

Chair's newsletter

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CHAIR'S MESSAGE

By Paul Casey, CPA, CA, CIRP

WOW! As I think back to last August, I am overwhelmed by two emotions: pride and gratitude. Firstly, I was so proud to be a part of our 2014 CAIRP Annual Conference at the beautiful Fairmont Château Laurier. Secondly, and more importantly, I am so grateful to the many, many volunteers and staff who went above and beyond to deliver one of the finest conferences that I have ever attended. Chef de mission Gingras et l'équipe were relentless in making sure that every detail was 'ready for launch', and did they ever deliver.

We were honoured to hear from a fantastic lineup of panelists and speakers, an out-of-this-world guest, and enjoyed the beautiful and historic offerings of our nation's capital.

The flight commenced with Maclean's columnist and author Paul Wells giving us an inside scoop on the latest backroom politicking in the halls of government. Attendees were treated to a copy of his latest release, *The Longer I'm Prime Minister: Stephen Harper and Canada* and took advantage of the opportunity to meet Paul afterwards and have their books signed.

Our series of speakers this year engaged the attendees on a diverse range of topics relevant to insolvency and restructuring professionals. We enjoyed presentations and panel discussions on the Lac-Mégantic tragedy and related CCAA filing, the phenomenon of repeat bankruptcies,

the restructuring of unusual entities such as professional sports teams, and the importance of public relations.

We also explored the development of our new website, looked at consumer credit file essentials and enjoyed a rich discussion of fraud and insolvency relating to some recent well-known cases.



Paul Casey

Our closing keynote speaker, Col. Chris Hadfield (Ret.), was extraordinary. "The Colonel" took us to the stars and beyond with a fascinating look at his career as a pilot, engineer, astronaut and commander of the International Space Station. We are also indebted to Col. Hadfield for his great generosity following his presentation, as he stayed well past countdown to give all attendees the opportunity to say hello, have books and "fivers" signed, and

get celebrity photos. I am confident that you will agree with me that he left us energized, motivated, and proud to be Canadian.

Please enjoy this look back at one of our most successful and informative annual gatherings. I hope that you will all join us next August when we convene in beautiful Whistler, B.C. for CAIRP's 2015 Annual Conference. I leave you with one of my favourite quotes from *An Astronaut's Guide to Life on Earth*, as I believe it applies directly to our work in insolvency and restructuring: "An astronaut is someone who's able to make good decisions quickly, with incomplete information, when the consequences really matter."

Consumer Credit File Essentials

Presented by: Ben O'Connor, Equifax
Review by Stan Hopkins, CA, CIRP

Ben O'Connor gave a lively presentation to delegates at the CAIRP Annual Meeting on the Equifax credit file, demonstrating strong knowledge of the electronic credit file of a debtor.

A four-year employee with Equifax, O'Connor has worked in several capacities, presently in field commercial sales supporting large strategic customers located in Ottawa and Montréal.

O'Connor explained that members of Equifax are typically credit grantors, but debtors can also access their credit file through Equifax. There are more than 150 million updates to the database each month and the system is accessed more than 160,000 times daily with 99.98 per cent accuracy.

The best way to search for a debtor's credit file is by social insurance number (SIN) but the person's name can also be used.

Information is set out in sections in the credit file including:

- » Debtor identification (name, last three addresses, phone numbers);
- » Inquiry (the last five credit inquiries);
- » Employment;
- » Public records (judgments, bankruptcy, etc.);

- » Portfolio types and ratings. The types are revolving credit (R), open credit (O), installment loan (I), lease (L), line of credit, and mortgage (M). Ratings go from 1 (best) to 9 (worst);
- » Trade Information (details of specific debts);
- » The narrative section (the debtor can add certain notes here).

Credit rating examples include R1 (or M1, L1 etc.) as the best credit rating and R5 as the worst a borrower can receive and still have credit, while R7 is a debt settlement or proposal and R9 represents bankruptcy.

Consumer Retention and Purge rules outlined by O'Connor included three items of interest to trustees. The first was that a first-time bankruptcy is purged from the credit file seven years after the bankrupt's date of discharge, the second that a second bankruptcy is discharged after 14 years.

