

# Chair's newsletter

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## CANADIAN INSOLVENCY FOUNDATION ANNOUNCES 2013 RESEARCH AWARDS

The Canadian Insolvency Foundation (CIF) is pleased to announce that the **Lloyd Houlden Memorial Research Fellowship** has been awarded for 2013 to Professor Thomas Telfer of Western University. As well, the inaugural winner of the new **CIF Research Award** is Martin McGregor of Osler, Hoskin & Harcourt LLP.

A presentation of the awards was made at the Toronto Hilton on May 9th in conjunction with CAIRP's Insolvency and Restructuring Forums.

### Lloyd Houlden Memorial Research Fellowship

The \$20,000 scholarship is named after the late Hon. Lloyd Houlden, Q.C., a distinguished former Justice of the Ontario Court of Appeal. It is awarded annually to support "an original analysis of innovative ways to improve the insolvency system, a historical analysis of particular features of the system or an exploration of any other insolvency-related idea." Authors from any part of the insolvency community – practicing trustees and lawyers, as well as academics and students – are eligible to apply.

Dr. Telfer is an Associate Professor in the Faculty of Law at Western University in London, Ontario. Earlier in his career, he was a Lecturer and Senior Lecturer in the Faculty of Law at the University of Auckland in New Zealand. He has also taught courses at Case Western Reserve University School of Law, Osgoode Hall Law School, Victoria University of Wellington, the University of Toronto and the University of Adelaide. He has co-authored several books and published numerous articles in the area of bankruptcy and insolvency.

His research paper will seek to determine whether there are any common causes of multiple consumer bankruptcies. His study will ask whether the mandatory counselling provisions are working in light of the increasing number of repeat filings and whether changes need to be made to the counselling program. In addition, his paper will assess whether or not the new automatic discharge for second-time bankrupts is an effective policy tool and whether Parliament should adopt legislation to deal with the problem of third and fourth-time bankrupts.



CAIRP Chair Guylaine Houle with Thomas Telfer



### **CIF Research Award**

This new award is for a maximum of \$5,000 and has been created to provide a smaller research award on any insolvency-related issue.

Mr. McGregor is currently an articling student-at-law with Osler, Hoskin & Harcourt LLP in Toronto. He received his Juris Doctor from the University of British Columbia in 2012 and has both a Masters of Business Administration and a Masters of International Studies from Yonsei University in South Korea. Earlier he received his Honours Bachelors of Arts degree from the University of Calgary.

His project seeks to explore how the guiding principles of class action settlements interface with the objectives and principles of insolvency law. His paper aims to set out a framework for resolving class action claims within proceedings under the Companies' Creditors Arrangement Act based on these guiding principles and relying on best practices developed in the case law. Such a framework will lead to both greater fairness and efficiency in resolving class claims in restructurings, minimizing financial and time-costs to the debtor, protecting vulnerable creditors and maximizing funds available for recovery.

The CIF is delighted to have such accomplished winners of this year's awards.

## **THE 2013 CAIRP COMMERCIAL INSOLVENCY AND RESTRUCTURING PROGRAM**

**T**he 2013 CAIRP Commercial Insolvency and Restructuring Program took place February 28, 2013 at the prestigious Toronto Region Board of Trade. Attendance this year exceeded that of 2012, as we welcomed 153 attendees in 2013 versus 127 attendees in 2012.

The Seminar opened with an informative Economic Overview and Forecast presented by Robert Hougue, Senior Economist, Royal Bank Group. Morning sessions included a Legal Update Panel and a Panel on Lending Issues and Trends. We were delighted to welcome Sean Dunphy, President, Russell Hill Advisory Services Inc. who gave an entertaining and informative keynote entitled "Transitions: A personal take on the Canadian restructuring landscape (or "why good insolvency and restructuring professionals are not about to go out of style)". Afternoon sessions featured a well-received Mock Motion panel, "Vultures in the Courtroom" and we closed the Program with a discussion on real estate examining the question "The Next Troubled Sector?"

For the first time, articling students were offered a 50% reduction on registration, which led to a doubling of their attendance. This represents a positive step forward as we continue efforts

to increase the number of young members in attendance at CAIRP events.

