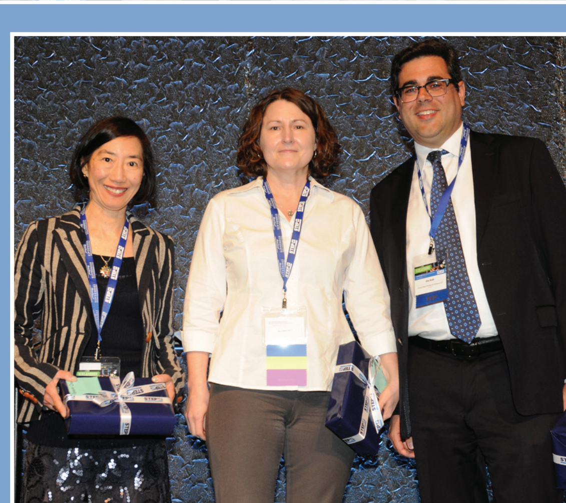
OCTOBER 2018 ■ VOLUME 17 NO. 3

STEP Inside

NEWSLETTER OF THE SOCIETY OF TRUST AND ESTATE PRACTITIONERS (**CANADA**)

2018 ANNUAL STEP CONFERENCE



STEP Inside

STEP Inside is published three times a year by the Society of Trust and Estate Practitioners (Canada), an organization of individuals from the legal, accounting, corporate trust and related professions who are involved, at a specialist level, with the planning, creation, management of and accounting for trusts and estates, executorship administration and related taxes. STEP Canada has branches in the Atlantic region, Montreal, Ottawa, Toronto, Winnipeg, Edmonton, Calgary, and Vancouver; and three chapters in London and Southwestern Ontario, the Okanagan Valley, and Saskatchewan.

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ISSN: 14960737

STEP Canada's 20th Annual National Conference

The last few years have been filled with change and uncertainty: changes in provincial estate and incapacity legislation; proposed and newly enacted changes in the taxation of testamentary trusts, split income, and passive investments in corporations; and changes abroad (notably in the United States) that have affected cross-border planning and administration. In contrast, it is always good to see that some things, such as the STEP Canada national conference, remain consistent. As usual, this year's conference, which marked STEP Canada's 20th anniversary, was bigger and better than ever, surpassing the record we set last year as the largest STEP gathering in the world. This year, we hosted almost 800 attendees. In keeping with tradition, this edition of *STEP Inside* highlights some of the excellent presentations at the conference.

In addition to enjoying superlative sessions, attendees were treated to numerous excellent networking opportunities, including the largest gala event in STEP Canada's history. The sponsors who made the conference possible, including platinum sponsor RBC Wealth Management, provided booths that illustrated the extent of TEP talent in Canada, prompted collegial competition for the most innovative give-away, and familiarized participants with the many firms and organizations that support STEP.

Special thanks to Wolters Kluwer Canada for their collaboration in publishing a collection of CRA-STEP roundtable questions and answers, from roundtables held between 2004 and 2017; and given to delegates at the conference to celebrate the 20th anniversary.

Warm congratulations to the conference organizers, including Janis Armstrong, Michael Dodick, and the rest of the staff at STEP Canada, as well as Chair Brian Cohen, Deputy Chairs Christine Van Cauwenberghe and Corina Weigl, and the other members of the STEP Canada National Conference Program Committee. The success of the conference speaks for itself, and is in large part the result of the work of the speakers and organizers.

The organizers put together 20 excellent panel and concurrent sessions that addressed key issues for Canadian trust and estate practitioners. The topics, which related to tax, trusts, estates, and incapacity, were expertly addressed by leading lawyers, accountants, trust officers, financial advisers, and other professionals. Thanks to all of the speakers who contributed their valuable time and insight. While most panels lasted between an hour and an hour and a half, countless hours of work went into their preparation. Attendees were also treated to thought-provoking guest speakers at two luncheons, where awards were presented to many of STEP Canada's best and brightest members.

While all of the sessions provided excellent insights into the issues facing

trust and estate practitioners, this edition of *STEP Inside* focuses on a few key areas.

In one of the most highly rated plenary sessions in recent memory, Philip Marcovici discussed international developments in tax transparency, compliance, planning, and the future role of STEP members. In this edition, Philip has provided an interesting synopsis of his thoughts.

In trying to answer the question whether there is absolute freedom in planning and administering a discretionary trust (the short answer is no), Debra Thomas, Susan Stamm, and André Barette discussed numerous legal and practical issues in a panel moderated by Paul Taylor. Paul has included some of the highlights, including checklists of legal considerations in decision making and a discussion of commonly encountered issues.

As a final highlight from the conference, this edition of *STEP Inside* features a synopsis of the discussions of speakers from coast to coast, with Richard Niedermayer (moderator) and Sarah Anderson Dykema from Halifax, and Kathleen Cunningham and Kirsten Jenkins from Vancouver discussing unique estate-planning and administration issues. Some of these issues included trust protectors, dynastic trusts, pour-over wills, and digital assets.

Additionally, this edition of *STEP Inside* contains an article by Thomas Grozinger, in which he discusses risk management in estate and trust administration. While this article is not from the 2018 national conference, its inclusion seems appropriate because Tom is a favourite conference speaker with deep insight into trust law.

One of the most exciting aspects of the STEP national conference is the opportunity to meet and learn from speakers and attendees from across the country. The 20th anniversary conference was no exception; at it, we hosted speakers from across Canada, the United States, and around the world. Like the conference, this edition of *STEP Inside* covers both national and international matters, with key Canadian developments being presented in the *In the Headlines* section, as readers have come to expect.

Finally, comments from STEP Canada's chair, Ruth March, acquaint readers with important developments within STEP Canada.

Not surprisingly, planning for the STEP Canada 21st Annual National Conference has already begun. Being trust and estate practitioners, members of the committee should be used to 21-year planning by now, so expectations are high. ■

Global Income, Wealth Inequality, and the Responsibility of Trust and Estate Practitioners

PHILIP MARCOVICI, TEP
Offices of Philip Marcovici; Member, STEP Hong Kong

In a 2015 speech entitled "Lifting the Small Boats," Christine Lagarde, managing director of the International Monetary Fund, emphasized that growing inequality is not only the subject of newspaper headlines; it is also an impediment to economic growth and development. Ms. Lagarde observed that poor and middle-class families have not been able to stay afloat by means of hard work and determination alone. According to Ms. Lagarde, reducing excessive inequality is morally and politically appropriate; it also makes good economic sense and is essential in generating greater, more inclusive, and sustainable growth.

Inequality is a sad and growing reality in our world. It has become one of the most important political issues of our age, giving rise to populist governments and increasing the risk of social unrest and instability.

