

TRUSTS & ESTATES

What should beneficiaries do when they suspect executor of improper conduct?

There are certain strategies employed by lawyers when they are attempting to prove fraud and/or deal with executors acting, or suspected of acting, improperly. For lawyers, it is important to know which expert evidence to call, the factors necessary to prove fraud, how to best draft their materials and corroborating their evidence in accordance with sections 13 and 14 of the Evidence Act. It is for that reason that the B'nai Brith Canada Trust and Estates Group invited two senior lawyers practising in this field to speak on what beneficiaries should do when they suspect the executor or a power of attorney of improper conduct, including defrauding the estate.



Charles Wagner

Since 2006, B'nai Brith Canada Trust and Estates Group has been providing seminars for lawyers and accountants on issues of interest. Attendees are able to claim Continuing Professional Development hours. The presence of leading practitioners such as Justin de Vries and Craig Vander Zee are part of the reason that these seminars have been popular.

Justin is the principal of de Vries Litigation, which is a firm that focuses on estate, trust and capacity litigation. De Vries has acted as a court appointed pretrial judge, pro-bono disciplinary counsel for the Law Society of Upper Canada and is counsel to the Oakville Community Foundation. He has been appointed as an estate trustee during litigation by the courts in complex estate litigation proceedings and is the founder of the popular blog site allaboutestate.ca. Both de Vries and Vander Zee are especially qualified to walk practitioners through proceedings against executors because over and above their expertise in estate litigation; they both have extensive experience as commercial litigators.

Regular attendees of the B'nai Brith Canada Trust and Estates Group annual seminar will recall that one of the highlights of last year's seminar involved Vander Zee's cross examination of Howard Black.

Vander Zee is certified by the Law Society of Upper Canada as a specialist in estates and trusts law and is a partner at Torkin Manes LLP. His practice includes all aspects of estate, trust, capacity, fiduciary and power-of-attorney disputes and litigation. He is also an estate mediator. In 2010-2011, Vander Zee was the chair of the Ontario Bar Association, Trusts and Estates Section. In 2012-2013, he was a member to Toronto Branch STEP Executive. He has also been a member of the advisory group of the Law Commission of Ontario Project on the Law as it Affects Older Adults.

In the context of estate litigation, we are often faced with allegations that a power of attorney or an executor has misappropriated assets or that the power of attorney or will was fraudulently obtained. There are also often allegations that the power of attorney was used to perpetuate a fraud that the power of attorney or will was not really signed by the grantor/executor.

Vander Zee's and de Vries's paper and presentation will address how to choose a hand-writing expert and the two branches of hand-writing analysis, graphology, which examines hand writing to determine the character traits of the writer, and forensic hand-writing analysis, which is performed by experts who examine many examples of hand writing to determine whether a document is a forgery.

They will also discuss strategies when dealing with an unfavourable expert opinion and cross examination. Further, they will address issues and strategies that a beneficiary may consider when an executor is suspected of improper conduct. Lastly, executor or trustee indemnification (ie, the right to be indemnified for estate or trust expenses) will also be canvassed.

The event will take place on June 4, 2013 at Shaarei Shomayim Synagogue, 470 Glencairn Ave., Toronto, ON M5N 1V8. Registration is at 7:30 a.m. and presentations will begin at 8 a.m. sharp. The event is open to lawyers and accountants. Those lawyers and/or accountants who are interested, should contact

Anita Bromberg of B'nai Brith Canada at (416) 633-6224 ext.130 or email abromberg@bnaibrith.ca.

Charles B. Wagner is a partner at Wagner Sidlofsky LLP and is certified by the Law Society of Upper Canada as a specialist in Estates & Trusts Law. His office is a boutique litigation law firm whose practice is focused on estate, commercial and tax litigation.



Justin de Vries



Craig Vander Zee



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Fraud and Estate Litigation

Tuesday, June 4, 2013

PRESENTERS



Charles B. Wagner
Wagner Sidlofsky LLP
Chair of B'nai Brith Canada's
Trust & Estate Group



Greg Sidlofsky
Wagner Sidlofsky LLP



Jordan Atin
Hull & Hull LLP



Debra Stephens
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Justin deVries
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JEWISH TRIBUNE

Shaarei Shomayim Synagogue • 470 Glencairn Ave. • Toronto
Registration & Breakfast 7:30 am • Program: 8:00 am – 11:00 am

Cost \$90

To register, please contact Anita Bromberg at: 416-633-6224 x130 • abromberg@bnaibrith.ca

This program can be applied towards the annual continuing professional development hours required by the Law Society of Upper Canada