



Newsletter

January 12, 2010



2009/10 Bulletin #14

To our OAIRP Members and Students

Happy New Year!

We hope all of you had a happy and restful holiday season following a turbulent 2009. While economic forecasts vary with respect to the timing and shape of recovery, your Board of Directors is confident that our delivery of insolvency and business recovery services will be as valuable as ever in 2010. We wish you continued success with your practices.

New OAIRP Website

With our gratitude to Board member Joe Albert, we are delighted to report that our new website is up and running. Please be sure to check it out at www.oairp.com. As well as details of the current board and links to useful sites, the website provides you with easy access to copies of our bulletins and newsletters including notices from the Toronto Bankruptcy Court. It also provides you with copies of other reference material such as model orders (see below), legal opinions and advocacy submissions made by OAIRP. We welcome any suggestions as to content and presentation. Please bookmark this site -- we hope that you will find it to be a valuable professional tool.

Toronto Registrar's Court Committee

As you may know, a few years ago the Superior Court of Justice of Ontario – Commercial List established the Registrar's Court Committee to provide a forum for the review of practice and administrative matters involving the Registrar's Court in Toronto.

The Committee consists of Judges, Registrars and invited insolvency lawyers and trustees together with representatives of the Ministry of the Attorney General and the OSB. CAIRP and OAIRP are represented by former OAIRP President Angela Pollard (akpollard@pollardandassoc.ca) and OAIRP director Pat Robinson (Pat@PatRobinson.com).

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Please direct any questions or comments you may have about the operation of the Registrar's Court to Pat or Angela.

We have just been advised that due to space constraints, older files with estate numbers before 31-450000 are being relocated from the bankruptcy office at 330 University Avenue in Toronto to a storage facility in Cookstown. As files are currently being catalogued, we caution that it may take up to six weeks to retrieve a file during this interim period.

We have also been informed that Trustee's discharges, bankrupt's discharges and taxations are still being completed within the target 12 week standard and we laud the work of the Toronto Registrars and Court staff for maintaining this turnaround notwithstanding increased volumes in 2009.

CLUC Model Order Subcommittee

As we have previously reported, members of the OAIRP have been invited to participate in meetings of the Ontario Superior Court Commercial List Users Committee ("CLUC") subcommittee formed to develop and maintain model Court orders. Over the last few months, the CLUC Model Order Subcommittee has been drafting changes to existing model orders to reflect the recently enacted amendments to the *Bankruptcy and Insolvency Act*, the *Companies' Creditors Arrangement Act*, and the *Wage Earner Protection Program Act*.

An updated CCAA Initial Order (Long Form) and a National Receivership Order are scheduled to be presented to the CLUC later this month for approval. In the meantime, copies of the draft "unapproved" orders are available on the OAIRP website. The approved orders will be posted on the OAIRP website once finalized. The Board acknowledges the work of our President, John Page, and directors Allan Nackan and Paul Casey for their contribution to the subcommittee.

Pension Reform Proposals

As you are well aware, in July 2008 statutory amendments to the BIA came into force which created priority charges in respect of unremitted "normal cost" pension contributions in the case of a defined benefit plan and unremitted employer contributions in the case of a defined contribution plan. Claims against an employer for other pension liabilities, particularly pension plan deficits, remain unsecured claims.

Recently, a number of Private Member's Bills have been presented in Parliament which aim to further amend Federal

insolvency legislation to give a similar priority to pension plan shortfall liabilities, (loosely defined to be the amount required to fund any solvency deficiency in a defined benefit pension plan), and to employee claims for termination and severance pay. One of these Bills, Bill C-476, was presented in the House of Commons and is likely to be discussed when Parliament returns in March 2010.

It is the OAIRP Board's view that such proposals would significantly alter the restructuring and capital markets landscape in Canada for companies with defined benefit pension plans and employers with large employee legacy liabilities. The CAIRP Corporate Practice Committee has struck a subcommittee to study these bills and be prepared to make submissions on these proposals.

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CAIRP Professional Conduct Committee Investigators Needed

The Professional Conduct Committee is responsible for the initiation of the disciplinary work of the CAIRP. The Committee is granted the authority to receive written complaints against a member, to investigate the complaints, and to make determinations. The Committee relies on member volunteers to act as investigators. Committee Chair, Angela Pollard (akpollard@pollardandassoc.ca) has asked that we seek additional volunteers from our OAIRP members to investigate Ontario cases. These hours are eligible for full Mandatory Professional Development credit and we encourage you to contact Angela or the CAIRP directly if you are able to assist.

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Calendar of Events

Canadian Insolvency Foundation Lunch Event	Jan 18, 2010	Intercontinental Hotel, Toronto
Annual Review of Insolvency Law Conference	Feb 5, 2010	Kelowna, BC
OBA Institute 2010 Insolvency Program	February 16, 2010	Royal York Hotel, Toronto
OBA Insolvency Law YLD Passport Breakfast Seminars, - Receiverships - Buying Assets Out of Insolvency - Commercial Proposals Under the BIA	Jan 20, 2010 March 2, 2010 April 21, 2010	OBA Conference Centre, Toronto

- Restructuring Under the CCAA	May 18, 2010	
CAIRP Commercial Seminar	April 20, 2010	Arcadian Court, Toronto
CAIRP Insolvency and Restructuring Forum	May 26, 2010	Westin Harbour Castle, Toronto
CLUC Education Program and Golf/Tennis/Spa Day	June 2, 2010	Richmond Hill Golf and Country Club

We welcome your feedback. Please contact the Editor or President using the email addresses on the sidebar.

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