Trust and estate practitioners work with wealth owners internationally and must use their knowledge and experience to guide their clients, governments, and others in addressing inequality in ways that respect the important contributions that wealth- and business-owning families make to their communities. If wealth owners and their advisers do not take proactive steps, populist governments and others will do so, to the detriment of both wealth owners and our communities.

At this moment in history, Canada – with its political and economic stability and its respect for democratic institutions – should assume a leadership role in demonstrating possibilities for a more equal society.

Government Policies and Action are Critical

Taxation alone does not address inequality. Governments need to be imaginative and proactive in developing policies to create equality and win the trust of taxpayers.

Critical targets should be set to ensure access to education, health care, and housing, and to address environmental and other significant issues. While there are economic arguments against governments hypothecating taxes (earmarking particular taxes for particular expenditures), consideration might be given to linking some tax initiatives to programs that are designed to manage the specific needs within communities and to address growing inequality. Why are wealth owners often obsessed with minimizing their tax exposures and at the same time extraordinarily enthusiastic and generous in their philanthropic endeavours? Are there ways to encourage people to feel better about paying tax, and develop government programs under which wealth owners can choose to contribute even more tax than they are legally obliged to pay?

> ...growing inequality is not only the subject of newspaper headlines; it is also an impediment to economic growth and development.

Information Exchange, the Common Reporting Standard, and the Role of Trust and Estate Practitioners

The wealth management industry, including many trust and estate practitioners, for many years facilitated tax evasion by their wealthy clients. This fact is borne out by numerous legal cases that have arisen against private banks, trust companies, tax and legal advisers, and others.

The misdeeds of the past have created a global shift toward significant tax transparency – a welcome shift because governments deserve the tax compliance that their laws require. Wealth-owning families have only two choices: play by the rules of their country or leave their country and take up residence elsewhere. A wealth owner does not and never has had the choice of maintaining taxable ties with a country while ignoring its tax rules through the abuse of bank secrecy laws and opaque ownership structures.

However, there are too many circumstances in which tax transparency is creating serious problems. Tax transparency is compromising

the right to privacy and in many cases creating compliance requirements that are costly, complex, and inefficient. There are also many countries that are simply not ready for tax transparency given the misuse of tax information, corruption and more. In the event of such abuse, will wealth owners simply abandon countries whose administrations they cannot trust, thereby increasing pressures on the developing world through reductions in tax revenues and the loss of jobs?

Worldwide events have resulted in the development and widespread adoption of new automatic information exchange rules, including the common reporting standard developed by the Organisation for Economic Co-operation and Development. A growing number of countries now automatically send information to other countries regarding bank accounts maintained locally, and receive such information from other countries in relation to residents with interests in overseas accounts. Although unthinkable ten years ago, today beneficial ownership information about bank accounts held directly or indirectly through trusts, foundations, offshore companies, and other previously opaque structures is being exchanged automatically.

In addition, registers containing information about the owners of corporations, other investment vehicles, real estate, and other assets as well as a growing range of tools based on technology and cooperation among governments are creating a world in which tax authorities have the information they need to enforce their tax systems.

While it is important for STEP and other organizations to focus on the privacy rights of their clients and to resist intrusive and duplicative rules that are being introduced in an effort to achieve international transparency, practitioners must not lose sight of the big picture.

Tax systems are very complex, and there are many areas of tax law that need reform. Domestic tax rules do not always address current realities. In today's mobile world, for example, are the current rules about taxable residence appropriate? Are trusts well understood, and is their taxation efficient and well structured? Is it fair that a Canadian-resident beneficiary of a foreign trust created and funded by a nonresident can receive tax-free distributions of even capitalized income indefinitely? Are there discretionary trusts created by deceased settlors that remain untaxed when no distributions occur? Does this create a disincentive for younger generations of wealth-owning families to be entrepreneurial and use capital for the benefit of society? Would broader tax bases allow for significant reductions in headline tax rates while increasing revenues for governments?

There are lessons to be learned from the chaotic and intrusive nature of today's reporting and related requirements that have been imposed in an effort to achieve tax transparency. In the past, trust and estate practitioners spent too much time resisting change and too little time influencing the manner in which change was taking place. There are many simpler, cheaper, and more efficient approaches to dealing with tax evasion than the common reporting standard, and there are many options that can reasonably be introduced into the ongoing debate.

Trust and estate practitioners need to do more to encourage dialogue among stakeholders. With their knowledge of both tax laws and the activities and needs of wealth owners, they have a responsibility to involve themselves in constructive dialogues between wealth owners and governments, and to encourage a better understanding of the benefits that wealth and business owners bring to their communities. ■

Planning and Administering a Discretionary Trust: Absolute Freedom?

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Although the new tax on split income rules have limited the ability to use a discretionary family trust for tax planning in some circumstances, there are still many other circumstances in which the use of a discretionary trust may be appropriate. From a tax perspective, it is still possible to use a discretionary trust, including a testamentary trust created by will or from the proceeds of a life insurance policy, to split income between generations or to skip generations in some circumstances. In addition, the non-tax reasons for creating a discretionary trust remain. These reasons include control of assets; setting aside assets for future generations; and ensuring appropriate distributions to beneficiaries who are minors, have mental or psychological disabilities, or have other issues that would limit their ability to deal with funds provided outright.

In a panel at the STEP Canada 20th Annual National Conference, Debra Thomas, Susan Stamm, André Barette, and I discussed the drafting and administration of discretionary trusts. In this article, I focus on a few highlights from that panel discussion.

Decision Making by Trustees

Although a discretionary trust may give broad administrative discretion to the trustees, the trustees' fiduciary obligations nonetheless remain. The primary duties of trustees are the duty of care, the duty to act personally, the duty to act in the beneficiaries' best interests, and the duty to maintain an even hand among beneficiaries. To a certain extent, in a trust document a settlor can modify or limit these duties (for example, waiving the even hand rule or permitting delegation); however, the overriding responsibilities of the trustees to act in the beneficiaries' best interests remain.

> ...it is still possible to use a discretionary trust...to split income between generations or to skip generations in some circumstances.

