

TRUSTS & ESTATES

Seminar to address fraud when it comes to trusts and estates

The continued victimization by fraudsters of more than 4 million elderly Canadians in our country is growing at an alarming rate. LawPRO, the organization that insures lawyers, said that in 2008, lawyers reported 10 per cent of all claims involved fraud. Industry Canada suggests fraud is growing rapidly. In the United States, there are reports of internet fraud quadrupling. As chair of B'nai Brith Canada's Trust and Estates Group, I oversee the committee that chooses the subject matter and format of the Continuing Legal Education (CLE) programs offered every year to the lawyers and accountants servicing our community. This year, the speakers will be addressing the issue of fraud in the context of trusts and estates.



Charles Wagner

In her remarks at the 3rd Annual Canadian Conference in Elder Law on Nov. 10, 2007, the Honourable Beverly McLachlin, P.C., Chief Justice of Canada, gave two examples of typical calls received by lawyers dealing with estate litigation.

- The phone rings and a woman in her 80s is on the line, clearly distraught. A few months ago, the woman had a mild stroke that involves some memory impairment. Now, she is recovered only to find that a family member who holds power of attorney has sold her house and put her in a nursing home. "I don't want to be here," says the woman. "What can I do?"

- An aging woman, made vulnerable by deteriorating mental and physical health, wishes to cut her son – who seldom visits – out of the will and replace him in her bequest by the friendly volunteer who brings her meals to her home. "I want a new will," she says. "Will you draft it?"

Claims of forged signatures on wills, wills procured by coercion or fraud, an attorney for property stealing money held in trust, or younger caregivers persuading older clients to marry them so that they can benefit from their estates, are all typical of the types of cases dealt with by lawyers and accountants in this niche practice of wills and trusts. B'nai Brith Canada is proud to have some of the most prominent and well-respected lawyers and professionals involved in this area of the law to present their papers regarding fraud and the elderly.

Ian Hull and Jordan Atin of Hull & Hull LLP will be discussing *Limitation Periods and Fraudulent Concealment*. The authors will analyze what impact, if any, the existence of fraudulent concealment may have on the statutory limitation period. In other words, does equity permit the court to disregard the limitation period where there has been fraudulent concealment?

Debra Stephens of Goddard Gamage Stephens and Kimberly Whaley of Whaley Litigation will present a paper entitled *When Does Estate Planning Cross the Line and Become a Fraudulent Preference*. In Ontario, a disinherited spouse has rights under the Family Law Act and the Succession Law Reform Act to sue the estate of his or her deceased spouse. The speakers will analyze cases where the deceased gave away substantially all of their assets in an attempt to prevent the spouse from obtaining support or an equalization of net family property.

Archie Rabinowitz of Dentons Canada and Rabbi Mordechai Torczyner of Yeshiva University are authoring a paper on *Undue Influence In The Estate Context Amongst Orthodox Jews – Is Arbitration Before A Beit Din A Viable Option?*. The authors will address difficult questions including what are the professional's and or client's obligations when the client's rights are superior in secular court over the Beit Din? How does the Beit Din view fraud in the context of estate litigation?

Gregory Sidlofsky and Brendan Donovan of Wagner Sidlofsky LLP will address the question of *Will A Finding of Fraud Trump The Bankruptcy Act?* The authors will analyze recent case law in Ontario to determine whether victims of fraud can use the equitable remedy of constructive trusts to recover assets in priority to other creditors under the Bankruptcy Act.

Finally, Craig Vander Zee of Torkin Manes and Justin De Vries of De Vries Litigation will address the question of *What Should Beneficiaries Do When They Suspect The Executor Of Improper Conduct In-*

cluding *Defrauding The Estate?* The authors provide a practical road map for lawyers who are litigating fraud in the estate context.

The event is sponsored by B'nai Brith Canada, the Bank of Nova Scotia Trust Company, Hull and Hull LLP, Wagner Sidlofsky LLP and Whaley Estate Litigation. It 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 the first presentation will begin at 8 a.m. The event is open to lawyers and accountants and is eligible for CLE credits. Those lawyers and/or accountants interested in attending should contact Anita Bromberg, B'nai Brith Canada, at (416) 633-6224 ext. 130 or by e-mail at abromberg@bnaibrith.ca.

PRESENTERS



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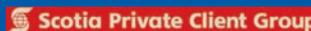
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Co-sponsored by

Bank of Nova Scotia Trust Company
Hull & Hull LLP, Wagner Sidlofsky LLP
Whaley Estate Litigation and The 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