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The Paradise Papers: A Slippery Slope

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In less than 30 years, it has become possible for individuals to perform criminal activities electronically, without being physically present at a crime scene. For example, the traditional way of robbing a bank is to appear with guns, masks, and a get-away vehicle. Today, this method is outdated. A criminal with sufficient expertise can much more effectively rob a bank of information (such as credit card data or bank account numbers) or steal funds by electronic means. The electronic thief is no less criminally culpable than the robber of the bricks-and-mortar bank.

Like a bank, a law firm can be the victim of electronic theft. An electronic thief is arguably just as culpable as a robber who appears at the front desk, threatens the staff at gunpoint, and speeds away with documents to later distribute. Moreover, consider a situation in which an electronic criminal steals funds and deposits them in a third person's bank account, and that third person then uses the funds. The involvement of the third person is no less offensive than the involvement of an individual to whom a bricks-and-mortar bank robber simply passes some cash.

Why then does public opinion generally consider it morally acceptable for a hacker to electronically steal documents from a law firm and pass them to the press for public consumption? In general, there has been no outcry against these criminal acts; instead, the public appears to have welcomed them, and in many instances the press has sensationalized the stolen information. Ever since the theft and release of this sort of information

has become commonplace, it has also become commonplace for the public and the press to jump to conclusions

tax avoidance or evasion. However, while there is no doubt that criminal activities do occur in offshore juris-

tax administrators and in compliance with domestic tax laws.

It is improper for stolen information to be made available to the public and for conclusions to be drawn about it on the basis of a less-than-thorough understanding of the circumstances. Moreover, it is highly offensive for the media and others to draw attention to the people whose private information has been the object of electronic theft.

Social media and other electronic forms of communication should not be used to normalize criminal activities and disseminate clients' information to a public audience. It is time to eradicate this phenomenon and to consider the possibility of criminalizing the possession and public dissemination of information obtained by electronic theft. ■

In less than 30 years, it has become possible for individuals to perform criminal activities electronically, without being physically present at a crime scene.

about it. The latest example of criminal wrongdoing is the theft of 13.4 million electronic documents (the so-called Paradise Papers) from Appleby, a reputable law firm, which has caused a media frenzy and prompted exaggerated responses from the government.

It is unfortunate that offshore industries – banking, law, insurance, and others – are often associated with

dictions, these jurisdictions are frequently used for legitimate non-tax reasons: privacy, confidentiality, safety concerns, creditor-protection planning, and succession planning. Clients who have sought professional advice about the use of offshore jurisdictions have a legitimate expectation of privacy from public scrutiny, provided that their taxation particulars are fully transparent to the



Is Probate Beneficial?

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Collins Estate (Re), [2016] BCJ No. 840 (BCSC (In Chambers)), highlights the question of whether probate is desirable in certain circumstances. Much of the practice of estate and trust planners is focused on creating structures that avoid probate, such as inter vivos trusts, joint tenancies, and beneficiary designations. Although the goal of many clients is to keep their estates out of probate altogether, is such a goal appropriate in all cases?

In *Collins Estate*, the executor of the estate of a deceased customer of the Bank of Nova Scotia sought to compel the bank to release the deceased's assets without a grant of probate. While the will of the deceased was a non-standard document, the case focused on the bank's position that a grant was required before it would release funds. While all banks have policies that allow for the release of small amounts from accounts of deceased persons to their personal representatives without a probated will, the bank took the position that its policy did not create a binding requirement to proceed in the absence of a grant of probate. The bank indicated that it wanted to ensure that the funds were paid to the correct person and to protect itself from a future claim if it were later determined that a different personal representative should have received the funds, or if the will were set aside.

The statutes governing probate in each province and territory have built-in protections for third parties, such as banks, when dealing with the personal representative who holds a grant of probate or administration. An example can be found in section 39 of the Nova Scotia *Probate Act*:

1. Where a grant is revoked, a payment made in good faith to a personal representative under the grant before its revocation is a legal discharge to the extent of the payment to the person making it.
2. Where a grant is defective or there are circumstances affecting the validity of the grant, no action or proceeding lies against a person by reason of that person making or permitting to be made any payment or transfer relying on the grant in good faith and without actual notice of the defect or the circumstances affecting the validity of the grant.

Following argument, Master Wilson concluded that the bank was entirely justified in requiring probate before paying funds held on account of a deceased individual to his or her purported personal representatives and awarded costs to the bank.

Nevertheless, it is anticipated that banks and other financial institutions will continue to exercise discretion in transferring accounts to personal representatives without probate. Depending on the nature of the deceased's relationship with the financial institution and the relationships of the personal

representatives, family members, and related corporate entities with the financial institution, an institution will sometimes allow the transfer of accounts that greatly exceed the stated policy limits. However, the *Collins Estate* case highlights the fact that these remedies are discretionary and should not be relied on when the estate-planning goal is to avoid probate.

In any event, probate will invariably be required in a Canadian jurisdiction if real property is held solely in the name of a deceased person. Further, the grant in these cases must be made in the province or territory in which the land is situated (either as an original grant or as a resealed ancillary grant).

However, it is also clear that an executor of a will (as compared with an administrator of an intestate's estate) derives authority from the will itself and not from a grant. This well-established principle of the common law was expressed in the seminal case of *Stump v Bradley* (1868), 15 Gr 30 (Ont Ch). A grant of probate is merely evidence of the executor's authority, not the *prima facie* creator of that authority. This principle creates opportunities for probate planning through the use of primary and secondary wills in some jurisdictions in Canada, inter-jurisdictional wills covering assets in various jurisdictions, different executors dealing with different assets, and related planning opportunities. However, these planning opportunities can be thwarted when estates include assets that require probate, such as real property or accounts in financial institutions that do not waive probate.

The following are some of the reasons why a person would want to avoid probate:

- avoiding the built-in delays in the process, which can impede the transfer of assets to beneficiaries;
- avoiding probate taxes/fees, which are levied in each province and territory (some provinces and territories, such as Alberta, Quebec, and Yukon, are very modest; others, such as Nova Scotia, Ontario, and British Columbia, have very high rates that are based on the value of the probated assets);
- seeking enhanced protection from creditors or dependant relief claims (if an alternate succession structure is used);
- simplifying the succession processes for multijurisdictional assets;
- simplifying the succession process generally, and
- ensuring confidentiality, which is the most important consideration for many clients.