But significant discussion arose when O'Connor was asked about the third item of interest, the "bankruptcy category" on Equifax forms, which is purged three years after completion.

This is the rule for a consumer proposal and CAIRP members in attendance were not surprised that this terminology leads to confusion on the part of Equifax staff, lenders and debtors.

Several questions were posed to O'Connor and a lively conversation about this important topic ensued. It was evident that other people from Equifax would need to be consulted to address this issue, and O'Connor agreed to put us in touch with the correct contacts. CAIRP also agreed to meet with Equifax to discuss this and attempt to update the terminology so it is clear and correct. This is becoming very important as the number of proposal filings in Canada is approaching 50 per cent of new insolvency filings.

On the subject of credit scores, O'Connor explained that they range from 300 to 900, with 900 being the highest rating. The approximate weighting of the factors that go into the determination of a debtor's credit score include payment history (35 per cent), frequency and amount of utilization of credit (30 per cent), length of credit history (15 per cent), type of credit products the debtor has (10 per cent) and the volume and type of recent inquiries (10 per cent).

Industry fraud is a growing concern with identity theft being a major concern for both Equifax and debtors.

The session was well received and several participants obtained O'Connor's card after the session to seek further information from him.



Fraud and Insolvency – Issues and Lessons Learned

Panel: Alan Stewart, CPA, CA, IFA, Deloitte Forensic; John Finnigan, Thornton Grout Finnigan LLP
 Moderator: Paul Casey, CPA, CA, CIRP, Deloitte Restructuring Services

By Craig Munro, CA, CIRP



The CAIRP panel at the Fraud and Insolvency Issues: Lessons Learned session

“If it sounds too good to be true, then it likely isn’t.” That was the adage used by John Finnigan of Thornton Grout Finnigan LLP to summarize the error in judgment of most people who get caught up in an investment fraud scheme.

Finnigan was joined on this panel discussion by Alan Stewart and Paul Casey, both with Deloitte LLP.

Casey acted as the moderator and, with the use of some case studies, asked Stewart and Finnigan to draw from their experience and discuss some of the common types of fraud such as kiting, Ponzi schemes, diverted cash receipts, illegal payments and security frauds.

Some of the key messages from the panel discussion were:

- » A reminder to Receivers/Trustees of the two-year statute of limitation period from the date you discovered or ought to have known about the event;
- » The RCMP has a section on its website that provides assistance on how to determine fraud as opposed to circumstances of an unfortunate debtor;
- » Email accounts can provide the greatest source of information to assist in finding fraud. Obtaining this information properly can be a complicated exercise and accordingly assistance from those with expertise in this evolving area should be sought.

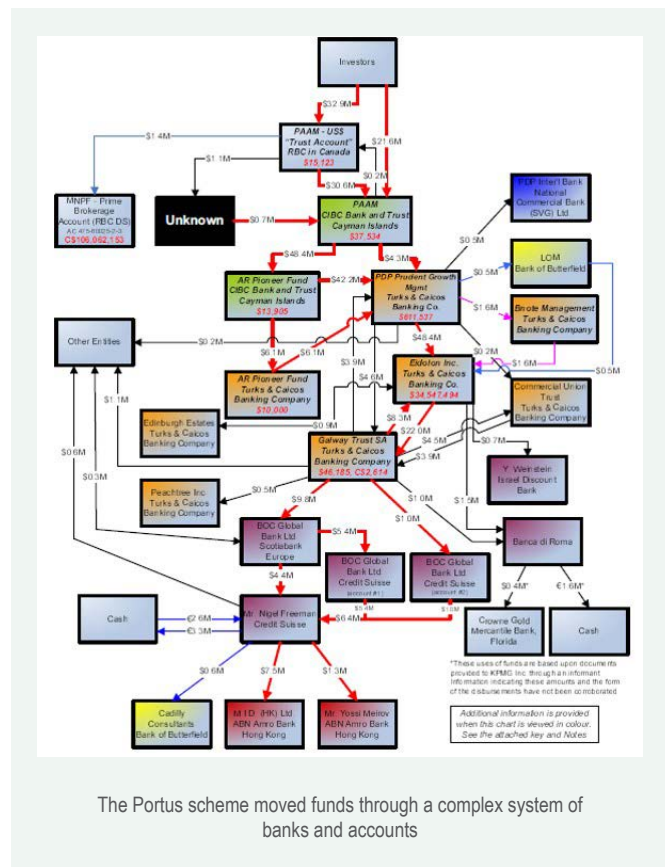
The case studies covered included Sino Forest, Norshield Asset Management and Portus Alternative Asset Management. Finnigan

entertained the audience with some of his experience on the Portus fraud investigation.

