

## **ARBITRATION EXPERIENCE**

### 26 Years of Domestic Labour and Commercial Arbitration Experience

#### Domestic Labour Arbitration

- selected by mutual consent of employers and unions as chair or sole arbitrator of 30 to 40 ad hoc labour arbitrations per year;
- a member of the permanent panel of arbitrators for the following employers and trade unions; (See attached Appendix "A")
- salary arbitrator for NHL/NHLPA 1993 - 2000, did in excess of 25 cases;
- player agent arbitrator for NHLPA, its agents and players 2001- present;
- interest arbitrator in contract negotiations, disputes involving police, firefighters and essential health care workers;

#### Domestic Commercial Arbitration

- panelist with the British Columbia International Commercial Arbitration Centre for its securities panel, one arbitration between Merrill Lynch and one of its customers, an award in excess of \$100,000;
- arbitrator involving the breach of sale of a business;
- chartered arbitrator since 1989 with Arbitration and Mediation Institute of Ontario; member of its Board of Directors. Organization changed its name in 2001 to ADR Institute of Ontario Inc.
- appointed as an arbitrator in the sale of a telecom company;
- arbitrated a dispute between a national charitable organization and its provincial subsidiaries;
- arbitrated the sale of a dental practice;

#### International Commercial & Sports Arbitration Experience

- panelist for the AAA for large complex commercial arbitrations. Done the following cases:  
  
appointed foreign national arbitrator, whose nationality is not that of any disputants on three large complex commercial arbitrations for the American Arbitration Association {AAA} involving an American automotive diagnostics company and its Swiss and other European distributors, award was in excess of two million U.S. dollars, based on breach of contract and piracy of technology and intellectual property; second case involving an American trustee in bankruptcy and a Dutch wholesale grocery company, for breach of an agreement to sell real estate and

grocery business; claim in excess of ten million U.S. dollars, during the hearings the matter was settled; third case, currently ongoing involving an American medical equipment manufacturer alleging breach of contract with a Canadian medical technology company to supply and distribute its products in Eastern Canada - settled before hearing; party appointed arbitrator for a Canadian pulp and paper company in a dispute with the Republic of China as a joint venture partner, involving alleged event of default of the joint venture agreement; employment severance agreement involving a key executive officer of a company - matter ongoing - payment claim is in excess of two million dollars;

- appointed by parties through Ontario General Court as a sole arbitrator in a dispute involving a Canadian Company and Netherlands Company engaged in the business of thermal insulation, roofing and distribution of insulation, claim in excess of three million dollars. The award dismissed the claim;

Since 1993 - Member of the Court of Arbitration for Sport (International Adjudication Body of the International Olympic Committee based in Lausanne, Switzerland)

- done a number of international sports doping arbitration cases including tennis star Petr Korda and the International Tennis Federation; chair of the panel involving an American cyclist and the cycling union; member of three neutral arbitration panels involving alleged doping cases with Spanish and Yugoslavian long distance swimming athletes;
- member of the CAS; one of six arbitrators appointed as an ad hoc arbitrator in the 1998 Winter Olympic Games in Nagano, Japan; one of twelve arbitrators appointed for the 2000 Summer Olympic Games in Sydney, Australia; appointed as one of the two reserve arbitrators on the panel of nine for the 2002 Winter Olympic Games in Salt Lake City, USA; appointed as an ad hoc arbitrator for the 2002 Commonwealth Games, Manchester, England. In connection with the appointments I have handled eight cases under the ad hoc rules for arbitration at the Olympic Games; will be an Ad Hoc arbitrator in the 2004 Summer Olympic Games in Athens, Greece.
- Did an Advisory opinion on “shark” suit technology and the International Swimming (FINA) Rules.
- selected as arbitrator/mediator on the Domain Name Dispute Resolution panel for eResolution (dispute resolution service provider) governed by ICANN;
- selected in 2001 as one of thirty candidates to serve as an arbitrator for the International Commission On Holocaust Era Insurance Claims Appeal Tribunal; (completed 5 cases)
- selected as one of twenty-nine arbitrators to hear cases for the United States Anti-Doping Agency (USADA), cases being administered by the AAA sports arbitration administrator in Atlanta, Georgia;(completed 6 cases)
- Chairman of the ATP Tour Anti-Doping Tribunal - In 2001 to present; (completed 9 cases)
- Co-chief arbitrator for the ADR Sport RED, Canadian national sports arbitration program, a sports alternative dispute resolution system for amateur sport;
- by special appointment by the United States Olympic Committee - USA Track & Field - I chaired the Independent International Review Commission on Doping Control - USA Track & Field from October, 2000 to July, 2001, report was made in July, 2001. Counsel to the Commission - Bob Bennett (Skadden, Arps (Washington, D.C.));

### **MEDIATION EXPERIENCE**

- My training has been of a practical nature born out of my work as an arbitrator. In the course of doing labour and commercial arbitration, I have found over the past ten years the need to engage more and more frequently in

mediation. I have also had specific assignments as a mediator.