Ultimately, the question comes down to this: can a structure be created to provide sufficient safeguards for the

successor trustees. It can also provide better incapacity planning than a power of attorney (more comprehensive powers, more continuity of management, better protection for the incompetent person and his or her beneficiaries, and greater recognition in foreign jurisdictions), among other benefits.

Does a bare trust go that far? The short answer is no. Bare trusts can be extremely effective tools for avoiding probate in a tax-efficient way; however, the trustees/nominees of bare trusts (whether true bare trusts involving a full transfer of legal title to a third party or bare trusts implemented through a joint tenancy arrangement) derive authority after the settlor's death from the unprobated will. Accordingly, third parties must rely on the ownership of legal title, rather than the statutory protections afforded under the various statutes that address probated wills.

In most instances, it is legal ownership that provides third parties with the appropriate protection. Both successor title holders for real property and the financial institutions that hold bank or brokerage-type accounts obtain their instructions from the holder of legal title of the assets. They need not look

the terms of a trust if the purchaser is aware of a trust, and is not bound by the trust terms, unless they are registered in the land registry: see, for example, *Hoback Investments Ltd. v Loblaw's Ltd.* (1981), 120 DLR (3d) 682 (Ont HC). Similar principles exist for personalty. A third party who pays valuable consideration for movable trust property in good faith and without notice of a defective title similarly obtains good title from the vendor.

The other parties to consider are those interested in the estate directly: the executors/trustees and the beneficiaries. As noted above, an executor draws authority from the will, and therefore any provisions in the will that provide for an executor's discretion, duties, obligations, or protections apply irrespective of whether the estate is probated. Similarly, the common-law trust duties of an executor or trustee to the beneficiaries, such as the duties of good faith, impartiality, even-handedness, and accountability, apply whether or not a will is probated.

While probate can have advantages in some cases, it can also have significant disadvantages, such as delays in administering the estate, payment of

However, it is also clear that an executor of a will ... derives authority from the will itself and not from a grant.

beneficiaries and for the integrity of the testator's estate plan without probate? Typically, a probate-avoidance plan involving the use of an *inter vivos* trust can provide these safeguards. Certainly, a traditional *inter vivos* trust (such as an alter ego, joint partner, spousal, or self-benefit trust) can address many of these concerns. In addition to the benefits noted above, such a trust can provide continuity of management and administration of assets by succes-

sor trustees. However, it should be noted that where a financial institution or other third party is aware of the trust relationship (which applicable regulations and/or account agreements may require the trustee to disclose), in some cases there may be an obligation on the financial institution to review the trust terms so as to not be knowingly assisting in a breach of trust. Courts have held that a purchaser of real property is under no obligation to inquire into

probate taxes, and loss of confidentiality. While the provisions of the Income Tax Act are applicable regardless of whether a will is probated, high net worth Canadians and those whose principal concern is confidentiality will continue to look for planning opportunities that avoid probate. The challenge for estate and trust planners is to ensure that client and beneficiary interests are safeguarded sufficiently when probate is not being sought. ■

Using a Usufruct or Substitution Instead of a Trust

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Unlike almost all other jurisdictions in North America, Quebec has a predominantly civil law system. The *Civil Code of Quebec* (CCQ) does not recognize a distinction between legal and beneficial ownership for trusts governed by Quebec law, although non-Quebec trusts from a common law jurisdiction can generally own property and operate in Quebec free of the law governing Quebec trusts. (Quebec has not ratified the *Hague Convention on the Law Applicable to Trusts and on Their Recognition*; however, this treaty’s conflict rules are essentially included in the CCQ.) The CCQ defines “ownership” as “the right to use, enjoy and dispose of property fully and freely,” and defines “trust” as a “patrimony by appropriation, autonomous and distinct from that of the settlor, trustee or beneficiary and in which none of them has any real right” or a right in rem. Other dismemberments and restrictions on the right of ownership, such as usufruct and substitution, were included in the first CCQ in 1866; trusts were added 20 years later.

In many situations, the use of a trust, usufruct, or substitution is neutral from an income tax point of view. The federal *Income Tax Act* (ITA) and its Quebec equivalent provide that the taxation rules for trusts are applied to

usufructs and substitutions as if they were trusts.

Trusts

Since 1994, the CCQ has required trusts to have at least one independent trustee (that is, a trustee who is neither a settlor nor a beneficiary of the trust), which is an uncommon requirement in North America. This has led to interpretative difficulties involving whether

The general view is that the lack of an independent trustee does not nullify the trust itself; rather, it nullifies the actions undertaken by the trust until a suitable appointment is made.

the independence of a trustee is to be determined objectively or subjectively; interpretative difficulties have also surrounded the penalty for breach of this requirement. The objective test requires that at least one trustee is neither a present nor a future beneficiary (see, for example, *C.T. v. D.J.*, 2009 QCCA 2460), and the subjective test seems to require that at least one trustee is not related to the beneficiaries (see, for example, *Graham v. Boyer-Richard*, 2004 CanLII 20712 (QSC)). The general view is that the lack of an independent trustee does not nullify

the trust itself; rather, it nullifies the actions undertaken by the trust until a suitable appointment is made.

To avoid the difficulties surrounding Quebec trusts, can usufruct or substitution be used instead?

Usufruct

Like a trust, a usufruct can be established by onerous contract (with cause, which is similar to consideration), gratuitous contract (inter vivos gift), or will. In essence, a usufruct provides the usufructuary with a right of use and enjoyment of property owned by another (the bare owner) for a certain time, including a right to the fruits and revenues produced. Subject to the usufructuary’s rights, the bare owner has the power to sell the property. Since no trustee is required, the interpretive question of independence is irrelevant.

Like a trust, a usufruct can be established by onerous contract (with cause, which is similar to consideration), gratuitous contract (inter vivos gift), or will.

Usufruct, which is often called “a right of use,” can be employed to allow the enjoyment and use of a family home, for example. In such a case, the user is required to maintain

the property and is responsible for other usual charges, such as insurance. A usufruct is often employed when residential real estate is to be placed in the hands of a user for a period of time.

If protection from creditors is a concern, a usufruct may be problematic because, subject to the rights of the bare owner, creditors are able to seize the rights of the usufructuary. Similarly, however, the Supreme Court of Canada has observed that the rights of a beneficiary under a trust are not always entirely shielded from creditors. (For example, in *Bank of Nova Scotia v. Thibault*, 2004 SCC 29, the court stated that “[t]he trust argument [regarding creditor protection] is, to a certain extent, a mirage. The [property held in trust] may not be seized to pay the debts of ... the beneficiary because the property does not belong to [the beneficiary]. However, the patrimonial rights of the beneficiary ... under the trust contract, like any personal patrimonial right, are seizable.”)

