



*Legal Education Society of Alberta*  
**43<sup>rd</sup> ANNUAL REFRESHER COURSE**  
*Business Law*



THE *Fairmont*  
CHATEAU LAKE LOUISE

**May 1 - 4, 2010**

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Court of Queen's Bench of Alberta  
Calgary, Alberta

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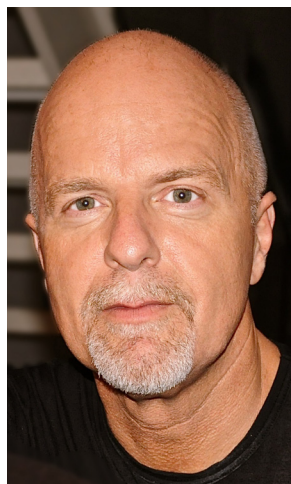
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**Katherine A. Whitburn**  
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Calgary, Alberta

**Blair C. Yorke-Slader Q.C.**  
Bennett Jones LLP  
Calgary, Alberta

## KEYNOTE SPEAKER



**CHRIS MATHERS** has spent most of his adult life working undercover for the Royal Canadian Mounted Police, the United States Drug Enforcement Administration, and the United States Customs Service. Posing as a gangster, drug trafficker and money launderer, he has seen it all, close up. Chris, through his firm, chrismathers inc., provides crime and risk consulting services to selected domestic and international clients, specializing in fraud, money laundering, terrorism and organized crime issues. He also advises on international due diligence in the oil and gas sector, and on large transactions.

At the time of his retirement, he was the senior undercover operator at the RCMP Proceeds of Crime Section where he established and operated a number of "storefront" money laundering businesses in Canada and the US, targeting Colombian, Russian and Asian organized crime groups. Chris personally infiltrated criminal organizations in North America, the Caribbean, Latin America and Europe.

Chris is a popular media commentator and speaker and has served as a consultant on several feature films and documentaries relating to organized crime, espionage and money laundering. He has appeared on television and radio interviews on CNN, PBS, MSNBC, all of the Canadian national news networks as well as media outlets in Asia, Africa, Europe, Australia and the Caribbean.

*Join us as Chris addresses topics of significance to business law practitioners including fraud, corruption, money laundering and client acceptance procedures.*

## SATURDAY, MAY 1, 2010

9:00 AM - 4:30 PM

### BUSINESS LAW BOOT CAMP

(Optional; Separate registration required)

5:00 PM - 7:00 PM Refresher course registration and informal reception. Meet your colleagues.

## SUNDAY, MAY 2, 2010

7:30 AM - 8:15 AM Continental Breakfast

8:15 AM - 8:30 AM Course Welcome

HONORARY CHAIR: Hon. Mr. Justice S. J. LoVecchio,  
Court of Queen's Bench of Alberta  
Paul F. Wood, Legal Education Society of Alberta

8:30 AM - 11:30 AM Opening Session

KNOW YOURSELF/KNOW YOUR CLIENT

HONORARY CHAIR: Hon. Mr. Justice S. J. LoVecchio,  
Court of Queen's Bench of Alberta

### Risky Business

KEYNOTE SPEAKER: Chris Mathers

A candid, pull-no-punches, presentation on the risks your clients - and you - face day-to-day in the world of business law. As a lawyer, how much exposure do you and your clients face from fraud, money laundering and other illegal activity? Would you recognize a potential fraud? What are the warning signs? What steps can you take to know your client better? More and more, lawyers are being targeted by criminal organizations in order to perpetrate significant commercial frauds. Being well-informed on the dangers of criminal activity will add value to the advice that you provide to your clients and will help keep you (and your firm) out of harm's way.

### Risks Up Close

INSTRUCTORS: Lisa M. Sabo, Alberta Lawyers Insurance Association; Scott A. Watson Q.C., McLennan Ross LLP; Katherine A. Whitburn, The Law Society of Alberta

The risks today are real. The schemes sophisticated. Uncover the traps. Pinpoint the risks. Identify the warning signs. Learn about steps that the Law Society of Alberta is undertaking to assist you in reducing the risks and limiting your exposure.