The Commercial Program Committee was ably chaired by Jonathan Krieger CPA, CA•CIRP, Grant Thornton Limited. The Board Liaison was Sharon Hamilton, CPA, CA•CIRP, Ernst & Young Inc. and our gratitude is extended to the following committee members:

- John F. Barrett, CPA, CA•CIRP, Ernst & Young Inc.;
- Lana Bezner, CPA, CA.CIRP, Duff & Phelps Canada Restructuring Inc.;
- Hartley Bricks, CPA, CA•CIRP, Deloitte & Touche Inc.;
- Richard Harris, FCPA, FCA, CIRP, KPMG LLP;
- Alex MacFarlane, Gowling Lafleur Henderson LLP;
- Ken Pearl, CPA, CA•CIRP, MBA, BDO Canada Limited;
- Michelle Pickett, CPA, CA•CIRP, PricewaterhouseCoopers LLP;
- Jeffrey Rosenberg, CPA, CA•CIRP, FTI Consulting Canada ULC and
- Jennifer Stam, Gowling Lafleur Henderson LLP.

**Stay tuned for information on the 2014 CAIRP Commercial Insolvency and Restructuring Program in the coming months!**

# ■ CHAIR'S MESSAGE

Spring – a time of rebirth and new beginnings – is in the air. For many, spring is when business wakes up from its winter rest, rich with opportunities, which seem to sprout right and left. For CAIRP and its volunteers, this winter has been more like the busy off-season of an athlete who is training to be at his prime. We have skipped the hibernation and hit the ground running. In fact, we have been running since last fall.

In this critical time for our Association, a growing group of volunteers is hard at work making sure that CAIRP's bold vision for our restructuring landscape becomes a reality. New ideas are being developed and important, mature initiatives are being infused with new life.

From the Chair's perspective, what is most impressive is how all volunteers (new and old) have stepped up and contributed time and energy to help bring to fruition every facet of the vision outlined in our strategic plan. My heartfelt thanks to all of you, and to CAIRP staff, for your time and commitment to date.

**Moving forward with the 2012 Strategic Plan:** The five task forces created under the 2012 strategic plan are strong and getting stronger. As I write this article, the **Media Task Force** is negotiating the hiring of a media consultant who will help with our branding and assist us with our goal to increase CAIRP's public visibility.

The **Name Review Task Force** has been reviewing a history of names, practices in other jurisdictions, and terms and names associated with insolvency legislation to develop their view on whether our professional name should be changed, and if so, to what.

The **Website Task Force** is developing the future content and structure of the online resource which will become our new website, including consulting with various members and committees such as the New Member Committee (which, I am pleased to say has been very active, in the development of our website).

These three task forces have been asked to present their reports at the 2013 Annual General Meeting in St. John's, Newfoundland and Labrador, in August.

The **Consumer and Corporate Advocacy Task Forces** have held several productive meetings and are closing in on their objective: producing and submitting a report to the Office of the Superintendent

of Bankruptcy by September 2013. The Corporate advocacy task force, together with CAIRP's Corporate Practice Committee, has also connected with their counterparts from the Insolvency Institute of Canada for this purpose.



Guylaine Houle

**Provincial Presidents Meeting:** This past February, at CAIRP's request, all Provincial Presidents met in Winnipeg. Not only did they share their individual achievements with CAIRP and their counterparts, but much was discussed about finding the best way to team up and maximize added value for all members. In this respect, based on the quality and quantity of ideas and exchanges, the meeting was a huge success. In addition, a committee on the review of the summary administration Tariff was confirmed, and plans to provide CAIRP membership with a report at the Annual General Meeting.

In addition to this Tariff Review report, a separate report drafted by a previous committee on disbursements and additional draws and summary administrations was reviewed by the Provincial Presidents. A final report is to be submitted to the Board before being presented to the members at the Annual General Meeting.

All other committees continue to work diligently, putting forth all necessary effort to ensure that CAIRP provides the maximum added value for its members. It is important for all of us to recognize that as an association, we are fortunate to have such dedicated members who take to heart the long-term value of CAIRP, its members and our profession. Please join them by participating in a committee and improving our profession. It is well worth it.

This year's **Annual General Meeting** in St. John's is shaping up to be another outstanding professional, social and educational milestone. The program will open August 15 and conclude with our Gala Dinner on August 17, 2013. Have you registered yet?

**Guylaine Houle, BCL, FCIRP**

# CAIRP Annual Conference

August 15-17, 2013  
St. John's, Newfoundland and Labrador



**R**egister online today! The Canadian Association of Insolvency and Restructuring Professionals invite you to join them in **St. John's, Newfoundland and Labrador, for the 2013 Annual Conference.** Taking place at the **Sheraton Hotel Newfoundland**, the CAIRP Annual Conference runs from Thursday, August 15th to Saturday, August 17th, 2013.