The panel's checklist for decision making in the administration of a discretionary trust was based on considerations raised in *Scott v. National Trust*, [1998] 2 All ER 705 (Eng. CA), and included the civil-law perspective provided in *Brassard v. Brassard*, 2009 QCCA 898:

1. Is the nature of the power granted discretionary or non-discretionary?
2. Does the exercise of power respect the purpose of the trust at all times?
3. Is power exercised in a context of deliberation (in which more than one person assumes the office of trustee)?
4. Have all the facts been considered?
5. Is the context relating to the decision to be made fully understood?
6. Will the decision adversely affect any beneficiaries?
7. Is there a need to seek external advice or counsel?
8. If this advice is obtained, are there sufficient grounds to question it?
9. Is there a need for a second opinion (discretionary power is properly exercised on the basis of sound advice)?
10. Is the decision tax-neutral? Has the Canada Revenue Agency issued a proposal that could affect the decision or its implementation?
11. How will the decision affect the passing of accounts?
12. When considering encroachments on trust property, in addition to the above considerations, the panel indicated that trustees should also consider the following matters:
    a. the size of the trust;
    b. the purpose for which the trust was intended;
    c. the purpose of the discretionary power;
    d. any supporting documentation, such as a letter of wishes;
    e. the needs of the beneficiaries; and
    f. whether or not to obtain consents from the beneficiaries.

Rights of Beneficiaries

Under the common law, beneficiaries of a discretionary trust have fairly broad rights to information (see, for example, *Lewis v. Tamplin*, [2018] EWHC 777 (Ch)), although these rights are not absolute by any means. Recent case law (*In the Matter of the C Settlement*, [2017] JRC 035A (Jersey Royal Court)) has provided trustees with the ability to withhold information from beneficiaries when it is reasonable to take the position that the information would be detrimental to the beneficiaries.

In addition, in most jurisdictions in Canada, beneficiaries have the right to call for a passing of accounts in court, although they do not have the right to require a distribution if an interest has not vested.

Accordingly, when planning and drafting discretionary trusts, it is important to consider what rights to information beneficiaries should have and in what manner and with what frequency they should receive information. In some cases, it may be appropriate to include a provision for regular audits or financial statements, rather than a court passing of accounts. It is generally impossible to curtail the power of government offices, such as the Public Guardian and Trustee or the Office of the Children's Lawyer through provisions in trust agreements.

Articles 1351 and 1354 of the *Civil Code of Québec* provide for an annual summary accounting and reasonable transparency, including access to records and vouchers.

Jurisdictional Peculiarities

While there are many differences in the application of trust law across Canada, there are a few matters that are particularly noteworthy.

Article 1275 of the *Civil Code of Québec* requires an independent trustee (that is, a trustee who is not a beneficiary or the settlor).

The application of the rule against perpetuities can be slightly different in each jurisdiction, and in some jurisdictions, such as Manitoba, the rule has been abolished. Accordingly, it is important when drafting the trust to ensure that perpetuity periods are taken into account. In cases in which it is desirable to have a trust that exceeds the permitted perpetuity period, it may be wise to consider establishing the trust under the governing law of another jurisdiction.

Only Ontario applies an accumulations period, requiring that after 21 years a trust must distribute any income generated to the beneficiaries. Accordingly, care should be taken when drafting a trust to provide for alternate beneficiaries if it is undesirable to have the interest paid to the main beneficiaries. In addition, when administering a trust it is important to keep the accumulations rule in mind and make the payments required under the rule. In some cases, it may be desirable to modify the investment profile of the trust to limit income in favour of capital appreciation; however, in the event of such modification, care should be taken to consider the potential application of the even hand rule in relation to capital and income beneficiaries. ■

Unique Estate-Planning and Administration Issues

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Stewart McKelvey;
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The session entitled "Unique Estate-Planning and Administration Issues" at the STEP Canada 20th Annual National Conference was presented by Kathleen Cunningham, TEP, Sarah Anderson Dykema, TEP, and Kirsten Jenkins, TEP. Panel members addressed several topics that affect a broad range of estate planning and administration in Canada.

The first topic reviewed was dynastic or perpetual trusts. While these trusts are available in three Canadian provinces (Saskatchewan, Manitoba, and Nova Scotia), their application continues to be rare. Although they may provide the significant benefits of preservation of capital over generations, protection of beneficiaries from creditor claims, probate avoidance, land transfer tax avoidance, privacy, and ease of generational administration, the significant tax limitations of the 21-year rule in the *Income Tax Act* and the likelihood of some illiquid assets being held in such a trust limit their wide applicability. Considerations when using these trusts include the following:

- defining the class of beneficiaries;
- future amendments to the trust to allow for changing circumstances, including the possibility of changing the forum or allowing full trust distribution;
- changing trustees and the role of a possible trust protector;
- dispute resolution mechanisms; and
- letters of wishes from the settlor.

The panel also addressed powers of appointment. Increasingly, these powers are being used in estate planning to defer decision making, provide flexibility, and provide autonomy over the disposition of trust property. Principally, these powers enhance privacy, potentially allow for the avoidance of filing requirements by US-resident beneficiaries, and allow beneficiaries to be added to a trust at a later or specific time. Drafting considerations include the following:

> Increasingly, these powers are being used in estate planning to defer decision making, provide flexibility, and provide autonomy over the disposition of trust property.

- Who is specifically given the power?
- Is the power given to a person in his or her personal capacity or as a fiduciary?
- Is the property that is subject to the power clearly identified, and have the people or entities to whom it might be appointed been specified?
- How should the power be exercised (by will or otherwise)?
- What happens if there is a failure to exercise the power in whole or in part?

Another emerging topic is the use of protectors in domestic planning structures. While the use of protectors is common in the offshore trust world, it is much less common in domestic planning. Protectors provide for oversight and continuity, offer a robust governing structure, and can function as an advisory board. Typical protector powers may include the ability to add or remove trustees, approve trustee compensation, determine the capacity of trustees and beneficiaries, and request information about the trust. Considerations include the following:

- Is the protector one person or a group?
- What are the alternatives if a protector dies, becomes incapable, or resigns?
- How will a group of protectors act by majority?

Protectors in Canada are also appearing in powers of attorney under which the attorney has a duty to account to a third party or to provide information about the donor's affairs. Additionally, protectors can appear in a statutory context (for example, in the role of a "monitor" under the *British Columbia Representation Agreement Act*).

The panel then reviewed pour-over wills in which a gift is made under a will to trustees of an existing trust. This is a common planning technique in the United States, and many states have specific legislation allowing pour-over wills. Canadian provinces, however, do not have such legislation. Increasingly, clients with US connections or planning circumstances in which an inter vivos trust is used as the primary dispositive vehicle are trying to apply pour-over wills in Canada. The recent case law reviewed in the session has questioned the use of pour-over wills when the related trust is amendable and the amendment has not complied with the rules governing the formality of wills. While the courts have found that a gift to any amendable, revocable trust is invalid, the question remains whether a pour-over structure that can be amended only in compliance with the rules governing the formality of wills may be valid.

