in Private Equity Financing of Insolvency Restructurings
 Chair: Mr. Justice Robert Blair, Ontario Court of Appeal
 Robert Thornton, Thornton Grout Finnigan LLP, Toronto
 Howard Kagan, Director of Investments, Harbinger Capital Partners Master Fund I, Ltd., New York
 Stephen Presser, Partner, Monomoy Capital Partners, LLC, New York

10:30 am

PLENARY PANEL

Eligible Financial Contracts
 Chair: Madam Justice Mary Newbury, British Columbia Court of Appeal
 Andrew Kent and Adam Maerov, McMillan Binch Mendelsohn LLP, Toronto
Eligible Financial Contracts versus Insolvency: Round II
 Commentator: Kenneth E. Thorlakson, Vice President and Assistant General Counsel, Scotiabank, Toronto

AGENDA

Friday, February 22, 2008

11:00 am

HEALTH BREAK

11:15 am

CONCURRENT PANELS [option of A, B or C]

Panel A: Precision and Transparency in the Judicial Exercise of Authority

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

Madam Justice Georgina Jackson, Saskatchewan Court of Appeal and **Dr. Janis Sarra**, UBC Faculty of Law

Selecting the Judicial Tool to get the Job Done: An Examination of Statutory Interpretation, Discretionary Power and Inherent Jurisdiction in Insolvency Matters

Commentators: **Susan Grundy**, Blake Cassels & Graydon LLP, Toronto
The Honourable James Farley, QC, McCarthy Tétrault LLP, Toronto

Panel B: The OSB as Regulator and Intervener

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

Louise Lalonde, Gowling Lafleur Henderson LLP, Montréal

Fairness and Due Process, Update on the Disciplinary Powers of the OSB over Trustees

Commentators: **Bill Courage**, BDO Dunwoody Limited, Owen Sound
Alain Lafontaine, Acting Superintendent of Bankruptcy (tentatively confirmed)
Larry Prentice, Ernst & Young Inc., Vancouver

Panel C: 2007 in Review

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

Howard Gorman, Macleod Dixon LLP, Calgary

Calpine: Cross Border Review and Approval of Inter-Debtor Claims

Jeffrey Carhart, Miller Thomson LLP, Toronto

MuscleTech Case Study

Michael W. Milani, QC, McDougall Gauley LLP, Regina

Meadow Lake Pulp Limited Partnership CCAA Proceedings

Éric Vallières, McMillan Binch Mendelsohn LLP, Montréal

Perception de la TPS et de la TVQ : Qui arrêtera Revenu Québec?

12:15 pm

LUNCH

1:30 pm

CONCURRENT PANELS [option of D, E or F]

Panel D: Substantive and Procedural Consolidation in Corporate Workouts

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

Michael MacNaughton, Borden Ladner Gervais LLP, Toronto

Substantive Consolidation in the Insolvency of Corporate Groups: A Comparative Analysis (co-authored with Mary Arzoumanidis)

Commentators: **Doug McIntosh**, Alvarez & Marsal Canada ULC, Toronto
Mike Vermette, PWC, Vancouver

Panel E: Exemption Law Developments

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

Dr. Thomas Telfer, University of Western Ontario Faculty of Law

The Evolution of Exemption Law in Canada, 1867-1919: The Triumph of the Provincial Model

Josef Kruger, Borden Ladner Gervais LLP, Calgary, **Professor André Boraine**, University of Pretoria Faculty of Law, and

Professor Roger Evans, University of South Africa School of Law

Policy Considerations Regarding Exempt Property: A South African-Canadian Comparison

Commentator: **Pam Boparai**, KPMG Inc., Vancouver

Panel F: DIP Financing – Empirical Evidence and Current Developments

Chair: **Madam Justice Ruth Mesbur**, Ontario Superior Court

Professor George Triantis, Harvard Law School and

Professor Stu Gilson, Harvard Business School

An Empirical Analysis of DIP Financing under the U.S. Bankruptcy Code

Commentator: **Murray McDonald**, Ernst & Young Inc., Toronto (tentatively confirmed)

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2:30 pm

CONCURRENT PANELS [option of G, H or I]

Panel G: Innovative Remedies in Securities Firm Insolvencies: Portus Alternative Asset Management

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

Jim Grout, Thornton Grout Finnigan LLP

Portus Alternative Asset Management, Novel Remedies

Commentators: **Doug Knowles**, Fraser Milner Casgrain LLP, Vancouver, Representative Counsel Perspective

Bob Rusko, KPMG Inc., Vancouver, Receiver's Perspective

Kelley McKinnon, Head of Litigation, Ontario Securities Commission, Regulator's Perspective

Panel H: Policy Considerations and Statutory Reform

Chair: **Chief Justice Donald Brenner**, British Columbia Supreme Court

Professor Jacob Ziegel, University of Toronto Faculty of Law

Should Proof of Insolvency be dispensed with in Insolvency Proceedings?