Substitution

In substitution, ownership lies with a first rank of beneficiary (the institute) and then with one or two ranks of substitutes. As in the case of a usufruct, no trustee is required. Unlike a trust or usufruct, substitution can be established only by inter vivos gift or will.

Under the CCQ, the institute must “act with prudence and diligence, having regard to the rights of the substitute.” The institute has a right to income (unless otherwise stipulated) and must preserve the capital, not encroaching on it or disposing of the property for less than fair market value, unless given a specific right to do so. Substitution with encroachment is called “residual substitution”

and was recognized recently by the Quebec Court of Appeal (*Boudreault c. Boudreault*, 2015 QCCA 1781). The institute may change the substance of the capital, unless otherwise provided.

As in the case of usufruct, creditor protection under a substitution may be a concern because, while an institute’s right is in effect, the institute is seen as

In substitution,
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the owner of the property. Another disadvantage is that there is no power to appoint institutes, although it is possible to have several institutes or substitutes in a particular rank. This means that there is no discretion to choose who will benefit at the institute rank; however, there is a power to appoint at the substitute rank from a list of potential substitutes. Substitution can therefore be ineffective in estate freezes, but should remain effective for spousal substitutions (in which the spouse is entitled to all income and, while alive, has the sole right to income or capital) for which a power to appoint in the first rank is not relevant. Therefore, substitution is useful when investment assets (including securities and real estate) are to pass among ranks of users, but there is no need for a power of appointment in the first rank.

Because under the ITA a substitution is a deemed trust, several basic trust tax concepts apply:

- The institute is deemed to be both a trustee and a beneficiary under the

tax trust (CRA TI 9709555, “Legs en substitution de residuo après 1990,” May 13, 1997).

- Revenues paid or payable to an institute are taxed in the hands of the institute.
- A substitution must file a trust tax return within 90 days of the year-end.
- Unless an exemption is provided for (as in the case of spousal substitutions), there is a deemed disposition of capital assets in the substitution every 21 years.
- The institute or the institute’s estate should obtain tax clearance or distribution certificates before transmitting property to substitutes (ITA subsection 159(2) and Quebec *Tax Administration Act* section 14).
- The tax deferral of the spousal trust applies also to a spousal substitution (CRA TI 2012-0432201E5, “Payment of Tax by an institute,” March 11, 2013).
- Real estate in the substitution is subject to the same Quebec provincial land transfer tax rules as real estate held in a trust (section 20 of the Quebec *Act Respecting Duties on Transfers of Immovables*).

Conclusion

In summary, practitioners should note that in Quebec the civil law vehicles of usufruct and substitution are available for use in appropriate circumstances instead of a trust – especially if the Quebec independent trustee rule is meant to be avoided. This situation provides a good example of how different legal systems can work together with a large degree of coherence. ■

Can a Trustee in Bankruptcy Seize Funds from a Registered Disability Savings Plan?

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The author wishes to thank her colleagues, Katherine McEachern and Thomas Grozinger, for their valuable comments. The views expressed in this article do not necessarily reflect those of Royal Bank of Canada and its affiliates, and no liability is assumed for any use or reliance on this article. The comments made are offered for general information purposes only and are not to be acted on without independent consideration of individual circumstances by legal and tax advisers.

The Royal Bank of Canada has been involved in a number of situations in which a client with a registered disability savings plan (RDSP) has declared bankruptcy. In these situations, the trustee in bankruptcy (TIB) typically demands funds from the RDSP for the purpose of paying the client's creditors. The results of such an exercise of authority by a TIB can be financially catastrophic for the client. The withdrawal of funds from an RDSP can result in the requirement to return grant money to the federal government, the ineligibility of the client to reapply for a federal grant, and, if all funds are depleted, the closure of the RDSP. The recent case of *Alary (Re)*, 2016 BCSC 2108, has provided issuers of RDSPs with some clarity concerning a TIB's authority.

The court's conclusions may interest clients with an RDSP, families who contribute to an RDSP, creditors who lend money to people with RDSPs,

TIBs, and the professional advisers to any of these people.

Background

An RDSP is a savings plan that is intended to ensure the long-term financial security of a person who has a prolonged and severe physical or mental impairment such that the person is entitled to receive the disability tax credit. Details about RDSPs are provided on the Canada Revenue Agency's (CRA's) website: <http://www.cra-arc.gc.ca/tx/ndvdl/tpcs/rdsp-reei>.

Under paragraph 146.4(4)(a) of the *Income Tax Act*, the arrangement governing an RDSP must stipulate the following:

1. the arrangement is operated exclusively for the benefit of the beneficiary under the plan;
2. the designation of the beneficiary is irrevocable; and
3. no right of the beneficiary to receive payments from the plan is capable, either in whole or in part, of surrender or assignment.

Disabled persons can open an RDSP for their own benefit, or another qualified person may open an RDSP on their behalf.

Contributions can be made to the RDSP by the beneficiary, the beneficiary's parents, or others. These contributions to an RDSP are not tax-deductible and can be made until the end of the year in which the beneficiary turns 59. There is a lifetime contribution limit of \$200,000, and, when the contributions are paid out to the beneficiary as a dis-

ability assistance payment, the portion of the payment that consists of the original contributions is not included in the beneficiary's income.

Canada disability savings grants and Canada disability savings bonds may be added to RDSP contributions for qualified beneficiaries, and these benefits can total a maximum of \$70,000 and \$20,000, respectively. When amounts attributable to grants, bonds, and earnings are withdrawn as part of a disability assistance payment, they are taxable in the hands of the beneficiary.

An RDSP is a savings plan that is intended to ensure the long-term financial security of a person who has a prolonged and severe physical or mental impairment such that the person is entitled to receive the disability tax credit.

Financial-planning advice for people with disabilities often focuses on government grants and tax deferral as a way of providing for future financial stability.

Before contributing to an RDSP that a beneficiary has opened, family members and others might ask them-

selves about the beneficiary's ability to manage money and the financial challenges that may lie ahead. If the beneficiary might become insolvent or bankrupt in the future, contributors should consider whether the TIB might take possession of the contributions and distribute them to creditors, which would result in the loss of all government grants or bonds contributed to the RDSP. *Alary* provides some guidance in this regard.

