

Submitted by Harris & Partners Inc and its Trustee's.

Review of the Trustee Licensing Regulatory Framework

The licensing framework in addition to all facets of being a Trustee and operating a practice is the key to providing integrity and an unbiased approach to serving the various stakeholders who depend on Trustee's and the insolvency system for fairness. As a Trustee, we are Officers of the Court and are expected to respect that position with fairness. In order to obtain the Trustee License, [we are educated with a standard for post secondary education]; many Trustee's are CA's, MBA's and LL.B.'s, in addition to the CPQ course which includes correspondence courses plus written and oral examinations. This allows the public the comfort of knowing the extent of the individual's commitment to fulfill their roles as professionals providing professional advice. This further enhances our position to act in the Courts, where few if any other non lawyers do.

The Trustee community has served the Canadian public well throughout their history. During the recent recession of 2009, the community came to the table and dealt with the increases in volumes without fail. During this timeframe, there was no suggestion from any of the major stakeholders including the creditors, debtors and the Courts that there was a lack of access. CACCS has suggested there was a lack of access but this just wasn't the case, as the Trustee community absorbed its largest historical increase in filings without fail.

The CACCS, although they provide an important role when it comes to education and public awareness lacks the education background and training necessary for most of their counselors to deal with some of the difficult situations and make the real-time decisions that Trustees must make on a daily basis. Although the CACCS suggests that a DMP is similar to a Consumer Proposal, so many of the issues surrounding them fail to be equal. The CACCS refers to their debtors as clients. This in itself shows their biased approach to dealing with the debtors as they are representing them. One of the key differences between CACCS and a Trustee in Bankruptcy is that the Trustee is well aware of who they represent, the creditors. The debtor is never nor will ever be the client. This is a mind set for the CACCS and it's a key difference in the way they approach a situation. This is a biased approach thus it lacks the integrity that the Trustee is expected to have and has always shown the creditor community. The creditors are the key stakeholder in Canada's insolvency process and they respect the Trustee community for its appropriate balance between the needs of the debtor and the Trustee's representation of the creditors. The creditor community and the Court are two key stakeholders who deal with the insolvency process are two parties that should be canvassed for opinions on who should be able to administer a consumer proposal.

The CACCS seems to look at the consumer proposal administrative role as simply a review of information with the debtor and an offer of sorts to the creditors. What they fail to realize is the amount of other work that is involved with regard to communicating with creditors, reviewing claims to ensure they are allowable, legitimate, proper, secured or preferred. Also they lack the full understanding and knowledge of the bankruptcy process thus the concept that a proposal shall be better than a bankruptcy cannot be properly reviewed in consulting with the debtor and a full spectrum of options cannot be offered if they are not fully understood. They don't see the process of a creditors meeting, the difficult issues that a Trustee has to deal with on a daily basis and the professional judgment necessary to manage an insolvency practice. Further, they do not deal with trust accounts as Trustee's are expected too.

For all the reasons above, we believe that the CACCS or any other Credit Counselling Agencies should not be allowed to act as Administrators in Consumer Proposals.