Portus was an investment fund that raised approximately \$730 million Canadian and US\$52.6 million from about 26,000 investors.

The purported investment strategy indicated to investors was never followed. Instead, the money was moved through a very complex scheme to a number of offshore accounts with the funds ultimately ending up in an account in the Turks and Caicos.

Finnigan recounted the exercise of tracing the movement of funds from one jurisdiction to another and the assistance of the local courts, who relied on the Canadian court’s receivership order, to provide seizure orders allowing funds to eventually be frozen.



The Portus scheme moved funds through a complex system of banks and accounts

As any lawyer would note, when faced with a potential fraud investigation, it is always recommended to seek good legal counsel!

OPENING ADDRESS: PAUL WELLS, SENIOR COLUMNIST, MACLEAN'S MAGAZINE

Politics is the lifeblood of Ottawa, the venue for CAIRP's Annual Meeting this year, and it is also the passion of journalist and author Paul Wells, who kicked off our presentations with some key insights into the current – and past – state of Parliament Hill.

Wells began by recounting an anecdote that illustrates what motivates politicians, something that every Canadian should keep in mind when they form opinions about leaders both current and future.

He recalled a garden party at the 24 Sussex Drive residence of the prime minister in 2002, when Jean Chretien's Liberals held sway on the Hill.

Chretien, who "understood winning in politics better than just about anybody else I've ever met," was awestruck by the re-election of Jacques Chirac over far-right politician Jean-Marie Le Pen of Front National in France's presidential election.

Chretien, who admired Chirac as a fellow "political scoundrel," noted to Wells that Chirac's victory was rather overwhelming.

"Did you see the score he got? 82 per cent!" Chretien said.

Wells reminded Chretien that the victory was maybe not so much due to Chirac's popularity or political acumen – rather that it demonstrated the French peoples' distaste for Le Pen, a racist and Holocaust denier, and his party's extreme views.

"Yes, well..." Chretien responded

with barely a pause. "Eighty-two per cent!"

That, Wells told CAIRP delegates, shows what really motivates politicians. Chretien was once asked point-blank: What makes a good politician?

"The one who wins," he said automatically, Wells recalled.

"He didn't really care how Chirac won – what politicians notice is that the person won," Wells said.

"Because winning is the necessary condition for doing any good or any damage in politics."

We remember politicians not because they got elected, but because they went on after winning to do something that made some of us grateful, Wells added.

"We are, in journalism, constantly on the lookout for somebody who might change our politics. But in an important way politics doesn't change – it's always about dividing what you believe by what you can get away with. It has compromise and disappointment built into it."

As for our current prime minister, "Stephen Harper actually fits in pretty well with a lot of what other recent prime ministers were doing," Wells said.

"He represents continuity and consensus in our politics perhaps at least as much as he represents rupture and rebellion."

Wells noted that under Harper federal government revenues are at their lowest level in 50 years, making

it the cheapest federal government since John Diefenbaker was prime minister, a tax-cutting trend that began with Chretien.

"Chretien won three elections because he was good at politics. I believe Harper has won three elections so far because he is good at politics. Harper actually represents something deep and broad and cultural in this country – at least in substantial and important parts of this country."

Canada is doing really well, Wells said. And any government that builds on a position of strength offers opportunity for every Canadian.

"Our country is not so fragile that it can't survive a little politics. People who used to win all the time have not been winning for a while in Canada. They'll get another chance. Some other people have learned it's harder to run the country than it is to run their mouth. And much of their voyage of discovery has been healthy for them and the country."

Asked about the man that many Canadians are wondering might be able to unseat Harper, Wells said Justin Trudeau is learning to play the game of politics as well. But right now his chief strength is that he evokes the shade of his legendary father, Pierre Trudeau.