The case is relevant both when the bankrupt opens an RDSP and when the bankrupt is the beneficiary of it. It also applies irrespective of whether contributions are made by the beneficiary, family members, or others.

Facts

B, a person with a disability, opened an RDSP at the Royal Bank of Canada in 2010. She contributed \$6,800, the funds apparently coming from her parents. With the government grants and bonds that were also contributed, the value of the RDSP at the time of the case was \$32,250. In 2015, with \$24,000 in unsecured debt, B filed an assignment in bankruptcy. Her TIB requested that the bank (as agent for the RDSP trustee, the Royal Trust Company) withdraw all funds and remit them to the TIB for the benefit of her creditors.

As expressly permitted by the trust agreement governing the RDSP trust, the bank required a court order confirming the TIB's authority to make the request. Although there is currently no express exemption for RDSPs under the *Bankruptcy and Insolvency Act*, on the court application the bank noted the requirement that the RDSP trust be "operated exclusively for the benefit of the beneficiary" and asked the court whether a payment to a TIB for the benefit of the beneficiary's creditors could

be valid within the terms of the RDSP trust and other applicable laws.

Arguments

The bank's counsel was neutral in his submissions, recognizing that the RDSP was a trust and that the bank and the Royal Trust Company, as trustee, should not advocate for either the beneficiary or the TIB. The terms of the RDSP trust agreement stated that no payments would be made from it "other than Disability Assistance Payments to or for a Beneficiary." The bank pointed out that the TIB had no greater rights than B in the RDSP. As a result of statutory limitations on withdrawals, if the TIB could demand a payment for the benefit of the bankrupt's creditors, it would be limited to \$3,229, and such a withdrawal would lead to the statutory obligation to return the government grant monies at a ratio of

3:1 – a huge penalty for B as a beneficiary with a disability who would lose these grants forever. In this case, creditors could realize a maximum of only \$3,229, but B would suffer the loss of the balance of the entire RDSP.

The TIB ultimately limited his claim to the monies contributed privately to the RDSP and not to the government grants and bonds, although as a result of this claim, the grants and bonds would be forfeited to the government. He argued that the RDSP vested in him as TIB as part of the bankrupt's property. In addition, he made the following argument:

In terms of public policy ... while the RDSP is a benefit conferred on the bankrupt by the Government of Canada and federal legislation, the ability to assign oneself into bankruptcy is also a benefit. As



such, the bankrupt should not be entitled to rely on both benefits to the unfair advantage of creditors.

In addition, the Trustee says that notwithstanding s. 146.4 of the *Income Tax Act*, s. 128(2) (a) of the Act deems the trustee in bankruptcy to be the agent of the bankrupt for all purposes of the Act. Because the trustee is the agent of the bankrupt, a seizure of the RDSP monies does not amount to a transfer or assignment in contravention of s. 146.4.

Decision

The judge found as follows:

In my view, these seemingly conflicting statutory provisions can be reconciled. Although s. 67(1)(c) of the *Bankruptcy and Insolvency Act* vests in the trustee in bankruptcy any property interest held by the bankrupt, the trustee can take no greater interest than the bankrupt in such property. In *Re: Lifshen* (1977), 1977 CanLII 1514 (SK QB) ... MacLeod J. held that the funds held in RRSPs vested in a trustee in

interest in the funds is limited in this manner, the Trustee's interest in and ability to deal with the funds is similarly restricted.

Neither Ms. Alary, nor the Trustee, may demand the release of funds in the RDSP for the purpose of satisfying creditors.

Because the RDSP trust gave the court discretion to release funds to satisfy creditors, the judge enumerated principles to be considered in exercising this discretion:

- be just and equitable from the perspective of both the creditors and the RDSP beneficiary,
- properly balance the interests of the parties and the prejudice that might be caused,
- be reasonable, and
- provide certainty to other commercial parties in a similar situation.

In applying these principles to the case, the judge found that it was not fair and equitable to permit funds to be paid from the RDSP for the benefit of B's creditors as a result of the substantial penalty that such a withdrawal

persons with severe disabilities are able to save for their retirement and that there is a societal interest in preserving the integrity of the RDSP trust funds. She also noted that because of the degree of regulation of RDSPs by the CRA, there are few opportunities for abuse by disabled persons.

Conclusion

RDSPs are complex instruments, offering substantial government benefits for qualifying persons. However, people who open RDSPs for their own benefit must be aware that in the event of a future insolvency or bankruptcy, a creditor or trustee in bankruptcy may attempt to lay claim to the contributions to defray the debt. An RDSP trust agreement may be silent on the matter and a financial institution may accept the directions of a TIB to pay the funds to it. Finally, family members or others making contributions to an RDSP should be aware of this risk and consider whether it might be wiser to provide for the disabled person by other means, such as an absolute discretionary trust. ■

... family members or others making contributions to an RDSP should be aware of this risk and consider whether it might be wiser to provide for the disabled person by other means ...

bankruptcy (prior to their exemption from the Act). However, the plan in question accorded the beneficiary the right to redeem funds upon request. In contrast, Ms. Alary's right to receive funds from her RDSP is strictly limited by the trust instrument. In particular, no funds can be paid out to creditors or to her for the purpose of satisfying creditors. Because Ms. Alary's

would impose on B. She would forego about \$13,000 in order to reduce her debt by \$3,229, a minimal benefit to the creditors. The judge, who noted that there was no evidence that B contributed the funds to the RDSP to defeat creditors, did not mention the cost to the creditors of having a TIB apply for a court order.

Finally, the judge noted that the purpose of an RDSP is to ensure that



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RE ESTATE OF LE GALLAIS: WHEN IS A GIFT TO A WITNESS NOT VOID UNDER THE WILLS, ESTATES AND SUCCESSION ACT?

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Under British Columbia law, a gift made in a will to a witness of the will maker's signature (or a spouse of the witness) is prima facie void. Several cases decided under section 11 of the former *Wills Act*, which was repealed in 2014, when the *Wills, Estates and Succession Act* (WESA) came into force, strictly upheld this rule regardless of the surrounding circumstances (see, for example, *Hammond v. Hammond*, 1992 CanLII 1745 (BCSC)). However, WESA section 43(4) provides that, on application, a court may declare that

such a gift is not void, provided that the court is satisfied that the will maker intended to make a gift to a specific person, even though that person (or his or her spouse) witnessed the will. Such an application was the subject of the decision in *Re Estate of Le Gallais*, 2017 BCSC 1699.