Finally, the panel considered the very prevalent topic of digital assets and the implications for planning and administration in Canada today. While the popularity of digital technology has rapidly increased, drafting and administration is still catching up. It is now common for planning and estates clients to have digital asset such as Facebook, Gmail, and PayPal accounts; eBooks, music, and photo libraries; online businesses; avatars; and electronic devices.

The challenge for fiduciaries is to identify the existence of the digital asset, gain access to it, and take control of it. Control may include the authority to sell or transfer the asset to a beneficiary or to destroy it. Some of the challenges in gaining access include passwords and encryption, as well as terms-of-service agreements with various service providers, many of which are governed by the laws of a foreign jurisdiction, such as California. Many digital assets are not owned but licensed: what is their value for probate or income tax purposes?

> While the courts have found that a gift to any amendable, revocable trust is invalid, the question remains whether a pour-over structure that can be amended only in compliance with the rules governing the formality of wills may be valid.

Clients should be encouraged to be proactive in maintaining records and information about their digital assets, and in storing the information so that their representatives can gain access to it after their death or in the event of their incapacity. One problem is that terms-of-service agreements typically prohibit the sharing of passwords. Is it better to breach the agreement to obtain access after death indirectly or to attempt to use the authority granted by a power of attorney, will, or court order? The situation is hindered by a lack of provincial legislation that specifically addresses digital assets. The Uniform Law Conference of Canada's *Uniform Access to Digital Assets by Fiduciaries Act* (2016) seeks to codify the common-law rules that provide authority to fiduciaries to protect the assets of deceased or incapable persons and to manage and obtain access to the assets. The *Uniform Access to Digital Assets by Fiduciaries Act* has not yet been enacted in any jurisdiction in Canada.

To assist practitioners, the STEP Digital Assets Special Interest Group has provided resources at https://www.step.org/digital-assets-global-special-interest-group. In the session, drafting precedents for clauses in powers of attorney and wills were also provided. Tips for fiduciaries in the event of donor incapacity or death include the following:

- consolidate the person's emails by redirecting all emails to a single email account,
- copy the person's hard drive and change his or her passwords,
- notify contacts of the death or incapacity to avoid identity theft and impersonation,
- remove personal and private data from online shopping accounts,
- keep accounts open until all information is collected,
- archive important data during any relevant limitation periods,
- send the person's death certificate to credit bureaus, and
- cancel the person's driver's licence and passport. ■

Risks in Estate and Trust Administration: Part 2

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In the first part of this two-part article, Paul Fensom described key risk factors in an estate and trust administration and examined risks associated with several complex assets. In part 2, we look more closely at risks from a legal perspective, focusing on three areas often encountered by executors and trustees during a trust's administration: liability under contracts, improper supervision of agents, and improper supervision of co-trustees.

Liability Under Contracts

Trustees of common law governed trusts may be surprised to learn that when they enter into contracts, they expose themselves to personal liability. If the contract is reasonable, the trustees may be indemnified from the trust's property; but,if the assets of the trust are insufficient to satisfy a claim for indemnity, the trustee's personal resources are at risk.

This principle was illustrated in *Johnson v. North Shore Yacht Works Corp.*, 2017 BCSC 1229, a case in which trustees were successfully countersued for the cost of repairs to a trust asset (the "Dorie Gal" yacht). The trust's property had been distributed to a beneficiary who was also a co-trustee, resulting in the trust's assets being insufficient to satisfy the claim. At paragraph 17, Grauer J made the following statement:

> [T]he basis of [the party's] liability is his status as a trustee who entered into this agreement on behalf of the trust. On the law as discussed above, the consequences are twofold: first, he is personally liable to the judgment creditor; second, he is entitled to claim indemnity from the trust. That he has already received the assets of the trust, leaving it insolvent, is not the problem of the defendant.

The other co-trustee, not having been actively involved in the contract and not receiving any trust property, argued that he should not have any personal liability since that would be unfair. Grauer J clarified that it was not unfair. Liability did not result from allegations against the trustee personally; rather, it resulted from his status as a trustee. As Grauer J stated at paragraph 20:

> Presumably [the co-trustee] approved the distribution of the trust assets to [the trustee-beneficiary] notwithstanding the potential for liability to the defendant, of which he was clearly aware when he and his co-trustee elected to sue the defendant in the face of a claim against them for all of the costs incurred in repairing the *Dorie Gal*. Moreover, as a lawyer, [the co-trustee] was in a position to protect himself when he agreed to act as trustee. As it is, if the defendant should seek to execute against assets of his instead of those of [the trustee-beneficiary], he may prove to have a basis for seeking indemnity from [the trustee-beneficiary] as his co-trustee and beneficiary of the trust.

To avoid such a result, trustees should consider including a term in contracts that specifically limits their liability to the assets of the trust that remain in their possession or control as trustees.

Improper Supervision of Agents

Because administration can be complex, executors and trustees may decide to retain agents to assist with certain tasks. Retaining agents having skill and experience to assist with matters that are unfamiliar to the executors and trustees is prudent and potentially manages the risk of completing the tasks unaided. However, while the law generally allows executors and trustees to retain agents, it looks with disfavour on those who fail to monitor or supervise them. This was illustrated in the 1991 case of *Wagner v. Van Cleeff*, 1991 CanLII 7168 (ONSC). In this case, an administrator retained a lawyer and provided him with a general power of attorney authorizing the lawyer to "deal with any and all aspects" of the estate. Because of a "total delegation" of the administrator's duties to the lawyer, the lawyer absconded with the bulk of the estate(approximately $216,000).

McKeown J noted that "it is not a breach of trust for an administrator to grant a general power of attorney. However, the trustee must control matters which he should not delegate notwithstanding the granting of a general power of attorney." Regarding what can and cannot be delegated, the judge observed that "[t]he general rule is that an administrator must personally perform all the duties of the office requiring the exercise of his discretion. However, as an exception to this rule, an administrator is permitted to select agents to perform certain tasks where it would be regarded as prudent for a person in the ordinary course of business to delegate the performance of these duties."

Still, the need to properly supervise an agent is crucial to avoid liability. As stated in the decision, "[a]n administrator who puts the assets of an estate in the hands of an agent and takes no steps to ensure that the assets are properly dealt with has breached the duty to supervise."

Therefore, executors and trustees are well advised to regularly monitor their agents' activities (and not to over-delegate). Monitoring could include receiving and regularly reviewing agents' written reports and questioning any anomalous entries or results.

Quebec law is similar in that it permits trustees to delegate certain duties but not the entire administration or discretionary powers (except to co-trustees). However, trustees who are authorized to appoint an agent (for example, under the terms of the trust) are responsible for taking care in selecting the agent and providing instructions; in the absence of such authorization, they are accountable for the agent's activities.