11:30 AM - 12:25 PM Networking Lunch

12:30 PM - 3:30 PM Plenary Session

EMPLOYMENT ISSUES TODAY

CHAIR: Walter J. Pavlic Q.C., MacPherson Leslie  
& Tyerman LLP

### Establishing the Employment Relationship

INSTRUCTOR: William J. Armstrong Q.C., Armstrong Management Lawyers

Determine the initial question of whether the person is an employee? An independent contractor? Some kind of hybrid? Explore best practices in drafting employment contracts; less is more. Review restrictive covenants, non-competition vs. non-solicitation, with a view to *Shafron v. KRG Insurance Brokers (Western) Ltd.* Where do confidentiality obligations fit in? Review enforcement considerations, injunctions, fiduciary obligations, and discipline less than termination. Learn about overtime class actions, and *RBC Dominion Securities v. Merrill Lynch*.

### Terminating the Employment Relationship

INSTRUCTOR: Raylene Y. Palichuck, Neuman Thompson

Begin with issues involved in the termination of an employee in the context of medical disabilities. Consider the duty to accommodate where an employee is on modified or restrictive duties. Learn how severance is calculated and paid where an employee is on long-term disability. Assess the liability of an employer, your client, for long-term disability where an employee suffers from a chronic medical condition. Consider whether compensation reductions give rise to a constructive dismissal in a slow economy. Examine what your clients must do to comply with employment standards legislation in the case of mass layoffs, temporary layoffs, or plant shutdowns.

Uncover whether *Wallace* (bad faith termination) damages are still alive in light of *Honda Canada v. Keays*.

### New Ways to be Bad: Technology in the Employment Relationship

INSTRUCTOR: A. Robson Garden, MacPherson Leslie & Tyerman LLP

Explore the potential risks and liability for employers arising from email and internet use by employees. Examine the human rights issues. Assess civil liability, damage to reputation and employee morale in this emerging area. Assess options for discipline for abuse or misuse of email, social media and the internet while an employee is at work and while an employee is off work. Learn how to draft effective policies on personal use of employer computers and network systems. Consider what is reasonable; balance privacy issues and monitoring.

**MONDAY, MAY 3, 2010**

**7:30 AM - 8:25 AM Continental Breakfast**

**8:30 AM - 11:30 AM Plenary Session**

**COMMERCIAL TRANSACTIONS**

**CHAIR: Darlene L. W. Scott, Fraser Milner Casgrain LLP**

### **Financing in Today's Market**

**INSTRUCTOR: Percival E. Odynak Q.C., Duncan & Craig LLP**

This presentation will look at financing business acquisitions in today's credit market. Current approaches by primary and secondary lenders will be examined, including characterizations of lending and types of lender security taken. Transfers of security among lenders will also be discussed.

### **Sale of a Business in Tough Times**

**INSTRUCTOR: Shawna K. Vogel, Fraser Milner Casgrain LLP**

This presentation will explore strategies for the sale of a privately-owned business in an economy where purchase prices are based on lower multiples and there is a tight financial market. Strategies like employee stock options and earn-outs will be examined.

### **IP in Commercial Transactions**

**INSTRUCTOR: Neil F. Kathol, Brownlee LLP**

This presentation will examine the ins and outs of acquiring IP in commercial transactions. Searches and other due diligence steps will be discussed as will how to determine what the searches are telling you. Representations and warranties will be explored. The use of specific conveyances of IP, IP security agreements and means to protect and preserve IP will be reviewed.

**11:30 AM - 12:25 PM Networking Lunch**

**12:30 PM - 3:30 PM *Option 1***

**FAMILY BUSINESSES**

**CHAIR: Ken H. Lewis Q.C., Torry Lewis Abells LLP**

### **Transitioning the Family Business**

**INSTRUCTOR: Kenneth G. Torry Q.C., Torry Lewis Abells LLP**

A review of some of the many issues that can arise in transitioning family businesses, both incorporated and unincorporated, from one generation to the next including: inter vivos vs by will, the role of trusts, the impact of a USA on future planning, problems as a result of dependants relief and estrangement.