CAIRP members and industry practitioners from across the country will once again have the unique opportunity to meet and mingle, and take part in a series of informative, thought-provoking professional development programs, delivered by a faculty of esteemed experts. Stimulating breakout sessions will provide an additional forum in which to network and exchange ideas.

The Conference will open with an inspiring story of leadership in the face of many obstacles, as told by General Rick Hillier. (Ret.) Join Dr. Warren Jestin, Chief Economist of Scotia Bank as he leads us in an Economic update. Breakout sessions include the Use of Disclaimers in Commercial Files, a Panel on the Surplus Income Directive and a Plenary session on the Future of our Profession.

The optional social program allows you to explore beautiful St. John's and the surrounding areas. You'll have plenty of time to play both of the beautiful golf courses situated within minutes of downtown St. John's, Glendenning Golf ([www.glendenninggolf.ca](http://www.glendenninggolf.ca)) and The Osprey at Clovelly ([www.clovellygolf.com](http://www.clovellygolf.com)).

Tour old St. John's – the oldest community in North America – including Cabot Tower and the famous

Signal Hill. Hear the legends and history of Dead Man's Pond, Government House and the Colonial Building. A must-see on any visit to St. John's is breathtaking Cape Spear, the 'Far East' of North America and the most easterly point of land on the continent. Tour the restored 19th century lighthouse or the underground passages to WWII gun batteries. Watch out for the waves!

For the kids, we have a fun program where they will explore and learn, visiting Middle Cove Beach and Fluvarium, Signal Hill, the Johnson Geo Centre and in the evening having fun with a games night and a Movie and Bowling night while parents attend their own social events!

## Transportation

CAIRP has negotiated travel discounts with Air Canada, WestJet and Porter. Call Lucy at 905.212.2521 and quote reservation code "CAIRP AC" when making your flight arrangements.

## Hotel

Call 1.800.325.3535/709.758.8453 or email [reservations@sheratonhotelnewfoundland.com](mailto:reservations@sheratonhotelnewfoundland.com). Identify yourself as being with the CAIRP Annual Conference. Reservations due before July 12, 2013.

## Car rentals

Reserve as soon as possible! Rental cars are in high demand so if you plan to extend your trip beyond the conference to see more of Newfoundland and Labrador, be sure to reserve well in advance. Call Lucy at 905-212-2521 for corporate rental rates and to make a reservation.

# MEMBER NEWS

## Member News

CAIRP wishes to congratulate all CQP graduates and extend a warm welcome to the following new Members:

Jean-Francois Audet, Fern Auger, Karen Aylward, Andriy Bazelevsky, Amanda Bezner, Gordon Boersma, Mark Borysiak, Jason Campbell, Jamie Cartwright, Mihir Chande, Jean-François Cliche, Maxime Codere, Philippe Côté, Lawrence Crandall, Erez Cukierman, Adam Erlich, James Foran, Louis-Etienne Fortier, Corey Frenkiel, John Fritz, Jean Goguen, Richard Goldhar, Matthew Golding, Pearl Gupta, Howard Hayes, Jeané Herman, Marc-André Houle, Francyne Hunter, Ann Lakeram, Duncan Lau, David Lewis, Jeffrey Lewis, Karen Liberty, Bryan Litvack, Noah Litvack, Angela Lock, Clark Lonergan, Brett Luckin, Heide MacAlister, Robert Macri, Mary Ann Marriott, Mark Marshall, Ian Martin, Steven McLaughlin, Susan Methuen, Caryl Newbery-Mitchell, Paul Moffett, Stephen Moore, Sara Pagels-Morgan, Josh Nevsky, Nicolas Pascal, Pritesh Patel, Linda Paul, Joel Picard, Nicole Polak, Jodi Porepa, James Andrew Robinson, Nicole Sagolili, Ashvin Sharma, Sean Stack, Michelle Statz, Eric St.Pierre, Mathew Stradiotti, Sonya Strand, Shawn Travitsky, Bridget van Wyk, Barbara Visentin, Wayne Weber, Steven Welker, Julie Wildman, Richard Williams, and Dan Woo.

Remember your Association needs your contribution and your expertise! CAIRP always welcomes volunteers! If you are interested in being a CAIRP volunteer, please contact Julie Mortreux, Chair of the New Members Committee at: [jmortreux@deloitte.ca](mailto:jmortreux@deloitte.ca).

CAIRP also welcomes **Marc Rouleau and Rachel Pollock** who have recently re-joined the Insolvency Community and renewed their general membership in CAIRP.