Improper Supervision of a Co-Trustee

Co-trustees who are jointly responsible for a trust's administration are at risk to the extent that they do not properly supervise each other in carrying out their duties. This risk was illustrated in *Cahill v. Cahill*, 2016 ONCA 962. In this case, a brother (Kevin) and a sister (Sheila) were appointed as the executors and trustees of their father's estate. The will directed that $100,000 be set aside in trust for the benefit of another brother (Patrick), and provided that he was to receive monthly payments of $500 from the trust. Kevin was appointed as sole trustee, but the trust was never established. Instead, after Sheila and Kevin signed a direction requiring the estate account to issue a draft for $100,000 to a life insurance company, Kevin opened a non-registered investment plan. There was no reference to Patrick or a trust. Although Patrick received $500 per month for a period of time, these payments eventually stopped. It was discovered that Kevin had borrowed the funds remaining in the plan "as a 'mortgage' for his business premises," and the business failed, leaving no funds in the plan.

Patrick initiated court proceedings and won, the judge finding both Sheila and Kevin liable for approximately $80,000, the amount necessary to fund Patrick's $500-per-month entitlement. Sheila appealed, arguing that once the trust was established, she no longer had any obligation regarding its management. However, the Ontario Court of Appeal upheld the application judge's finding that no trust was established.

Several authorities were cited for the obligations of a co-trustee, including Donovan Waters (at paragraph 35):

> Lastly, Donovan W.M. Waters writes in *Waters' Law of Trusts in Canada*, 4th ed. (Toronto: Carswell, 2012), at p. 43:
>
> [A trustee] is not entitled to shrug off the wrongful actions of a co-trustee on the basis that he knew nothing of what the other was doing; as a fiduciary, he is responsible for all acts of trusteeship, and he therefore carries a several, as well as a joint, liability for all that is done in the name of the trust or through the exercise of the office of trustee.

At paragraph 37, the court observed that Sheila had "abdicated" her duties in not ensuring that the trust fund was properly established. As a result, the court also denied Sheila relief from liability under Ontario's *Trustee Act*. Section 35(1) allows a court to relieve a trustee of liability if the trustee "has acted honestly and reasonably, and ought fairly to be excused for the breach of trust." The court found at paragraph 54 that Sheila had not acted reasonably when she "made no inquiries and took no steps to fulfill her duties owed to the beneficiaries."

The lesson here is that co-trustees must take an active role in administering the trust; they cannot relinquish responsibility for the trust's administration to a co-trustee. If they do and there is a loss, they may find themselves personally liable.

In Quebec, the law permits a trustee to avoid liability for the actions of a co-trustee if the trustee provides a dissent to the co-trustee and beneficiaries regarding decisions made. Otherwise, the trustee is presumed to have approved any decision made by a co-trustee.

Author's Note

The views and opinions expressed in this article do not necessarily reflect those of Royal Trust Corporation of Canada, its affiliates or related entities, or any of their employees, officers, or directors. This article is intended to provide general information on risks in estate and trust administration and not intended, nor to be construed, as legal, tax, or other advice. No one should act on the information provided herein without first obtaining his or her own independent legal advice.

I want to thank Anne Chaurette, principal trust specialist (Quebec law), for her review and comments on an earlier draft. ■

BC'S PROPOSED LAND OWNERS TRANSPARENCY ACT - A HARBINGER OF NEW REPORTING STANDARDS

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There is an increasingly crowded regulatory landscape of reporting obligations referable to financial and other interests in Canada and globally. Most recently, Canada's finance ministers agreed in December 2017 to pursue legislation to strengthen beneficial ownership transparency with respect to corporations and other legal entities. In July, the federal Minister of Finance published draft legislation which will impose additional filing and reporting obligations on most express trusts.

Provincially, BC is the first (but likely not the last) to introduce draft legislation with the *Land Owner Transparency Act* (the "LOTA"). It published a White Paper in mid-June seeking public consultation. The timing of the announcement, coupled with the abbreviated deadline of August 19 for comments (then extended to September 19) suggests that the government hoped for little reaction. This view was reinforced when it brought into force some of the provisions of the LOTA by way of Regulation to the *Property Transfer Tax Act* before the first deadline.

STEP Canada, through its Trusts and Estate Technical Committee, submitted a detailed summary of concerns. This article outlines the central themes of that submission.

The core of the LOTA requires "relevant" companies, trusts and partnerships ("reporting bodies") to provide information about the beneficial ownership of land. The reporting requirements include a "transparency declaration" and a "disclosure report". Reporting will be required immediately following the proclamation of the statute, upon registration of new transfers, and within 2 months of any change of beneficial ownership.

The LOTA contains 95 provisions with two schedules, and the following concerns were identified:

- lack of clarity in definitions;
- excessive requirements to collect and report information;
- too short a time frame for filing and draconian penalties for failing to do so;
- inadequate protection for individuals objecting to their information being publicly disclosed and insufficient time to object;
- too much power given to the Administrator (an employee of Land Title and Survey Authority), including:
  - ◊ deciding what information is to be made public;
  - ◊ entering premises and examining records without notice or a search warrant (except for private homes);
  - ◊ requiring production or access to "records and things", answering questions and "otherwise providing information";
  - ◊ removing "a record or thing" from a place;
  - ◊ imposing significant administrative penalties and adjudicating objections to those penalties;

- insufficient time to object to penalties;
- strict liability offences in addition to administrative penalties;
- incursions into solicitor-client privilege by the Administrator and yet-to-be-drafted regulations.

"Big Picture" Concerns

In the Foreword to the White Paper, the LOTA is presented as part of a plan designed to tackle foreign and domestic speculation, close real estate and tax loopholes, protect renters, crack down on tax fraud and boost housing supply. The specific components of this plan focuses primarily on cracking down on tax fraud and money laundering.

The LOTA is drafted with little regard to how it might work in harmony with existing legislation and is ill-suited to collecting information relevant to taxation. It contemplates a public registry of what, for most individuals, is their most valuable asset. Equivalent information is not generally publicly available with respect to other valuable assets of an individual, such as portfolio investments, bank accounts and the like.

The Foreword states that a publicly available database may be important for tenants, contractors, and others who deal with land owners, and could help financial institutions, lawyers, notaries, real estate agents and others. STEP is unaware of any sentiment that the current Torrens system is not working for these parties. On the contrary, contractors have well established rights to file liens against properties and financial institutions and professionals are familiar with methods and structures for land ownership.

It cannot be good policy to enact legislation that will result in significant intrusion on the privacy of numerous individuals, simply because the best the government can say is that it may be important or could also help third parties who already have well-established tools for dealing with land and land owners.