The will of the late Ms. Le Gallais was prepared by her lawyer and friend of 40 years, Ms. Isherwood. Ms. Isherwood was named as the executor under the will and was also one of the witnesses of Ms. Le Gallais's signature. Ms. Le Gallais's will contained the following "charging clause," which the court confirmed to be a gift:

If the said Constance Dora Isherwood should act as Executrix of this my will and should also attend to the legal work of my estate, she shall be entitled to the usual and proper charge for such legal work.

Therefore, without a declaration by the court, the gift to Ms. Isherwood of her

legal fees for administering the estate was prima facie void because Ms. Isherwood was a witness to the will.

Since Ms. Le Gallais had no spouse or children, she left the residue of her estate (which was approximately \$1.5 million) to be divided equally among six charities.

Ms. Isherwood brought an application under WESA section 43(4) to have the court declare that the gift to her under the charging clause was not void. The legal fees and expenses claimed by Ms. Isherwood were just over \$17,000, and the remuneration claimed by Ms. Isherwood in her capacity as executrix was approximately \$38,950.

Three of the six charities named in the will opposed Ms. Isherwood's application. They contended that Ms. Isherwood, as an experienced wills and estates lawyer, should have met the expected standard of care by explaining to Ms. Le Gallais the effect of witnessing the will on the charging clause.

The court, however, defined the

question before it not on the basis of whether Ms. Isherwood had made a mistake in witnessing the will, but rather on the basis of whether the evidence established that Ms. Le Gallais had intended to make a gift to Ms. Isherwood through the charging clause. The framing of the relevant question in this way seems to be appropriate in the light of the language of WESA section 43(4).

In coming to the conclusion that Ms. Le Gallais had in fact intended to make such a gift to Ms. Isherwood and that the gift was therefore not void, the court focused on the length and depth of the relationship between Ms. Le Gallais and Ms. Isherwood. The two women had known each other for 40 years at the time that the will was made. Ms. Isherwood had previously provided other legal services to Ms. Le Gallais in relation to the administration of Ms. Le Gallais's late mother's estate. This led the court to conclude that Ms. Le Gallais would reasonably have understood that there would be legal expenses incurred in the administration of her own estate and therefore would have intended that Ms. Isherwood be compensated for the necessary legal work.

Although *Re Estate of Le Gallais* resulted in a declaration by the court under WESA section 43(4) that the evidence showed that the will maker intended to make the gift, such a determination is highly dependent on the individual facts of the case, and relief will not be given in all circumstances. Therefore, this case should also serve as an important caution for lawyers who are named as executors in the wills that they draft or witness. Clearly, the best practice is for lawyers not to witness these wills. Furthermore, lawyers should also be mindful of rules 3.4-28, 3.4-37, and 3.4-38 of the Brit-

ish Columbia Law Society's Code of Professional Conduct, which directly apply to the drafting of wills, testamentary gifts, and lawyers' responsibilities in relation to these matters.

A COMMON-LAW RELATIONSHIP IS NOT A MARRIAGE

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Alberta offers substantial legislative protection for bereaved romantic partners, provided that they are married spouses. Despite the fact that provincial legislation increasingly recognizes modern families and gives rights to people living in adult interdependent relationships, these rights are more limited than those available to married spouses. These people, known as "adult interdependent partners" (AIPs), live in relationships of interdependence, conjugal or otherwise, and their rights derive from the *Adult Interdependent Relationships Act* (AIRA).

For estate and succession purposes, Alberta law recognizes three different categories of relationships:

1. legally married spouses,
2. legally married spouses who are in the process of divorcing or separating or who have been separated or divorced for less than two years, and
3. AIPs.

Each of these categories has certain features and protections to address succession and other rights. However,

the law related to the division of property on death for unmarried couples is in need of modernization.

Married Spouses Versus Adult Interdependent Partners

When a spouse or AIP dies, the bereaved partner may make a number of claims. However, a partner's succession rights in Alberta depend largely on the category into which the surviving partner falls.

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Part 3 of the Wills and Succession Act (Intestacies)

When a spouse dies without leaving a will, part 3 of the *Wills and Succession Act* (WASA) establishes rules for the distribution of the estate, and provides for the division of property among the deceased's descendants and surviving spouse. If the deceased spouse has no surviving descendants (or if the descendants are children of the marriage of the deceased and the surviving spouse), the surviving spouse receives the entire estate. If the deceased dies leaving a surviving spouse and one or more descendants who are not descendants of the surviving spouse, WASA part 3 provides the surviving spouse with a preferential share, with the residue to be distributed among the intestate's descendants.

AIPs are treated in the same manner as married spouses with respect to the division of property on an intestacy.

If the deceased and the surviving spouse are in the early stages of divorcing or separating at the time of the deceased's death, the surviving spouse has the same rights as a married spouse. The same rights are not accorded to AIPs, whose rights terminate when the relationship breaks down, in accordance with rules set out in AIRA.

Dower Act

Enacted to protect spouses who are not property owners from a disposition of the matrimonial home by their spouse, the *Dower Act* establishes certain rights and claims both during the lifetime of the property-holding spouse and on the spouse's death. The *Dower Act* provides that on the death

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of the deceased spouse the surviving spouse is entitled to a life estate in a matrimonial home that was held solely in the name of the deceased spouse. The surviving spouse is entitled to live in the home until he or she dies or to receive rental payments until death.

The provisions of the *Dower Act* apply equally to married spouses who have been divorced or separated for less than two years, but they do not apply to AIPs, and Alberta courts have repeatedly stated that the distinction between married spouses and AIPs is not discriminatory.

Part 5 of the Wills and Succession Act (Family Maintenance and Support)

Pursuant to WASA part 5, surviving married spouses and AIPs may make an application for family maintenance and support against the deceased's estate within six months of the issuance of the grant of probate or administration. The basis for the claim is that individuals are required to provide for the maintenance and support of their dependants, including married spouses and AIPs.

On such an application, courts consider all of the assets of both spouses and partners, the needs of the survivor, and the extent to which provision was made for the survivor, both inside and outside the will.

The provisions of part 5 may also apply to spouses who were separated for less than two years at the time of the relevant death.

Matrimonial Property Act

The *Matrimonial Property Act* (MPA) governs the division of matrimonial property after the breakdown of a marriage. It further provides that a surviving spouse who could have made a claim immediately before the deceased's death has the right to bring a claim against the matrimonial property in the estate after the death.