## Life Members

CAIRP wishes to acknowledge our new Life Members **Keith Caverly, Harold Brief, Antion A. DeVliegere, J. Stephen Allan, John MacNutt, Ralph Peterson, Paul Pope, Stephen Symes and David Towers**, for their role in our profession and the legacy they have created for others to follow. We welcome feedback in the years to follow.

CAIRP wishes to thank all the members that have retired this year and decided to remain with the Association as Life members. CAIRP values your membership and welcomes your continued volunteering.

## A reminder...

The deadline for submitting your annual declarations and paying your membership fees was May 31, 2013. If you missed it, please contact Evelina Solarska-Rowley, Membership and Committee Relations Manager as soon as possible at [evelina.rowley@cairp.ca](mailto:evelina.rowley@cairp.ca)

You can find on line at [www.cairp.ca](http://www.cairp.ca) the criteria and the applications for all the Awards, including the Fellowship, the Keith G. Collins and the Outstanding Volunteer Award. Please note that the nominations are only open from January 1st to April 30th, except for the OVA which is open all year.

## In Memoriam

Our heartfelt condolences go to the families and friends of the following members whose input and commitment were extremely valued by the Association and its members:

**Albert Crow**, CIRP (ret.) who passed away in January 2013. Albert was a member of CAIRP since 1983.





**Gilles Savard**, FCIRP (ret.) who passed away in March, 2013. Gilles was a member of CAIRP since 1989 and received the Fellow Award in 1997 as a result of his outstanding contribution to the Insolvency Community.

**Roger Burgon**, CIRP (ret.) who passed away in April 2013. Roger was a member of CAIRP since 1979, a former member of the Board, Secretary–Treasurer and a valued volunteer on many of CAIRP’s Committees and Task Forces.


**Ian Strang**, FCIRP (ret.) who passed away in April 2013. Ian was a member of CAIRP since 1979 and received the Fellow Award in 1996. He was a past Chair of CAIRP and a past President of INSOL.

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CAIRP believes in the recognition of members who distinguish themselves from others. If such a deserving individual comes to mind, please let your nomination be known to us!

In each issue, **Rebuilding Success Magazine** profiles CAIRP members from across Canada who have made a significant contribution to their communities as volunteers. If you know anyone who qualifies, please send the details to [natalie.richard@cairp.ca](mailto:natalie.richard@cairp.ca)

If you would like your event to be promoted in the next Chair’s Newsletter, please send details to Natalie.



## CQP UPDATE

Here is an update with respect to recent activities and results from the Chartered Insolvency and Restructuring Professional Qualification Program (CQP). In October, 2012, one hundred and forty-seven articling members wrote the CQP’s first competency-based national insolvency exam (CNIE). In November, more than 60 highly experienced CAIRP members who had volunteered for this task (“markers”) assembled in Toronto to assess candidate performance on these exams. Given the significant change in the way these exams were assessed, the markers spent an entire day training and test marking sample exam papers. Despite the heavy workload resulting from a much higher than normal number of candidates writing the exam in 2012 and the change to a new method of assessment, there was a great deal of support for this shift to competency-based assessment.

The markers were divided into small groups focused on assessing performance on a limited number of questions. Each group had a team leader who was more familiar with the exam and/or with competency-based assessment, and who monitored progress and performance of the team and the candidates. The entire process was overseen by the Chairs of the CNIE Board and the Exam Oversight

Committee, with support from CAIRP staff. Great care and diligence was applied to ensure that all candidates’ papers were assessed fairly and consistently. This resulted in a greater than normal number of reviews, which delayed release of the results, but ensured that rigorous and equitable standards were applied. These same standards were applied at the appeal centres (French and English), at which 27 exams were re-assessed.

The final results of the 2012 CNIE were as follows: 74 candidates or 54% of those writing were successful. Some candidates and sponsors have expressed concerns about the lack of in-depth preparation for the new assessment format. In response to these concerns, we are looking at modifying the schedule at the upcoming CNIE tutorial in order to markedly increase the amount of time spent on learning how to prepare and write a competency-based exam. The number of days that candidates will spend at the tutorial will not increase but we plan to extend the first day of the tutorial and add evening sessions to accommodate this additional programming.

Successful candidates, together with qualified candidates who had passed the NIE in previous years, were invited by the OSB to participate in the





Oral Boards which were held in March and April of this year. The OSB, working in close harmony with CAIRP, reiterated its support of competency-based assessment and in the examination process managed by CAIRP by expending significant time and energy revising its processes to also concentrate on the demonstration of competency as the standard for obtaining a licence as trustee in bankruptcy.