The LOTA is drafted with little regard to how it might work in harmony with existing legislation and is ill-suited to collecting information relevant to taxation.

While there may be justifiable policy considerations in making appropriate information available to taxation authorities, law enforcement agencies and financial sector regulators, no compelling policy reason has been articulated for publicly "outing" individuals who hold indirect interests in real property in British Columbia where those individuals have chosen legal means of registering title in another manner.

STEP members from other Canadian jurisdictions may view the LOTA as another unique product of Canada's "lotus land west of the Rockies", but it behooves them to be prepared for the adoption of similar legislation in their jurisdiction.

HENSON TRUSTS NOW AVAILABLE IN ALBERTA: GOOD NEWS?

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Alberta legislation respecting the assured income for the severely handicapped (AISH) program was amended with the coming into force of *An Act to Strengthen Financial Security for Persons with Disabilities,* SA 2018 c.12, on June 11, 2018. The AISH program provides a living allowance, health benefits, and supplementary benefits to eligible adult Albertans who have a permanent disability. According to recent statistics, close to 60,000 Albertans receive AISH benefits.

In 1998, a limit of $100,000 in assets held by a person with a disability (an AISH individual) was introduced into the AISH program. Once assets reached a value in excess of $100,000, an AISH individual became ineligible for AISH benefits. Discretionary trusts in which AISH individuals or their spouses or cohabitating partners were beneficiaries were included in assets and counted against the $100,000 limit. There was an exemption available for non-discretionary trusts on a case-by-case basis. This situation severely curtailed the use of trusts as planning vehicles in Alberta for those who wished to ensure that their loved ones were cared for after their deaths.

The Act amends current AISH legislation to allow families, guardians, and AISH recipients to create unlimited trusts to provide for persons with disabilities without adversely affecting an AISH individual's eligibility for the AISH program.

The Act now clearly states that the value of the assets of an AISH individual or cohabitating partner must not include trust assets in which the individual or partner has a beneficial interest. A trust in which an AISH individual is a beneficiary is now listed as an exempt asset. This change allows families to plan and "ensure continuity of care for their children or loved ones after they are gone," according to Brian Malkinson, MLA Calgary-Currie.

The legislation includes a one-year grace period to allow people to set up and fund a trust with a lump-sum payment that will not disqualify the AISH individual. Planners in Alberta will now be able to draft trusts similar to Henson trusts, established pursuant to *Ontario (Minister of Community & Social Services) v. Henson* (1989), 36 ETR. 192 (Ont. CA); 28 ETR 121 (Ont. Div. Ct.). For over 30 years in provinces other than Alberta, Henson trusts have been used as a vehicle for estate planning, an implicit acknowledgment of the social value of using public support programs to offset the extraordinary financial burdens borne by families with children with disabilities. Henson trusts are discretionary trusts that specifically empower or encourage the trustee to take into account the impact of distributions on the beneficiary's entitlement to other benefits.

The news, however, may not be all good, and before practitioners in Alberta rush to create Henson trusts for their clients, they should take note of the case law relating to Henson trusts in other provinces. This law may provide insight into how Henson trusts work and how they may be perceived and interpreted by the Alberta courts.

For example, a relevant case is currently on reserve at the Supreme Court of Canada (SCC file no. 37551): an appeal from the judgment of the British Columbia Court of Appeal in *SA v. Metro Vancouver Housing Corporation*, 2017 BCCA 2. This decision concerns a beneficiary of a discretionary trust who was declared to be ineligible for subsidized housing when the trust was included in the beneficiary's assets. The decision creates uncertainty about how a Henson trust will be treated by the administrators of other programs by implying that the recipient of such a trust has a beneficial interest in it.

While the Act now excludes trusts for the purposes of the asset test for AISH benefits, the Supreme Court case may affect other programs in Alberta and the manner in which Henson trusts and AISH individual eligibility are dealt with for other purposes.

Careful consideration of all of the circumstances is still necessary when drafting Henson trusts in Alberta, and caution is advised.

WELCOME INSIGHT INTO UNDUE INFLUENCE

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The Ontario Court of Appeal's decision in *Seguin v. Pearson*, 2018 ONCA 355, helps to clarify who bears the burden of proving undue influence in cases involving both testamentary and inter vivos dispositions.

The appellant in this case argued that her father's last two wills, as well as his transfer of the ownership of his home into joint tenancy with his common-law partner (the respondent), were invalid because of undue influence. The appellate court upheld the trial judge's determination that there was no undue influence, and carefully set out the test to be applied when undue influence is alleged.

The key holding of the appellate court is that the burden of proof of undue influence differs depending on whether the case involves a testamentary or an inter vivos gift. With a testamentary gift, the party attacking the will has the onus of showing "outright and overpowering coercion" of the testator on a balance of probabilities. With an inter vivos gift, a rebuttable presumption of undue influence may exist, depending on the facts. If this presumption is created, the onus shifts to the recipient of the gift to show that there was no undue influence, again on a balance of probabilities.

In *Morreale v. Romanino*, 2017 ONCA 359, the Ontario Court of Appeal succinctly described, at paragraphs 22-23, the test to be applied to determine whether the presumption of undue influence exists in a particular situation:

> [T]he first question to be addressed, in all cases, "is whether the potential for domination inheres in the nature of the relationship itself"... This test embraces those relationships that equity has already recognized as giving rise to the presumption...

However, while the test embraces relationships that have been recognized as giving rise to the presumption, it is not enough to simply show that such a relationship exists. Even for such relationships, the presumption does not arise unless it has been established that there is the potential for one person to dominate the will of another. The test requires the trial judge to consider the whole of the relationship between the parties to see if there is the potential for domination, rather than looking for a specific act of coercion or domination.

In *Geffen v. Goodman Estate*, [1991] 2 SCR 353, the Supreme Court of Canada recognized the following relationships as potentially giving rise to a presumption of undue influence:

- solicitor and client,
- parent and child,
- guardian and ward, and
- other relationships of dependency in which there is the potential for domination of one person by the other.

In *Seguin,* the appellate court did not address whether the relationship between the testator and his common-law partner potentially gave rise to the presumption of undue influence because the trial judge's findings of fact supported the conclusion that undue influence was not exerted in either the testamentary or the inter vivos dispositions. The relevant facts involved the following:

- the medical and lay evidence concerning the testator's state of mind and overall health;
- the nature and length of the testator's relationships with his children and his common-law partner (the testator was at various times estranged from and reconciled with his children, and living with and separated from his common-law partner);
- the testator's instructions to his lawyers, which were provided only after several months of deep thought; and
- the "meticulous and comprehensive" legal advice received by the testator from two experienced practitioners.