"The fact that (Justin) exists drives conservatives crazy in a way that makes them sloppy and less coherent in their thinking than they have been for a while."

Public Relations: A Key Component of Your Communications Strategy

Presented by: Éric Vignola of Vignola Communication-Marketing and Wendy Kauffmann of Brown & Cohen

By now, most members will have noticed big improvements to CAIRP's website. The site's renewal was implemented by Éric Vignola of Vignola Communication-Marketing and his team, who created a visually attractive and easy-to-use new home on the web for CAIRP.

"Your website has only seconds to make a good impression," Vignola said, pointing out the clean lines, bold lettering and blue-and-green style.

Responding to members' requests with respect to CAIRP's new home base on the Internet, Vignola indicated that the new site was created to be "very interactive" and to serve CAIRP's strategy to provide members with easy access to the information they need and engage as well as educate the Canadian public.

"The website design should serve the strategy, not the opposite," Vignola said.

The redesigned site has a revamped "Find a CIRP" search function that will make it quick and easy for anyone to find a local CIRP.

The website is also designed to be a hub for social media traffic as CAIRP ramps up its presence on Twitter, Facebook and LinkedIn.

Social media sites can be used as "tools to increase visits to your website," Vignola said, though he cautioned that "a website should not become an archiving repository" – in other words, it should be populated with fresh content whenever possible.

The new design ensures that content on the site is current, relevant and interesting for all insolvency

and restructuring stakeholders. It's also very social media-friendly, Vignola added.

Wendy Kauffman of public relations firm Brown & Cohen told the conference that getting involved in social media is critical to successful public relations.

"PR is all about building relationships," Kauffman said. "PR helps maintain the image of your business or your organization in the eyes of your various publics."

Unlike advertising, which is paying someone else to say something nice about you, "public relations is earned... it's about having somebody else say you're great," Kauffmann said.

"It's much more effective and it's seen as more credible."

Social media platforms such as Facebook are effective public relations tools and they're gaining widespread use by Canadians from all walks of life, Kauffmann pointed out.

"For those of you who still believe this a platform for the young, the fastest growing demographic of Facebook – and Twitter, by the way – is the 55-64 population."

"Silence is no longer an option" when it comes to social media, Kauffmann said.

"Conversations about you and your industry are likely happening. You're just not participating in those conversations



and worse, is that other people actually may be speaking on your behalf or for you."

She asks clients who are reluctant to engage in social media because it means losing some control of your message as others strike up conversations about you: "doesn't staying out of the conversation sound much scarier?"

"But there's good news," Kauffman added. "CAIRP got a head start on the PR front this year, which was a great step forward."

Kauffman highlighted that a number of CAIRP members were active in the media across the country over the past year, with appearances in the Globe and Mail, National Post, Global TV, the Sun Media chain, Le Journal de Montréal and many more.

"The best way to establish trust is to demonstrate knowledge. And in PR we call that demonstration of knowledge thought leadership. Thought leadership is earned, it denotes expertise and it's what others seek from us."

"Congratulations CAIRP," Kauffmann said, "you have taken the first steps toward becoming social media-ready."

Photo Album



CAIRP Chair Paul Casey's opening address to the Annual Conference



Col. Hadfield takes a dramatic pause during his address to the CAIRP gala attendees



Top Guns: Col. Hadfield and CAIRP Vice-Chair David Wood



Col. Hadfield writes a message for a spellbound Evan Adamson



Ever gracious, Col. Hadfield posed for dozens of "selfies"



Col. Hadfield went above and beyond the call of duty, taking time to chat with attendees



The Gingras family, lost in the stars with Canada's favorite astronaut



CAIRP Chair Paul Casey addresses the awards dinner from the stage of the Grand Hall at the Canadian Museum of History

Photo credit: Hilary Casey

The Players in a Successful Sports Team Restructuring

Presented by: Roxanne Anderson, MBA, CPA, CA, CIRP, ICD.D, Roxanne Anderson & Associates;
John O'Tool, Borden Ladner Gervais; and Eric Macramalla, Gowling Lafleur Henderson
Review by Mike Braga, MBA, CIRP

A commercial restructuring can be extremely complex, especially when there are many stakeholders – in some cases quite unusual and unexpected – that can have an impact upon the proceedings.