- mediation of engineering specification in a specially designed product for use in the Persian Gulf War;
- mediator of road property constructions joint venture Dallas Texas area;
- aside from my practical experience I teach a course on Alternative Dispute Resolution at the University of Western Ontario where I am a full time Law Professor. Part of that course is directly on mediation.
- I have also co-authored a book *Innovative Dispute Resolution: The Alternative!* published by Carswell in December of 1994.
- mediation in association with and independently of arbitration over the past 15 years;
- appointed by Bank of Nova Scotia to its panel of mediators dealing with small business credit mediation program;
- over the past 10 years have handled over 100 mediations, some specific assignments include:

mediation of a community dispute between a medical dental clinic, its professional staff and its constituent native community;

mediation between authors of television scripts for Henson International in connection with its children television program Fraggle Rock over the royalty entitlement for foreign residuals; and

mediation between the Ontario Hospital Association and OPSEU with respect to the reclassification of 10,000 medical technicians;

mediation of civil litigation Maritime marine accident and deaths;

mediation of civil litigation between a large commercial landlord and its tenant in a shopping mall;

mediation of civil litigation between a private business school and an accounting firm;

mediation of libel and slander cases;

mediation of engineering specifications;

numerous mediation/arbitrations assignments in labour law area;

### **LEGAL EXPERIENCE**

- teach bankruptcy and insolvency law; banking and commercial law; contracts and secured transactions and corporate finance at the University of Western Ontario Faculty of Law;
- counsel to London law firm of MacKewn, Winder Kirwin where I do appellate litigation and consultive trial work as well as legal opinions in the fields in which I teach and have written books;
- litigation and commercial law experience as a practising lawyer for the past 15 years; was full time lawyer 1983/84 with London law firm of Harrison, Elwood and currently counsel to MacKewn Winder Kirwin of London, Ontario;
- worked on the consultative group for the drafting of the revised and original Personal Property Security Acts in Ontario; currently a member of the Federal government's Bankruptcy & Insolvency Committee making recommendations on the revision of the Bankruptcy & Insolvency Act and the Companies Creditors Arrangement Act;
- Canadian co-reporter, and more recently special consultant on the transnational insolvency project, through the American Law Institute, involving the bankruptcy and insolvency laws of Canada, Mexico and the United States. The aim of this project is to develop cooperative procedures for use in business insolvency cases involving companies with assets or creditors in more than one of the three NAFTA countries.

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## **PUBLICATIONS**

Canadian Commercial Reorganization: Preventing Bankruptcy, book published by Canada Law Book, 1994 Innovative Dispute Resolutions: The Alternative!, book published by Carswell, 1994 Secured Transactions in Personal Property in Canada, *book (2 ed.)*, Carswell, 1992 Falconbridge on the Law of Mortgages *book (4 ed.)* *Canada Law Book 1977* and Canadian Commercial Arbitration, book Carswell, 1983 now out of print.

Author of numerous articles and other papers on the subjects of banking, bankruptcy, commercial law, secured transactions and receivership.

## **MEMBERSHIPS**

The Arbitrator's Institute of Canada; The Chartered Institute of Arbitrators (United Kingdom); Former Governor - The National Academy of Arbitrators (United States); The American Arbitration Association (United States); The London Court of International Arbitration (North American Council); The International Chamber of Commerce Panel; The Higher Board of the Euro-Arab Arbitration System (France); Law Society of Upper Canada; Canadian Bar Association; Director, ADR Institute of Ontario; The Society of Professionals in Dispute Resolution (Canada and the United States); Member of International Court of Arbitration for Sport panel of arbitrators, based in Lausanne, Switzerland, and sponsored by the International Olympic Committee; member of ADR program for amateur sport (ADRsportRED) run by the Canadian Dispute Resolution Centre.