

Subject: Comments on Consultation Paper

Review of The Trustee Licensing Regulatory Framework

Submitted to Nanos: June 17th, 2010, by email

Part One – Licensing Process

I believe that there must be some restriction on the number of attempts at the Oral Boards in order to maintain the importance of the candidate being prepared for this examination. The time of the board members is valuable and if there is no restriction on the number of attempts, a candidate may not place the same level of importance on being prepared. I do not know what type of feedback is given to the candidate if they do not pass their first attempt, but I think that candid constructive feedback would assist the candidate in being better prepared for the next attempt (ie. Do they need to improve on technical knowledge, improve on presentation, etc.).

I do not believe that the “course” material should be changed to accommodate special “personal” or “corporate” trustee streams. A trustee, whether personal or corporate should also have some knowledge in the other areas, and learning the technical aspects in the other areas is also a good test of the candidate’s learning and analytical abilities. However, when a candidate is preparing for the oral examination, they should be able to indicate whether they are seeking a full or partial licence (ie. Restricted to either personal or corporate). If the candidate is seeking only a personal licence, perhaps the oral examination could be geared primarily towards personal issues and vice versa.

I have some serious concerns about appointment or designation of persons to act as administrators of consumer proposals for a number of reasons:

1. Under current rules, a trustee must complete the “assessment of debtor”. If persons other than trustees are appointed to act as administrators, who will complete the assessments for these debtors. Even in consumer proposals, there are numerous complex issues dealing with assets/reviewable transactions/income forecasting that require the expertise of a trustee. In order to formulate a consumer proposal, you must have an extensive knowledge of the bankruptcy process.
2. How will these individuals be regulated. Will it be necessary to set up a special regulatory system. Will they be subject to the same ethical standards and directives with regard to advertising, etc. that are currently imposed on trustees. Who will regulate these matters and will it require some type of a two-tiered system that will put additional work on the regulators.
3. In my dealings with Credit Counselling Services of Ontario/Four Pillars Consulting, these consultants do not have the level of training and/or experience to properly analyze insolvency situations or deal with unusual asset or reviewable transaction situations, without the review and analysis of a trustee.
4. If these interested parties are truly desirous of administering consumer proposals, then they should be required to complete the same rigorous standards of training and experience and be subject to the same ethical standards as trustees, in order to maintain the integrity of the system.

5. As for probationary terms, I believe that the two year probationary term should be maintained and that a cursory review of a certain number of files should be conducted by the Superintendent prior to lifting the conditions.
6. As for annual licencing report, is this something that should be necessary for each individual trustee, or is it more relevant to trustees in small private practice, rather than large national accounting firms. National firms conduct their own internal audits for risk management and identification of issues, they carry adequate professional liability insurance and do not have the same need for a succession agreement.