To highlight just how unique some insolvency processes can be, Roxanne Anderson, John O'Toole and Eric Macramalla presented a rousing case study that involved the National Hockey League's Ottawa Senators, which was the foundation for significant case law and has been scrutinized closely by insolvency practitioners since the filing in 2003.

The panel demonstrated how unique stakeholders in an insolvency engagement can impact the restructuring process in unexpected ways. For example, while the Ottawa Senators fans were not creditors of the organization, their impact upon player morale and their inclination to continue to purchase tickets and merchandise meant that their interests would need to be considered and addressed in order to ensure a successful turnaround.

The founding owners of the organization were also considered as important stakeholders, though they no longer held any direct or monetary ties to the company. It

was nevertheless acknowledged that they carried a certain influence within the community and with current or prospective owners, and that a negative stance to the restructuring by the founding partners could have a harmful impact on the ultimate value received for the organization. Therefore, it became important to give them audience and consideration throughout the process.

The players were also an important group of stakeholders impacting the value of the company. The panel argued that the value of a franchise in the NHL is driven by the success or failure of the team, which is dependent on individual player performance. Thus, a key aspect of this restructuring process was to normalize the players quickly, and to keep them insulated from any detrimental consequences of the turnaround process.

Other stakeholders considered by the panel were the players' union, management (including the board of directors), the government and other professionals. Given the wide range of stakeholders requiring consideration and the uniqueness of the circumstances, a flexible restructuring vehicle was chosen and a CCAA restructuring was undertaken.

The panel's discussion then focused on the different value drivers among various sporting leagues. In contrast to the NHL, where the market price is determined by performance, the National Football League derives most of its profits from media contracts. Investors are keen to assess these lucrative deals when evaluating a football team, rather than performance.

The presentation concluded with a discussion of the insolvency rates among professional athletes. Startling statistics showed 78 per cent of NFL players filing for bankruptcy within two years of retirement and 60 per cent of National Basketball Association players becoming insolvent within five years of ending their professional careers. It is interesting to note that the reasons for insolvency cited by professional athletes mirrored those of consumer debtors: being health-related issues, poor money management and supporting friends and family members.

This case study brilliantly demonstrated the importance of considering both traditional and non-traditional stakeholders in any insolvency engagement to ensure success.

One Year Later: Montreal, Maine & Atlantic Canada Co and the Lac-Mégantic Tragedy

Panel: Shawn Travitsky, CPA, CA, CIRP; Andrew Adessky, CPA, CA, CIRP;
Patrice Benoit from Gowling Lafleur Henderson LLP
Review by Craig Munro

Just over a year ago, a train operated by Montreal, Maine & Atlantic Canada Inc. (MM&A) rolled away from a railyard and crashed at high speed into the town of Lac-Mégantic, Québec in a ball of fire. The accident claimed the lives of 47 people and resulted in significant property damage to the small town. The death toll was later increased to 48 after a first responder committed suicide.

A panel at the Annual Conference provided an update on the proceedings under the *Companies' Creditors Arrangement Act* (CCAA) that were triggered by the disastrous derailment of July 6, 2013, one that involves thousands of potential claimants against the Bangor, Maine-based railway.

As most readers will be aware, rail carriers are not included under the definition of a "company" under CCAA.

However, MM&A argued that it should be able to file under CCAA. It reasoned that the definition of "railway company" was intended for companies created and governed by

specific railway legislation and not to companies – like itself – that were incorporated under general corporate laws.

The court accepted the argument and a stay was granted on August 8, 2013. A concurrent U.S. Chapter 11 application was sought and granted later in August 2013.

The CCAA stay of proceedings order was extended to include non-debtor third parties and third-party liability insurers. The intention of the expanded stay provision was to avoid a race to judgment in the case.

MM&A operated about 800 kilometers of a shortline freight railway service in Vermont, Maine and Québec. Because of the economic impact of this line to the community, the provincial government funded the reconnection of the track in Lac-Mégantic and the service was resumed in June 2014 with the exclusion of transportation of dangerous goods and crude oil.

The U.S. Chapter 11 Trustee was able to secure debtor-in-possession financing of \$4.8 million, which allowed MM&A to continue operating

and funded a sale process of MM&A's assets.