A claim under the MPA is based on

the fundamental premise that matrimonial property is to be divided equally between spouses. A court must then determine whether the surviving spouse has been adequately provided for, and may increase or decrease the amount of the division in accordance with WASA part 5.

This claim is not available to surviving AIPs and no equivalent legislation currently exists in Alberta to deal with the division of the property of AIPs on the breakdown of their relationship.

Conclusion

Alberta estates and succession legislation has come a long way in recognizing the realities of modern family life by creating a new class of claimants, AIPs, and providing them with their own legal regime and protections. However, there are still gaps between the rights and remedies available to AIPs and those available to married spouses, such as the ability to make a claim for a life interest in the matrimonial home and to make a claim under the MPA.

Although the creation of the adult interdependent relationship has helped to equalize common-law relationships and marital relationships by creating similarities, the legal rights and remedies available to these respective groups of people are still significantly different.

TEIXEIRA V. MARKGRAF ESTATE

KATY BASI, TEP

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The facts of *Teixeira v. Markgraf Estate*, 2017 ONCA 819, are simple and in some respects heart warming. Mr. Teixeira was a good neighbour to Ms. Markgraf for many years, helping her

with household maintenance, groceries, and so on. Shortly before her death, Ms. Markgraf made a will that included a bequest to Mr. Teixeira of \$100,000. She also wrote and delivered a cheque to Mr. Teixeira in the amount of \$100,000. Ms. Markgraf died a few days later, and Mr. Teixeira received the \$100,000 bequest under her will. At issue in the case was the \$100,000 cheque.

Mr. Teixeira attempted to cash the cheque twice, once while Ms. Markgraf was alive, at her bank, and once after her death, at his bank. Because Ms. Markgraf's chequing account did not contain \$100,000, her bank refused to cash the cheque, although the bank did not inform Mr. Teixeira of the reason for the refusal. Ms. Markgraf had more than sufficient funds to cover the cheque in other accounts at the same bank, but the bank required Ms. Markgraf's instructions to transfer funds between her accounts. On her death, the chequing account was frozen, and hence Mr. Teixeira was not able to cash the cheque at his bank.

Both the Ontario Superior Court of Justice and the Ontario Court of Appeal agreed that the \$100,000 gift failed for want of delivery: "[Ms. Markgraf] could not give what she did not have." Mr. Teixeira made four main arguments to the contrary, all of which were rejected. The four arguments are addressed below, as a potential roadmap for those dealing with similar fact situations.

1. Mr. Teixeira took the position that the cheque was payment for services rendered and not an unperfected gift. This was therefore a claim in contract, and the law of contract, unlike the law of gifts, does not require delivery. This argument was denied on a factual basis because there was

no evidence of a contract. Mr. Teixeira's good deeds were not considered to constitute partial or total consideration, but rather to be gratuitous acts of kindness.

2. Mr. Teixeira argued the doctrine of estoppel by convention, which holds parties to a shared assumption of facts or law that forms the basis of a transaction into which they are about to enter. In the words of the Court of Appeal, "Everyone assumed that the cheque was good." However, in order to rely on the doctrine, Mr. Teixeira was required to have

Mr. Teixeira argued the doctrine of estoppel by convention, which holds parties to a shared assumption of facts or law that forms the basis of a transaction into which they are about to enter.

changed his legal position in reliance on the shared assumption, and it must have been considered "unjust or unfair" to allow Ms. Markgraf's estate to depart from the assumption. Because Mr. Teixeira did not act in reliance on the assumption that the cheque would be honoured, the doctrine did not apply. The Court of Appeal also gave short shrift to another principle of equity argued by Mr. Teixeira: "equity will not strive officiously to defeat a gift." Instead, the court indicated a preference for the maxim "equity will not assist a volunteer" in a case such as this one that deals with "well-settled law."

3. Mr. Teixeira also took the position that the cheque was enforceable

by virtue of the Bills of Exchange Act. However, because a total absence of consideration is a complete defence to an action on a bill of exchange, this argument also failed to sway the court.

4. Finally, Mr. Teixeira argued that if the law of gifts applied, the gift was perfected by delivery (the other two elements of a perfected gift, intention and acceptance, were both established and not at issue). The court noted that the delivery requirement serves a number of purposes – for example, forcing a donor to

consider the consequences of the gift and to create tangible proof that a gift has in fact been made. For delivery to have been accomplished, the donor must have "done everything necessary and in his or her power to effect the transfer of the property." Because a cheque is not money, but a direction to a bank to pay a sum of money to the payee, a gift by cheque is not complete until the cheque has been cashed or has cleared. Therefore, the court rejected the position that delivery had been made in this case, noting that the death of a donor destroys an intended gift during life by way of cheque if the cheque is not deposited before the donor dies.

It is tempting to feel a little bit sorry for Mr. Teixeira, given the unfortunate timing of the various events in this case, in which Mr. Teixeira refused a “generous offer” of settlement. After paying costs awards and his own counsel’s fees, it is to be hoped that he retained at least some of the \$100,000 bequest from the will of Ms. Markgraf as an expression of her gratitude for his kindness.

UPDATE: PROVINCIAL RESIDENCE OF A TRUST

JENNIFER LEACH

Sweibel Novek LLP

The Quebec Court of Appeal has confirmed the decision of the Quebec Superior Court in the case of *Boettger*

The Quebec Superior Court had observed that while the trust deed bestowed broad discretionary powers on the trustee, most of the trustee’s actions were predetermined in the trust deed, leaving little room for the exercise of discretion. The court also focused on the tax motivations of the parties to the trust. The Court of Appeal, however, clarified that the tax motivation of the transactions did not determine the trust’s residence. Rather, the residence of the trust was determined by reference to facts that showed that the actual activities of the trust and the management of the trust’s affairs lay with the settlor in Quebec and not the trustee in Alberta. The tax motivations underlying the establishment of the trust were merely a backdrop against which the factors determining the trust’s residence were considered.

terms of the arrangement required the shareholders to assume a portion of Beauport’s tax debts personally.

In 2009, a supplier petitioned for Beauport’s bankruptcy because of unpaid bills. Beauport’s bankruptcy was confirmed because it did not appeal the judgment within the required time period. Serge did not inform Carol and Karl of Beauport’s bankruptcy, blaming the error on the lawyer.