Estates litigators will find this case helpful in elucidating the burden of proof of undue influence. In addition, the case acts as a timely reminder for estates lawyers—and indeed for all advisers—about the possibility of clients being unduly influenced by another person, such as a child, partner, caregiver, neighbour, or friend who either accompanies the client to a meeting or coaches the client behind the scenes. Advisers who are concerned about the potential for undue influence may find the following strategies helpful:

- an "all or none" policy concerning the involvement of adult children in their parents' financial and estate planning;
- clear communication concerning the joint retainer rules when spouses are meeting an adviser together, including a discussion about the potential consequences of an outright testamentary gift to a spouse;
- a capacity assessment performed by a registered capacity assessor when an adviser has concerns that have not been alleviated by other means; and
- calling the police in dire circumstances.

GIVING EFFECT TO A TESTATOR'S INTENTIONS

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Title 4 of the Book of Successions in the *Civil Code of Québec* (CCQ) sets out clear rules governing the creation of wills in Quebec. It stipulates who can make a will, the form a will must take, and the types of legacies a testator can make. In two recent decisions, Quebec's Superior Court has considered how far a court can go in giving effect to a testator's intentions.

Estate of Hermann c. Baumfeld, 2018 QCCS 3333 concerns the last will and testament of Reszo (Rudy) Hermann. Rudy signed his last will in 1975, giving his entire estate to his wife, Christina Reiss. If Christina were to die before or within 30 days of Rudy, his estate would be shared equally between his brother, Otto, and his sister-in-law, Renata. However, Rudy and Christina divorced 21 years before Rudy's death in 2016. Rudy's half-brother, Robert Hermann, sought a judgment declaring that the legacy of Christina was revoked pursuant to article 764

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CCQ and that the estate should therefore be administered as an intestate succession, under which he would benefit.

Article 764 CCQ provides that a legacy made to a spouse before a divorce is revoked unless the testator manifested, by means of testamentary dispositions, an intention to benefit the spouse even in the event of a divorce.

Christina and Klaus Baumfeld, Rudy's friend, acknowledged that Christina's legacy was revoked by the divorce. However, they asked the court to interpret the will as if Christina had predeceased Rudy so that the other legacies in the will could be honoured. Christina and Klaus testified that Rudy had wanted Christina to benefit from the will despite their divorce, and they asserted that Rudy did not intend for Robert to benefit from his estate.

The court found that the terms of the will were unambiguous. There was no evidence that Rudy intended for Otto and Renata to share in his estate, except in the event of Christina's death. While the court could uphold an intention expressed by the testator, it could not rewrite the will to give effect to intentions expressed outside the will. Rudy did not alter his will when the laws changed in 1994, after his divorce in 1995, when Otto died in 2000, when his health began to fail, or when he was prompted to do so by his friend before his death. In the absence of any formal steps taken by the testator to avoid the application of the rules of intestate succession, the court held that the estate must be administered according to the law.

In *Cohen c. Succession de Cohen*, 2018 QCCS 3212, the court considered whether a legacy respected the requirements of the CCQ. Joseph Cohen died in March 2015. While in hospital the previous spring, he had executed a will that was drafted by a notary and signed before two witnesses. The will provided for the bequest of Joseph's entire estate to charitable causes in Israel. His liquidator was to select which charities would benefit under the will.

Joseph's brother, Jules, sought to have Joseph's will set aside for two reasons: (1) the will did not meet the formal requirements of a will signed before witnesses, and (2) the universal legacy to Israeli charities was invalid.

Referring to article 774 CCQ, the court found that the form of the will was valid, even though it did not respect all the formalities of its execution because it met the essential requirements of a will and unquestionably and unequivocally contained the last wishes of the deceased.

However, the court determined that the universal legacy to unnamed charitable organizations in Israel was invalid because it was too vague and uncertain. The testator had abdicated his power to make a bequest by delegating the choice of beneficiaries, contrary to public order and article 706 CCQ, which provides that the power to designate a legatee belongs to the testator alone.

The court then considered whether the will created a trust under which the trustee had the power to appoint beneficiaries. However, there was no evidence that the testator had intended to create a trust. The will did not use any of the formal language found in the CCQ for the creation of a trust, nor did it provide for the transfer of property from the testator's patrimony to a separate patrimony autonomous and distinct from his own, an essential condition for the establishment of a trust.

Furthermore, the notary testified that the testator had intended to finalize the selection of the charitable organizations himself but ran out of time. This evidence was inconsistent with the idea that the testator had intended to create a separate trust in the will. Because the universal legacy in the will was invalid, the testator's estate could be distributed only according to the CCQ's rules of intestacy.

Estate of Hermann c. Baumfeld and *Cohen c. Succession de Cohen* serve as a reminder that while courts make every effort to give effect to a testator's intentions, they are bound both by the document before them and by the limitations of the law.

INCOME TAXES TAKE PRIORITY OVER FUNERAL EXPENSES

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The decision of a judge of the Nova Scotia Court of Probate about the priority of debts paid from an insolvent estate has taken many estate practitioners by surprise. In *Evans Estate (Re)*, 2018 NSSC 68, the court applied the first rigorous—and published—constitutional analysis of the relative priority of income taxes and other debts of an estate. The result was unexpected and unsettling.

The case was an appeal from the ruling of a registrar of probate on a passing of an executor's accounts. Marie Evans died testate, having appointed her only son as executor and having named him as sole beneficiary. The son died little more than a month after his mother and before he obtained probate. The estate's only asset was a house with a mortgage that was months in arrears. A squatter was living in the house, and the utility bills were unpaid.

The Nova Scotia Public Trustee stepped in to administer the estate. The mortgagee agreed to accept title to the house without suing on the deficiency, which left $1,545.53 in the estate. Several debts were left to be satisfied, including $8,187.45 in income taxes and $3,952.78 in unpaid funeral expenses. The Public Trustee applied to the court to pass its accounts. The registrar declared the estate to be insolvent and ordered the $1,545.53 to be paid to the funeral home.

The registrar's ruling was based on the priority of debts for insolvent estates that is set out in section 83 of the Nova Scotia *Probate Act*. The order of priority can be summarized as follows: (1) reasonable funeral expenses, (2) probate taxes and court fees, (3) the personal representative's commission and legal fees, (4) medical expenses, and (5) all other debts. These priorities do not prejudice the interests of a secured creditor, and, on the basis of the common law, claims of the Canada Revenue Agency (CRA) take priority over the claims of all other unsecured creditors in category (5) above.