A comprehensive claim process was established with input from both the CCAA monitor in Canada and the U.S. Chapter 11 trustee.

A claims package was prepared that included forms for the different types of claimants including claims for: wrongful death; bodily injury; economic, material or moral damages to a person or business; subrogated insurer; government or municipality; contribution or indemnity; and trade creditors.

As of the claims bar date of July 14, 2014, 4,800 claims had been filed under the CCAA proceedings with an approximate value of \$1.8 billion and 450 claims had been filed in the U.S. Chapter 11 proceeding with an approximate value of \$450 million.

Unfortunately, there is still much work to be done on reviewing claims and dealing with ongoing litigation before a plan of arrangement can be filed and the victims of this unfortunate accident receive payment.

CAIRP AWARD WINNERS 2014

CAIRP wishes to congratulate and celebrate the following award winners, who were recognized at a gala dinner at the Annual Conference

Keith G. Collins Memorial Award

Carl Ritchie

Andrea Yandreski

Outstanding Volunteer Award

Lynn DeLaBarre

Carol McGran

Brenda M. Wood

New Member's Award of Merit

Eric Sirrs



CAIRP Chair Paul Casey congratulates Keith G. Collins Memorial Award winner Andrea Yandreski



Lynn DeLaBarre accepts her Outstanding Volunteer Award from CAIRP Chair Paul Casey



The CAIRP Awards gala, held in the beautiful Grand Hall of the Canadian Museum of History

Photo credit: Hilary Casey

Chris Hadfield Soars Above Stellar Expectations



Col. Chris Hadfield describes life aboard the International Space Station

Is it any wonder that Col. Chris Hadfield stole the show at CAIRP's 2014 Annual Conference?

Astronaut, jet fighter pilot, engineer, musician, motivational speaker, family man – Hadfield is about as accomplished as you can get. He's walked in space and lived at the bottom of the ocean. He's a science nerd and a music geek. He's hip to social media and he knows how to remove a burst appendix.

He may be a folk hero in the making, but Hadfield is also a genuine Canadian guy.

Hadfield's speech to the Chair's Banquet had little to do with financial services of any kind, but his message was relevant whether you're an accountant or an astronaut or a bus driver: figure out what you want to do, dream big and don't stop until it comes true.

"It's nice to talk about a ride in space, but how do you get there? I think the key that is worth thinking about is the necessity to have an overarching goal,

to admit to yourself, 'If everything went perfectly where will I be, or where will my business be or where will my family be in five years or 10 years – if everything goes perfect, where am I wanting to be?'" Hadfield said.

"And then make that sort of your decider as to the things that you're going to do this weekend

or this month. Admit to yourself it's probably not going to go perfectly – I'm probably not going to get to command the International Space Station, but it will help make decisions over the drama of life in that direction."

"If you keep moving yourself in the direction of things that you dream about, you're probably going to enjoy what you're doing regardless and maybe someday you'll even get to do one of those things that's way in the distance right now."

Hadfield described many of the sacrifices made by himself and his family on the way to his command of the International Space Station, and recounted what it's like to be strapped to a giant bomb and shot into space. He also spoke of the "magic" of being weightless, explained how astronauts sleep (strung up in cocoon-like sleeping bags) and recounted how rewarding it was to work with colleagues from many nations in such a rarefied workplace.

"There's this great imperative to it and it's really interesting and challenging," Hadfield said.

"You're doing it for the first time on behalf of the whole planet so it's extremely seductive and intoxicating to have that kind of job and work."

Hadfield also spoke of his expertise in extraterrestrial social media. Having tweeted many of his experiences in space, Hadfield became a YouTube sensation when he recorded the first music video produced in space – a cover version of David Bowie's *Space Oddity* (The video has received more than 22 million views).

"I've yet to meet a large organization that uses social media effectively," Hadfield said.

"So many people treat social media like it's a megaphone or selling stuff – it's not. It's like people sitting around a table talking, it's a two-way conversation to share human experience."

To cap off his presentation to CAIRP, Hadfield went above and beyond the call of duty and to the delight of attendees, he borrowed the guitar from Marc Langis, Bianca Pittoors' uber-talented bandmate, and played his rendition of David Bowie's classic *Space Oddity*.