Following Beauport’s bankruptcy, Karl, Carol, and a new company incorporated to receive the Beauport assets also became bankrupt. Karl and Carol brought an action against Serge for breach of professional responsibility and included S. Lavoie CPA Inc. (Lavoie Inc.) and the Serge Lavoie family trust as defendants. The court held that Serge had made numerous errors

... a creditor who sustains damage from a debtor’s juridical act ... in fraud of the creditor’s rights, “in particular an act by which the debtor renders or seeks to render himself insolvent, or by which ... he grants preference to another creditor, may obtain a declaration that the act may not be set up against him.”

c. Agence du revenu du Québec, 2017 QCCA 1670. This case considered the residence of a trust settled in Quebec by a Quebec resident to hold shares and promissory notes for the benefit of his Quebec-resident spouse. A trustee resident in Alberta, unknown to the settlor or beneficiary, was named and undertook certain transactions to ensure that the trust was resident in Alberta. These transactions were planned in Quebec before the trust was created. Following its creation, the trust was restricted to receiving payments from the settlor and the operating company to cover its expenses.

Accountant’s Family Trust Made Party to Professional Responsibility Case

The Quebec Superior Court’s decision in *Latouche c. Lavoie*, 2017 QCCS 2932, opens the door to damages claims against family trusts for the actions of their beneficiaries, trustees, and settlors in this cautionary tale for professional advisers.

Serge Lavoie, an accountant, received a mandate from Carol and Karl Latouche, shareholders and directors of Beauport, a roofing company, to convince its creditors to accept an arrangement to avoid bankruptcy. The

and should be held responsible for the damages caused to his clients as a result of the breach of his professional responsibilities.

The court considered whether the Serge Lavoie family trust could be held liable to pay the damages claim. The trust was an asset protection trust created by the accountant in 2007. Serge was the sole beneficiary of the trust during his lifetime, and he acted as trustee together with his wife and sister. The trust owned all of the shares in Lavoie Inc., except the minimum required by the Order of Accountants. The trust was also a secured creditor

of Lavoie Inc., owning a hypothèque on all of Lavoie Inc.'s assets up to \$900,000. Serge did not earn a salary from Lavoie Inc., a company of which he was a director. Rather, all fees were paid and held in Lavoie Inc. The trust thereafter disbursed funds to Serge and his wife, as necessary.

In court, Serge testified that his family trust was invincible, untouchable, and immune from all claims. Furthermore, he claimed that he himself was untouchable because everything he owned and earned was transferred to the trust.

In assessing whether the plaintiffs could execute their damages claim against the trust, the court reviewed the provisions of the *Civil Code of Québec* (CCQ), which are designed to protect victims of fraud. CCQ article 1631 provides that a creditor who sustains damage from a debtor's juridical act (such as the creation of a trust that owns all the debtor's assets and receives all of his income) in fraud of the creditor's rights, "in particular an act by which the debtor renders or seeks to render himself insolvent, or by which ... he grants preference to another creditor, may obtain a declaration that the act may not be set up against him." In other words, Serge could not avoid his financial responsibilities by divesting himself of all of his assets and all of his income in favour of a trust.

CCQ article 317 further provides that the juridical personality of a legal person (such as a trust) may not be invoked in fraud, abuse of rights, or in contravention of a rule of public order against a person acting in good faith.

The court held that Serge had structured his affairs to avoid all claims against him in a perfect example of fraud, and the family trust's juridical personality could not be used in such

a manner. Therefore, both Lavoie Inc. and the family trust could be held responsible for paying the damages incurred by the clients.

GUARDIANSHIP LEGISLATION IN NOVA SCOTIA: SIGNIFICANT CHANGE ON THE HORIZON

SARAH DYKEMA, TEP

Chair, STEP Atlantic
McInnes Cooper

As of December 28, 2017, the Nova Scotia *Incompetent Persons Act*, which was struck down by the Supreme Court of Nova Scotia in June 2016, will be replaced by the new *Adult Capacity and Decision-making Act*. In 2016, the court found that parts of the IPA were unconstitutional because they gave a guardian complete control over all aspects of an incompetent person's decision making, even if the person under guardianship had the capacity to make some independent decisions.

The new law, introduced on October 2, 2017 as Bill No.16, is meant to comply with the *Charter of Rights and Freedoms*. It begins with the premise that all adults have the right to make their own decisions, unless it can be shown that they are incapable of doing so. Under the IPA, if an individual was found to be incapable of making decisions and a guardian was appointed, the guardian had the ability to make all decisions for the incompetent person, until the person could prove to the court that he or she had the capacity to make *all* decisions regarding the management of his or her own affairs.

In contrast, under the new Act, if it can be shown that an adult cannot make some decisions (for example, decisions related to the handling of finances or decisions related to friend-

ship or romantic partnership), another person can represent the adult with respect to these specific kinds of decisions only.

Key Provisions of the New Act

The IPA contains four main sections: (1) the appointment of a guardian of an incompetent person (defined in the Act as an adult who is incapable from infirmity of mind of managing his or her own affairs); (2) the powers and duties of a guardian to manage the affairs of the incompetent adult to ensure "the

The new law ... begins with the premise that all adults have the right to make their own decisions, unless it can be shown that they are incapable of doing so.

comfortable and suitable maintenance" of the adult; (3) the removal of a guardian, including a provision for a petition to the court by a person who has regained competence to manage all of his or her own affairs; and (4) the custody of incompetent persons.

The new Act is significantly longer and more detailed, and contains the following provisions of note:

1. four principles governing the interpretation and administration of the Act (section 4):
 - a. an adult is entitled to make his or her own decisions, unless incapacity to do so is clearly demonstrated;
 - b. making "risky" or "unwise"

decisions does not mean that a person is incapable of making a decision;

- c. how an adult communicates is not relevant in determining if he or she is capable of making decisions; and
 - d. decisions made for the adult must reflect the least intrusive and least restrictive course of action possible;
2. detailed provisions regarding capacity assessments (sections 9 to 20), which can be carried out only by health professionals who are authorized to do so under the Act;
 3. clearly defined duties and obligations of representative decision makers (sections 27 to 47), including a duty to consider the adult's prior instructions, wishes,

values, and beliefs, when making decisions for the adult;

4. the restriction of a representative's ability to make decisions to areas only in which it has been shown that an adult is not capable of making decisions (section 27);
5. a process for the review of representation orders, including review by the adult who is the subject of the order (sections 58 to 67); and
6. specific penalties to be imposed on a representative who acts in bad faith or causes harm (section 70).

Potential Concerns Relating to the New Legislation

As the new law comes into force, Nova Scotia courts will begin to assess applications for representation orders, at which point concerns and contentious

issues related to the new Act will no doubt be highlighted.

