

Insolvency & Restructuring

When organizations face challenging business circumstances, stakeholders often need to act quickly and decisively. In these circumstances, expert legal counsel can make all the difference to ensuring one's interests are protected.

WeirFoulds acts for a range of stakeholders – including a successful history of advising secured and unsecured creditors, debtor-in-possession (DIP) lenders, debtors, suppliers, boards of directors, purchasers, receivers, interim receivers, ***Companies' Creditors Arrangement Act*** (CCAA) monitors, bankruptcy trustees and Chapter 11 creditors' committees. We handle all aspects of insolvency and restructuring proceedings. We advise on creditors' rights and debtor-in-possession financings, act for clients in plans of arrangements, negotiate the purchase and sale of distressed companies, and develop recovery strategies and recapitalization plans. Our insolvency and restructuring practice also extends to the Caribbean with an emphasis on matters concerning asset recovery.

We take a multi-disciplinary approach to our insolvency files, engaging our corporate, tax, securities, intellectual property, pensions, and employment law experts as necessary to ensure clients receive expert advice that is tailored to their needs.

Lawyers and professionals in this area



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Areas of Expertise

- Insolvency litigation
- Creditors' rights
- Debtor-in-possession financing
- Fraud loss and recovery
- Plans of arrangement under the *Companies' Creditors Arrangement Act*
- Proposals under the *Bankruptcy and Insolvency Act*

- Receiverships
- Workouts and restructuring

Representative Experience

- WeirFoulds represents the Urbancorp Group of Companies in their restructuring proceedings under the *Companies' Creditors Arrangement Act* and *Bankruptcy and Insolvency Act*
- WeirFoulds represents the *Bankruptcy and Insolvency Act* Proposal Trustee of the Commonwealth Aggregate Group of Companies
- WeirFoulds represents an Indenture Trustee in the Nortel Networks *Companies' Creditors Arrangement Act* proceedings
- WeirFoulds represents the Court Appointed Receiver of New Food Classics, Lakeshore Alternative Financial Asset Corporation Limited and Carnival National Leasing Limited
- WeirFoulds represented a Senior Secured Lender in the First Leaside Group *Companies' Creditors Arrangement Act* proceedings
- WeirFoulds represented the Senior Secured Lender in the receiverships of Talisman Ski Resort and Oslerbrook Golf Club'
- WeirFoulds represented Trustee in Bankruptcy MF Global Canada
- WeirFoulds represented the *Companies' Creditors Arrangement Act* Monitor of the T. Eaton Company Limited
- WeirFoulds represented the Chapter 11 Creditors' Committees in the Calpine Canada *Companies' Creditors Arrangement Act* proceedings
- Acted as Canadian Counsel to the Chapter 11 Creditors' Committee in the Magna Entertainment Corp. Chapter 11 proceedings
- WeirFoulds acted on a leading case concerning the evidentiary threshold that a creditor must meet to obtain an order under section 41(11) of the Bankruptcy and Insolvency Act reappointing a trustee in bankruptcy to complete the administration of the estate of a discharged bankrupt. *Re Cogan* (2005), 74 O.R. (3d) 223 (S.C.J.), aff'd (2005), 13 C.B.R. (5th) 43 (Ont. C.A.).
- WeirFoulds represented the Senior Financial Creditors (holding \$3 billion of debt) in Air Canada's restructuring under the *Companies' Creditors Arrangement Act*. This is the leading case on the enforceability of subordination covenants under bankruptcy and insolvency law. *Re Air Canada* [Subordinated Debt] (2004), 2 C.B.R. (5th) 4 (Ont. S.C.J.).
- WeirFoulds acted as national counsel to Deloitte & Touche Inc. under the *Winding-up and Restructuring Act* on the winding-up of the first charitable corporation to be liquidated in the Commonwealth to pay tort claims. This case led to many significant reported decisions throughout Canada on the rights and duties of liquidators, the proper way to value tort claims under insolvency principles and the enforceability of insolvency orders throughout Canada.
- WeirFoulds represented the unsecured creditors' committee on one of the first cross-border (Canada-United States) insolvency hearings and the first one to use closed-circuit satellite TV.
- One of our lawyers represented Sun Life Assurance Company of Canada on one of Ontario's leading cases on the inherent equitable jurisdiction of the court to give a mortgagee in possession's right to receive occupancy costs priority to the claims of secured creditors. *Bulut v. Brampton* (City) (2000), 48 O.R. (3d) 108 (C.A.), leave denied (2000), 142 O.A.C. 399 (S.C.C.).
- One of our lawyers represented Sun Life Assurance Company of Canada on its challenge to a municipality's claim to be a "secured creditor" for unpaid taxes. This is the leading case determining that the *Ontario Municipal Act* cannot give priority to municipal taxes under the *Bankruptcy and Insolvency Act*. *Brampton (City) v. Sun Life Assurance Co. of Canada* (1999), 43 O.R. (3d) 594 (Ont. C.A.) (sub nom. Re Everingham Brothers Ltd.).



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