The Public Trustee appealed the registrar's ruling on the ground that the common-law rule of statutory construction known as "Crown prerogative" results in section 159 of the Income Tax Act taking priority over section 83 of the Probate Act. Section 159 of the Income Tax Act imposes liability for income taxes on a deceased person's personal representative to the extent of the assets in the estate. To avoid being liable to the CRA, the public trustee sought an order directing it to pay the $1,545.53 toward the taxes and leave the funeral expenses unpaid.

On appeal, this order was granted. The court's ruling relied on two principles of constitutional law: (1) Crown prerogative, and (2) the doctrine of paramountcy. The result is that—in Nova Scotia, at least—debt to the CRA takes priority over funeral expenses, probate taxes, executor's commission, legal fees, and medical fees.

Crown prerogative is a rule of statutory interpretation that states that the Crown is not bound by statute in the absence of express wording or necessary implication. Therefore, if a legislating body intends to bind the Crown in a particular piece of legislation, either the legislation itself or the relevant interpretation statute must expressly do so, or the context must make it clear beyond doubt that the legislature intends to bind the Crown. The Crown is presumed to be immune from legislation, unless the presumption is rebutted.

Because the Probate Act is silent on the priority of debts to the Crown and whether the Crown is bound by this Act, the federal Crown is not subject to the priority of debts set out in section 83, and funeral expenses could go unpaid if sufficient tax is owing.

The court went further and applied the doctrine of paramountcy. This doctrine is applicable when federal law and provincial laws are inconsistent or conflicting. When it is impossible to comply with both a federal and a provincial law or when a provincial law frustrates the purpose of a federal law, the federal law is paramount. Thus, in this case, the court ruled that section 159 of the Income Tax Act is paramount and therefore prevails over section 83 of the Nova Scotia Probate Act.

This doctrine is applicable when federal law and provincial laws are inconsistent or conflicting. When it is impossible to comply with both a federal and a provincial law or when a provincial law frustrates the purpose of a federal law, the federal law is paramount.

Where does this leave the administration of insolvent estates? Registrars of probate in Nova Scotia have long proceeded without the benefit of this constitutional analysis, ordering debts to be paid in keeping with the list of priorities in the probate legislation, and classifying CRA debt with the debt of all other unsecured creditors. The registrar in this case actually sought the advice of other registrars when challenged by the Public Trustee before confirming her ruling. Indeed, the court notes that these written reasons were issued to provide guidance to registrars throughout the province.

With respect, while the court's constitutional analysis is sound, from a policy perspective the registrars made the right decision. Without assurance that funeral expenses, probate taxes, and legal fees will be reimbursed from the few funds that remain in an insolvent estate, what executor will assume responsibility for administering the estate? Executors are liable in contract for funeral expenses and legal fees, whether indemnified by an estate or not, and in Nova Scotia executors must pay probate taxes in advance to obtain a grant of probate.

The full effect of this decision remains to be seen, but let us hope that a legislative response in the form of an amendment to the Probate Act is already underway. ■

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CHAIR'S MESSAGE

RUTH MARCH

Welcome to the last issue of *STEP Inside* for our 20th anniversary year. This year has proven to be very productive for so many of our hardworking committees, at both the national and the local level. STEP Canada is incredibly fortunate to be supported and guided by so many dedicated industry leaders.

At the recent national conference in Toronto, a record 788 practitioners gathered to learn, network, and strategize with each other. At our two-day conference, we experienced incredible support from our loyal sponsors, excellent technical presenters, and thought-provoking luncheon speakers; we also enjoyed a festive black-tie gala celebrating our 20th anniversary. My favourite quotations from the delegate surveys seem to say it all:

- "I was very impressed . . . [O]verall one of the best tax conferences I have attended in my career."
- "[The conference] shoots the lights out!"
- "This is by far the best, most informative industry conference (when comparing content) in Canada."

Sincere thanks go to the members of the program committee, presenters, organizers, sponsors, and of course delegates.

Part of our 20th anniversary celebration included two large advertisements in *The Globe and Mail*: one on Tuesday, May 29, which featured a brilliant editorial about STEP and the excellent work our members do for Canadians, and the second on Wednesday, June 6, which introduced our 2018-19 board of directors. Public-facing advertisements, especially those featuring the TEP designation and explaining what it means, increase STEP's brand awareness among Canadians. We are looking into other ways that we can continue to engage and attract your clients and prospective clients.

By now, most of you will have seen your local branch and chapter seminar offerings for the coming season. Your local committees endeavour to provide members with a variety of presentations on topical subjects that are delivered by experts. If you're not attending these seminars, you're missing out on excellent information and great networking opportunities. Many branches even offer passport pricing, which provides significant savings over à la carte registration.

In addition to our local offerings, STEP Canada is touring its next full-day course, Succession of a Family Business, to all 11 branch and chapter locations between January and March 2019. The course curriculum has been written by a leading practitioner in this area, Cindy Radu, and reviewed by the STEP Canada National Programs Committee. Watch your email for registration details; capacity is limited to 45 delegates in each city.

Our ever-growing student community is now able to write examinations electronically in all courses. Diploma program students still report to an examination centre twice a year, but they now write their examinations on keyboards. With nearly 700 students enrolled, most of whom are working toward a TEP designation, this innovation will allow a quicker turnaround of examination results. Such a large and active student community, combined with our many recent graduates, promises a bright future for STEP's leadership in the next 10, 15, and 20 years.

In August, the STEP Canada Trust and Estate Technical Committee sent a submission to the British Columbia Ministry of Finance in response to the Land Owner Transparency Act White Paper, June 2018. Thanks to Fiona Hunter, Ian Worland, and Peter Glowacki for writing the submission.

On September 13-14, STEP Worldwide held its third global congress in Vancouver. Over 250 delegates from around the world gathered for two intensive days to explore, probe, deconstruct, and debate some of the most important issues affecting professions in the trust and estate industry. During the congress, BLG Canada was awarded platinum employer partner status. STEP employer partnership program accreditation publicizes to the wealth-planning industry an organization's commitment to its clients and its staff to maintain the highest possible service and educational standards. Thank you to the many STEP Canada members who attended the congress to support this worldwide initiative.

To all of our 2,526 current members (at the time of writing), thank you. Thank you for making the decision to renew your memberships this spring. Thank you for supporting your local branch activities by participating, volunteering, and networking. STEP Canada has seen much growth in numbers, strength, education, influence, and organization since 2009. This is such a great time to belong to STEP.

As always, I will conclude my report with an expression of gratitude to the national board members; my fellow executive committee members, Pam Cross, Chris Ireland, Rachel Blumenfeld, Christine Van Cauwenberghe, and Tim Grieve; and of course the loyal staff at the national office led by Janis Armstrong and Michael Dodick. ■