On the release of Bill No.16, some groups advocating for the rights of people with disabilities and decision-making impairments noted their concern that the new law lacks a process for appointing decision-making supporters to assist disabled persons, as opposed to appointing a representative to make certain decisions for them. In other words, some argue that the new Act may not go far enough to ensure that sufficient decision-making support is available for a person with a cognitive disability before a representation order is made.

The new law grandfathers existing guardianship orders, and it will be interesting to see how many of them are challenged under the new Act by individuals under guardianship. ■

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CHAIR'S MESSAGE

RUTH MARCH, TEP

Happy New Year! My best wishes to you all for a 2018 that is filled with success, health, prosperity, and happiness.

Certainly, 2018 brings much to celebrate as STEP Canada marks its 20th anniversary. Among other activities that honour this achievement is a special black tie gala planned for Monday, May 28, 2018 in Toronto as part of our two-day national conference. I hope to see many of you there.

In this issue, I'd like to ensure that members of STEP Canada are aware of the activities, efforts, and initiatives of their organization.

The Canadian board is made up of the eight branch chairs, three directors at large, and our six-member Executive Committee. Special guests also participate in our national board meetings (some by phone, some in person), including the three chapter chairs, the national committee chairs, three Canadian STEP Worldwide (SWW) council members, and senior staff members. I'm pleased to report that the national board is very cohesive and works with a common focus and complementary energies for the benefit of all members. In November, the STEP Canada board travelled to London to attend a full-day STEP Canada board meeting, followed by the full-day SWW branch chair assembly.

At the Canadian board meeting, we heard reports from our very active national committees.

- The governance committee, co-chaired by Rachel Blumenfeld and Richard Niedermayer, is working on updates to the branch manual to clarify our structure and elections.

After hours of research, writing, computation, and compiling to prepare STEP Canada's October 2 submission to the Department of Finance, both the Public Policy Committee, co-chaired by Michael Cadesky and Pamela Cross, and the Tax Technical Committee, co-chaired by

Maureen Berry and David Stevens, continue to monitor the Department of Finance and its amendments to the July 18 tax proposals. Thank you to the numerous members from both committees who contributed substantial hours to the STEP submission on behalf of all members. Feedback on the submission, from one member includes the following statement: "I read the material that you put together, and I thought it to be the best piece of work covering this subject ever."

Members of both committees produced a live complimentary webcast on November 24th for over 500 delegates. The panel provided a short background about the proposals and then addressed delegate questions (collected in advance) in the following areas: the tax on split income (TOSI); attribution rules and planning; capital gains, including subsections 120.4(4) and (5) of the Income Tax Act and the lifetime capital gains exemption (subsections 110.6(12) and (12.1)); sections 84.1 and 246.1; and passive income.

The committees are researching the TOSI rules in other jurisdictions in preparation for another STEP submission to the Department of Finance after the anticipated changes to the current rules are announced.

I remain confident in the strategy that the committees have developed and are continuing to follow.

- A report from the Canadian SWW council members, Bill Fowles, Nancy Golding, and Kathleen Cunningham, highlighted SWW's focus on strengthening regions around the world.
- Brian Cohen, chair of the 2018 National Conference Program Committee, spoke on behalf of himself and his co-chairs, Christine Van Cauwenberghe and Corina Weigl. Plans for the technical sessions at the conference and the 20th anniversary gala are well underway. It will be a very special year, and I encourage all members to mark their calendars for May 28-29 and watch for registration to open in January. Sponsorship inquiries should be directed to jarmstrong@step.ca.

- STEP Canada will be working with STEP USA to produce a Canada-US webcast on US tax reform on January 23. I hope that this collaboration with our neighbours is the first of many.
- A lot of you have attended our latest full-day course, Taxation at Death and Post Mortem Planning, as Chris Ireland continues his tour to all 11 branches and chapters. The course and its materials have provided excellent and extensive analysis of this topic. Specific areas of this course material affected by the final outcome of the July 18, 2017 Department of Finance consultation paper and draft legislation will be summarized for course delegates with planning considerations in early-spring via webcast featuring Chris Ireland.
- The Education Committee, chaired by Peter Weissman, remains focused on phasing in the French and civil-law versions of both the diploma and the certificate in estate and trust administration (CETA) programs. With 725 professionals currently enrolled in our educational programs, the committee is investigating ways to support students, including offering electronic examinations for the diploma course starting in May 2018.
- Kyle McDonell, chair of the Student Liaison Committee, reported that every branch and chapter will hold an annual student event to help students expand their networks.
- The Member Services Committee, chaired by Leanne Kaufman, remains active in promoting membership through advertisements, brochures, and exhibiting at industry events.

The committee also keeps track of STEP media coverage, which was impressive this August in connection with the special symposium that STEP Canada hosted. Coverage also included a public awareness advertisement and editorial in the November 20, 2017 issue of the *Globe and Mail*.

The board supported the renewal of the family enterprise xchange partnership, which gives STEP members a discount on tuition. Details are noted on the insert included with this issue of *STEP Inside*.

At the SWW branch chairs' assembly, over 150 senior leaders from around the globe met for a day to discuss SWW's business goals, recent activities, and membership growth trends, and to learn about new campaigns, initiatives, and potential changes to educational offerings around the globe from senior STEP staff. George Hodgson, the chief operation officer of SWW, announced the 2017 Founder's Awards recipients for outstanding achievement, which included Canadians Tim Grieve and John Poyser. Congratulations to both Tim and John for this well-deserved distinction. This was the first time that many of our board members and guests represented Canada on the global stage and networked with their international peers. It is possible that some left London with a different perspective on SWW.

Early in the new year, the SWW 2018 Private Client Awards will open for entry. I encourage many of Canada's deserving firms and practitioners to consider entering the competition for these prestigious awards this year.

In 2018, we anticipate that STEP Canada will hold over 115 events for its members, including branch and chapter seminars, programs, socials, annual branch meetings, webcasts, full-day courses, and our two-day national conference. Many of these events are accredited by industry-related regulators, and all of them provide continuing professional development, education, and/or valuable networking possibilities. If you're not attending, you're missing opportunities. Go to www.step.ca to learn what is being offered in your area, and get yourself registered!

The Executive Committee of STEP Canada made up of myself, Deputy Chairs Pamela Cross and Chris Ireland, Treasurer Christine Van Cauwenberghe, Secretary Rachel Blumenfeld, and Past Chair Tim Grieve, look forward to seeing you at events throughout this special anniversary year. ■