In addition to holding the CNIE, CAIRP offered two Core Knowledge Exam (CKE) sittings, one in September 2012 and one in March 2013. In September 2012, 25 of 34 candidates were successful for a 74% pass rate. In March, 2013, there were technical problems encountered in the administration of the exam. Notwithstanding these technical issues, 27 out of 41 writers were successful for an overall pass rate at the exam sitting of 66%. Candidates were allowed extra time to compensate for these challenges and all unsuccessful writers were offered the opportunity to take a make-up online exam.

We anticipate another large sitting for the CNIE this fall. The CNIE Board is hard at work developing the next exam and looking forward to qualifying a new group of CIRPs.

The various committees involved in the CQP process take this opportunity to invite members to participate in the next CNIE assessment process and be part of a fulfilling professional experience. The next assessment is expected to take place in Toronto from October 26th to 30th, 2013, and CAIRP is therefore asking members, **with a minimum of three years of experience**, to reserve time in their agenda to this end.

If you are interested in participating please contact Isabelle Gauthier, our CQP Registrar, by phone at 416 204 3242, ext. 3513, or by email at [Isabelle.gauthier@cairp.ca](mailto:Isabelle.gauthier@cairp.ca).



## CAIRP Supports Regulation for Improving Consumer Protection in Respect of Debt Settlement Services in Ontario

**O**n January 4, 2013, the Ministry of Consumer Services Ontario announced its intent to regulate debt settlement companies to protect consumers from exaggerated claims and abusive practices. Through new regulation, the government proposed regulations which included:

- » Banning debt settlement companies from charging up-front fees;
- » Limiting the amount of fees consumers are charged;
- » Requiring clear, transparent contracts; and
- » Implementing a 10-day cooling-off period.

The Ministry also posted regulatory proposals for public comment and invited feedback. CAIRP struck a working group with the Ontario Association of Insolvency and Restructuring Professionals (OAI RP) in order to provide a joint submission to the Ministry.

The CAIRP and OAI RP joint submission to the Ministry strongly supports the initiative to regulate debt

settlement companies and provided additional recommendations such as:

- » Since certain debt settlement companies are located outside of Ontario, the proposed regulations should include all debt settlement companies that provide services to individuals in the Province of Ontario.
- » The timing and benchmarks which trigger payment of fees should be clarified in order to avoid potential abuse.
- » No special dispensation should be automatically provided in the Regulation to any particular debt settlement companies under the proposed 2-tier fee model. The top tier fee should apply only to those debt settlement companies that are approved by the Ministry as part of an approval process to ensure equal treatment for all providers.
- » Debt settlement companies should be required to provide full disclosure to consumers of all fees, donations or any other consideration they receive and that such amounts be considered in the fee limit.





- » Enhanced standards of conduct with respect to disclosure of fees to consumers, referral fees and licensing requirements.

On April 18, 2013, the Ontario Government introduced Bill 55 which proposes the regulation of debt

settlement companies through amendments to the Collection Agencies Act. Most of the details have yet to be revealed as these will be in the proposal Regulations. CAIRP and OAIRP will continue to follow this matter with interest.



## CAIRP Hires Consultant to Develop Media Relations and Branding Campaign

In October 2012, a Media Task Force (the “Committee”) was assembled and tasked with developing a detailed re-branding strategy for CAIRP. The re-branding initiative being developed is in response to member concerns that CAIRP has historically not done enough to promote the recognition of trustees among the general public, nor has CAIRP given members the tools needed to communicate effectively on their own.



CAIRP Media Task Force Chair George Kinsman

Quebec’s Council of Trustees in Bankruptcy (formerly known as the “Quebec Association of Professional Restructuring and Insolvency”) has been focused on re-branding its Provincial Association for several years and by all accounts has achieved great success to date. The Committee has benefitted greatly from their efforts and intends to leverage their experience for success.

CAIRP’s re-branding strategy is focused on enhancing public awareness to reinforce that our members are the leading professionals in

insolvency matters and on changing the public’s perception of “Trustees in Bankruptcy” and the work we do. CAIRP’s goal is to be recognized as the “Go-To Association” for insolvency matters by both the media and the general public who may require our services.

Brown & Cohen Communications & Public Affairs Inc. (“Brown & Cohen”) has been engaged to advise the Committee in the development and execution of a media relations and branding campaign.

Brown & Cohen has a long history of delivering such services to professional organizations such as CAIRP and we are excited to have them on board.

It is an energizing time as we consider the best way to re-brand CAIRP (possible name change pending!) and focus our efforts on making a real difference to the Association and its members at large.

George Kinsman, CA•CIRP  
Chair – Media Task Force