Jane Dietrich, Fraser Milner Casgrain LLP, Toronto

Are suppliers who provide post filing credit adequately protected under Canadian Insolvency law and practice?

[co-authored with Dan Dowdall]

Sylvie Heartfield, HRDC

Nuts and Bolts of the Wage Earner Protection Program

Jean-Daniel Breton, Ernst & Young Inc., Montréal

Concepts Imported From the US, Something Borrowed or Something New?

Panel I: The Role of Pension Funds in Insolvency Workouts

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

Murray Gold, Koskie Minsky LLP, Toronto

Pension Fund Activism in Plan Sponsor Insolvencies

Dr. Ronald Davis, UBC Faculty of Law

The Effects of Restructuring and Insolvency on Pension Plan Wind-Ups and Closures

Commentator: **Jay Carfagnini**, Goodmans LLP, Toronto

3:30 pm

HEALTH BREAK

3:45 pm

CONCURRENT PANELS [option of J, K or L]

Panel J: Cross-Border CCAA Proceedings

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

John McLean, Davis LLP, Vancouver and **Mike Cheevers**, Wolrige Mahon, Vancouver

Raising the Titanic: the Fall and Rise of North America Steamships Ltd.

John F. Grieve, Fasken Martineau DuMoulin LLP, Vancouver

Goodbye Tysoe J. Hello Tysoe J.A. Back to Basics (co-authored with Kimberley A. Robertson)

Commentators: **Brian Perrott**, Holman, Fenwick & Willan, London, UK

Edward Sellers, Oslers, Toronto

Panel K: Comparative International Law

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

Professor Jason Harris, Lecturer, Faculty of Law, University of Technology, Sydney, Australia and

Professor Anil Hargovan, Senior Lecturer, School of Business Law and Taxation, University of New South Wales, Australia

The Intersection Between Shareholders' and Creditors' Rights in Insolvency: An Australian Perspective

Professor Stephanie Ben-Ishai, Osgoode Hall Law School, Toronto

French Commercial Insolvency Law Reform: A Canadian Perspective

Panel L : The Year in Review Part II

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

Alain Tardif and **Philippe Bélanger**, McCarthy Tétrault LLP, Montréal

Stalking Horse Bids in Québec: A Case Comment on Boutique Euphoria (co-authored with Jocelyn Perreault)

Mary Buttery, Fraser Milner Casgrain LLP, Vancouver

The Court's Developing Approach to s. 81.1 (co-authored with Owen James)

Michael Rotsztain, Torys LLP, Toronto

Fee Premium Awards in Canadian Insolvencies

Commentator: **David Bowra**, The Bowra Group Inc., Vancouver

4:45 pm

RECEPTION

Co-hosted by the National Centre for Business Law, the Canadian Insolvency Foundation and CAIRP

Chief Justice Lance Finch of the British Columbia Court of Appeal will award the Canadian Insolvency Foundation's

The Honourable Lloyd Houlden Fellowship in Insolvency Research to this year's recipient of the award.

REGISTRATION FORM | FORMULAIRE D'INSCRIPTION

_____ \$700.00 (no GST) _____ \$300.00 Judges, articling students, full time academics

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By cheque, please make payable to/ Chèque ou mandat payable à UBC Faculty of Law and mail to: Janis Sarra, UBC Faculty of Law, 1822 East Mall, Vancouver, V6T 1Z1. Please fax or e-mail to/SVP envoyer par télécopieur ou courriel à Michelle Burchill, 604-822-8108 businesslaw@law.ubc.ca

Panel Options: A B C D E F G H I J K L

For any additional information, please contact **Dr. Janis Sarra** at sarra@law.ubc.ca or **Michelle Burchill** at businesslaw@law.ubc.ca or call Michelle at **604 822 5018**.

ACCOMMODATION

A conference rate of \$129 CDN per night has been arranged with the Sheraton Vancouver Wall Centre Hotel, 1088 Burrard Street, Vancouver, BC (limited number, based on availability). Reservations must be made prior to November 15, 2007. Room rates are valid for nights booked between February 18 – 26, 2008. For reservations please contact 1-800-663-9255 or 604-893-7120, or email reservations@wallcentre.com. Please cite the Annual Review of Insolvency Law Group.

For discounts on Whistler Blackcomb ski lift and lodging packages for before or after the conference, please log on to www.whistlerblackcomb.com/deals_packages before November 15th, 2007 and save up to 33% with the Early Booking Offerings, or call Intrawest Central Reservations at 1-800-822-7033.

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.

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).