### **Succession Planning for a Family Business**

**INSTRUCTOR: Dean L. Gallimore FCA\*CBV, KPMG**

Many family businesses fail because succession has not been planned. Survey selected topics related to succession in family businesses including joint tenancy in light of *Archer v. St. John*. Typically, corporate butterflies seem complex and difficult – is there an easier way to do a corporate butterfly in family situations for succession purposes? Are there potential tax problems in an ordinary estate freeze and is there a way to structure the estate freeze to avoid potential pitfalls?

### **Insurance Issues Relating to the Family Business**

**INSTRUCTOR: Donald W. Dear, McLennan Ross LLP**

Review the myriad of insurance products available such as key man, directors and officers, construction, fire, crop, tenant, and fidelity. Examine co-insurance and the perils of both under-insuring and over-insuring.

**12:30 PM - 3:30 PM *Option 2***

**INTERNATIONAL TRANSACTIONS IN OIL & GAS AND SERVICE SECTOR**

**CHAIR: Jay D. Todesco, NEXEN Inc.**

### **Anti-Corruption Laws: Risks, Liabilities and Traps to Avoid**

**INSTRUCTOR: A. Timothy Martin, adr governance inc.**

Review current business trends as companies look for opportunities to succeed internationally. Learn about anti-bribery treaties and legislation. Explore recent prosecutions and case law. Focus on high risk areas. Determine the risks that arise with agents and in joint ventures. Assess the risks in mergers and acquisitions, as well as recurring operational issues. Survey the appropriate accounting and internal controls.

### **Security of Investment Considerations Under PSCs and Other Government Petroleum Contracts**

**INSTRUCTOR: Frank Alexander, Fraser Milner Casgrain LLP**

Review operations approval standards (AWP&B, Appraisal Plan, and Development Plan). Learn about fiscal and full contractual stabilization provisions. Assess governing law (law governing a dispute), international arbitration as a dispute resolution mechanism, host country arbitration acts, as well as host country treaty affiliations, within the contract. Explore the option of structuring to come under an attractive investment treaty (on a tax efficient basis).

(Monday, May 3, 2010 Continued)

## Structuring the Deal and Due Diligence in International Transactions

**INSTRUCTOR:** Michael D. Josephson, NEXEN Inc.

Learn about host government contracts (concessions, production sharing, participation and service contracts). Review joint international acquisitions and operations (confidentiality, joint study, and joint operating agreements). Examine the required due diligence (including host government legislation, local counsel, local content, land ownership, export routes, investment prohibitions and restrictions, and boundary disputes). Take away a due diligence checklist.

**MONDAY EVENING, MAY 3, 2010**

### GALA DINNER & LIVE MUSIC

5:30 PM - 6:00 PM *Cocktail Reception*

6:00 PM - 7:30 PM *Dinner and Entertainment*

One Gala Banquet ticket is included in your registration fees. Additional tickets are available for \$95.00 (including gratuity and applicable taxes).

For additional tickets or any dietary concerns, please see the registration form on the reverse side of this brochure.

### POKER TOURNAMENT

8:00 PM - 11:00 PM

**Come to the table with an Ace up your sleeve!**

Join us for an evening of bets and strategy as we host a Texas hold'em style tournament. Beginners are welcome for this fun night of chips, challenge, and chance. The cost to join is only \$45.00 (including GST). 'Ante up' on the registration form found on the reverse side of this brochure.



Join us Monday for a night of chips, challenge and chance!

**TUESDAY, MAY 4, 2010**

**7:30 AM - 8:25 AM Continental Breakfast**

**8:30 AM - 11:30 AM Plenary Session**

**KEY CONTRACTUAL ISSUES**

**CHAIR:** Cheryl C. Gottselig Q.C., Burnet, Duckworth & Palmer LLP

### Commercial Lease Issues for the Landlord and Tenant

**INSTRUCTORS:** Ian H. Kennedy, Ayrshire Real Estate Investments Inc.; Beth E. Vogel, Burnet, Duckworth & Palmer LLP

A highly interactive dialogue from two perspectives: Landlord and Tenant, examining Offers to Lease and the material terms of a commercial lease including assignment and subletting, restoration, demolition, insurance, options to renew, rights of first refusal, operating costs and expenses, and guarantees and indemnities.