Gracious as always, Hadfield extended his stay until late in the evening to sign many, many copies of his book *An Astronaut's Guide to Life on Earth* and posed for dozens and dozens of pictures with CAIRP members.

Thank you Colonel!

Repeat Bankruptcies and the Integrity of the Canadian Bankruptcy Process

Paper by Dr. Thomas Telfer, professor, University of Western Ontario, Faculty of Law

Presented by Guylaine Houle, BCL, FCIRP

Panel: Marc Rouleau CPA, CA, CIRP; Doyle Salewski; Anne Perrault, CPA, CA, CIRP and Patricia Alferes, Deputy Superintendent of Bankruptcy, OSB

Review by John Adamson, CMA, CIRP

Dr. Thomas G. W. Telfer's paper, *Repeat Bankruptcies and the Integrity of the Canadian Bankruptcy Process*, is a worthwhile read, but one that drew some criticism from attendees at a session discussing the paper at CAIRP's Annual Conference.

Unfortunately, Dr. Telfer was unable to attend the session to defend his paper (available at www.cairp.ca/media/publications/bulletins) but it was clear that many of us in the room had some concerns regarding certain of Dr. Telfer's conclusions.

Among items of concern were the statistics used to support some of the paper's conclusions. While many of them were interesting, I am not sure that they necessarily supported the findings. It was interesting to learn that in 2012, repeat bankruptcies accounted for 16.11 per cent of all filings, up from 14.99 per cent in 2010. While this was an increase, I doubt that during those economic times a 1.12 percentage point increase is or was any reason for concern, or in any way highlights a problem.

The paper does state that the 2002 Personal Insolvency Task Force's estimate of a repeat bankruptcy rate of 10 per cent is out of date. While that may be, once again, in 2012 debtors were still feeling the effects of the worst recession in decades and therefore an increase in repeat bankruptcies was to be expected.

One statistic that I found interesting was that 84 per cent of second-time

bankrupts obtain an automatic discharge. This supports the contention that 84 per cent of repeat bankrupts have low incomes below the superintendent's standards. There is no statistic to reveal why these people are poor, but it would be nice to know if they had suffered a loss of income or represented the working poor or unemployed, who often are susceptible to financial challenges.

The paper considers dividing repeat bankrupts into two different types of bankruptcy based upon the cause of bankruptcy. The first type of repeat bankrupt would be a "behavioural repeat filer" and the second a "structural repeat filer".

A behavioural bankrupt is one who is irresponsible and merely overspends, while a structural repeat filer has experienced some form of external factor such as a job loss, medical problems or divorce. I found this concept interesting and there was productive discussion about looking at bankrupts through this view.

My concern with the statistical analysis regarding these two types is that most bankrupts are in fact hybrids and may not fit into any one category. However, if statistics are being compiled regarding causes of financial troubles, it is important that we as practitioners take appropriate steps to ensure the bankrupt is thorough in their description of the reason for their financial problem.

In 2012, "overuse of credit, mismanagement and too much debt"

were noted as reasons for financial difficulty 27.66 per cent of the time. Older bankruptcy software programs failed to provide adequate room for more thorough explanations, and the above reasons have been used as common practice by many practitioners for years.

However, the standard answer may result in misleading statistics that will inevitably result in erroneous conclusions, especially when bankrupts are being categorized as structural or behavioural. That would also affect further conclusions reached when considering the effectiveness of counselling as it relates to repeat bankruptcies.

In his conclusion, Dr. Telfer states that "Mandatory counselling may not be the solution to the problem of repeat bankruptcies. Although counselling seeks to provide bankrupts with necessary financial skills for financial success, repeat bankrupts still identify the misuse of credit as the leading cause of failure."

However, the panel pointed out that there were no statistics to indicate how many repeat bankrupts had not received counselling, given the age of their first insolvency. As noted, there was a real concern that the abuse-of-credit statistic may not in fact be assessed accurately as 27.66 per cent in a repeat bankruptcy.

However, I must admit that I did agree that Dr. Telfer's concluding question is a weighty one that merits further consideration: To what extent should lenders bear some responsibility for the repeat bankruptcy problem?