### Including the Right ADR Clauses

**INSTRUCTOR:** Jim McCartney, McCartney ADR Inc.

A roadmap for drafting effective ADR provisions, including how to agree while you're agreeing! Consider escalation provisions: senior management negotiation to mediation to arbitration, how to appoint mediators or arbitrators once the fun begins, what rules to adopt, how many arbitrators, as well as who pays the ADR costs?

### Contract Perils and Pitfalls - A Litigation Perspective

**INSTRUCTOR:** Blair C. Yorke-Slader Q.C., Bennett Jones LLP

Learn about recent developments in contract case law for business law practitioners. Recent dramatic shifts in the economy, and values, have exposed weaknesses in many contracts. Examine what current case law can tell us.

(Tuesday, May 4, 2010 Continued)

**11:30 AM - 12:25 PM Networking Lunch**

**12:30 PM - 3:30 PM *Option 1***

**CCAA FOR THE BUSINESS LAWYER**

**CHAIR: Kelly J. Bourassa, Blake, Cassels & Graydon LLP**

### The Role of the Monitor

**INSTRUCTOR: Deryck Helkaa, CA, CIRP, Ernst & Young Inc.**

Assess the historic role of the monitor as an officer of the Court, not an advocate of the debtor. Explore the differences between a monitor and receiver and/or trustee. Learn about the present role of the monitor and how it evolved. Determine the role of the monitor in the valuation of assets, the sale process, the mediation/negotiation with creditors, plan facilitation, assistance with raising capital and foreign representatives.

### Purchase and Sale Within the CCAA Process

**INSTRUCTOR: Sean F. Collins, McCarthy Tetrault LLP**

Learn about the legal principles that guide the courts in sale processes and sale approvals. Determine the role of the court officer. Examine issues such as due diligence, confidentiality agreements and data rooms. Assess strategies for effective transaction protection (confidentiality provisions, sealing orders, break fees, overbid protection, locking up insiders, and no shop provisions). De-mystify stalking horse bids. Uncover what (not) to expect in the purchase and sale agreement. Consider the form of sale approval and vesting order – essential provisions and process, standing of unsuccessful bidders; and the position of equity.

### Acting for Claimants (Other Than the Company and the Primary Secured Creditor)

**INSTRUCTOR: Rick T. G. Reeson Q.C., Miller Thomson LLP**

Focus on the rights, remedies and obligations of unsecured creditors, suppliers (both pre and post filing), builders' lien holders, lessors of real and personal property, shareholders, employees, as well as parties whose contracts have been disclaimed.

### The Model Order

**INSTRUCTOR: Hon. Mr. Justice K. D. Yamauchi, Court of Queen's Bench of Alberta**

Examine key provisions in the Model Order. Learn how to effectively represent your client's interests in the administration of a CCAA matter from the perspective of the Bench.

**12:30 PM - 3:30 PM *Option 2***

**MANAGING YOUR CLIENTS' RISK**

**CHAIR: Scott A. Watson Q.C., McLennan Ross LLP**

### Risks for Directors and Officers

**INSTRUCTOR: Colin C. J. Feasby, Osler, Hoskin & Harcourt LLP**

Learn about the duties of directors and officers in change of control transactions. Explore the application of the business judgement rule. Examine director and officer obligations under the *Securities Act* and duties in situations of insolvency and near insolvency. Review current practices in relation to director and officer indemnities. Position yourself to better advise your clients in this challenging area.

### Tax Pitfalls

**INSTRUCTOR: Garnet T. Matsuba, MacPherson Leslie & Tyerman LLP**

Examine the often overlooked tax pitfalls in corporate commercial transactions and tax planning opportunities to give the client "more bang for the buck" on sale transactions. Identify potential tax traps for the unwary in reorganizing owner-managed businesses.

### Securities Laws: Traps for the Business Lawyer

**INSTRUCTOR: Peter I. Inglis, Bennett Jones LLP**

You don't deal with any TSX - listed companies so securities laws are no problem for you, right? Wrong. Highlighting common securities laws risks for business lawyers and how to avoid them. Highlights of some current developments with the non-specialist in mind.

#### REGISTRATION FEES INCLUDES:

3 Continental Breakfasts

3 Lunches

6 Networking Breaks

1 Gala Banquet Ticket

(includes; cocktail reception, dinner and live entertainment)

Course Materials