



Rumanek & Company Ltd.
Licensed Insolvency Trustees

Submission by Rumanek & Company Ltd.

On

Industry Canada's Proposed changes to Directive No. 1R3, Counselling in Insolvency Matters

Submission dated: November 23, 2017

This submission is being forwarded by Rumanek & Company Ltd. ("Rumanek") in response to the call for submissions by the Office of the Superintendent of Bankruptcy ("OSB") on the proposed changes to Directive No. 1R3, *Counselling in Insolvency Matters*. The OSB is proposing to amend the current parameters governing how Licensed Insolvency Trustee ("LIT") fulfill insolvency counselling requirements.

OUR BACKGROUND

Rumanek & Company Ltd., a Toronto-area consumer insolvency practice, has been operating since 2000. We have four full-time trustees: Carl Rumanek, our founding trustee and President of Rumanek & Company Ltd., has been involved in the insolvency industry since 1981, and became a licenced trustee in 1989. Jordan Rumanek, Vice President, has been employed in the insolvency industry since 1992 and received his license in 2007. Karen Adler, Associate Trustee, received her license in 2007, having entered the insolvency industry in 2003. Sherry Solomon, Trustee, received her license in 2015, having entered the insolvency industry in 2008.

Rumanek & Company Ltd. has administered more than 18,000 consumer estates and has regularly attended Bankruptcy Court in Toronto over the past 16 years.

OUR OBJECTIVES

Rumanek & Company Ltd. is committed to assisting those experiencing financial distress in obtaining a fresh start, free of the burden of their insurmountable debts.

COMMENTS ON INDUSTRY CANADA'S PUBLIC CONSULTATION

Background

General Context

About the Office of the Superintendent of Bankruptcy, LITs and Insolvency Counsellor

The OSB is responsible for supervising all estates and matters to which the BIA applies. The OSB licenses and regulates the insolvency profession, investigates complaints, provides guidance to debtors and creditors regarding the insolvency process, and ensures compliance through maintenance and enforcement of its regulatory framework.

CAIRP, through its Insolvency Counsellors Qualification Program ("ICQC"), educates insolvency counsellor candidates. Successful candidates are certified by CAIRP and registered with the OSB, affirming the candidate as a qualified BIA insolvency counsellor ("IC").

The new Counselling Directive and LITs

In general, the arrangement between LITs and ICs is a mutually beneficial business relationship, ideally one based on mutual respect and good faith. Requiring a trustee to take a supervisory and disciplinary role over those counsellors could be very destructive for those relationships.

In our opinion, the entity which supervises the conduct of an IC ought to be the same entity that authorizes that individual to act as an IC, namely, the OSB.

We also recommend that the OSB make disciplinary and status records easily accessible, to the public and to LITs, allowing trustees to make informed decisions about the counsellors with whom they affiliate.

LITs that rely of referral arrangers as their insolvency counsellors

The OSB has identified a variety of referral arrangements between LITs and ICs based upon monitoring and reporting from members of the profession. The “referral arrangers” are reported to have received from LITs donations in support of non-for-profit organizations, fees for translation, fees for education, costs of advertising, and payment of other expenses of behalf of the referral arranger, all to avoid the identification of a referral fee.

The OSB has stated that all such referral arrangements run in contrary to the BIA and Directives. In practise, those firms were competing unfairly, and their actions have had a negative impact on the businesses of other trustees. As we will be required to make significant changes to their business model in respect of the new Directive, it would be helpful to know that those whose inappropriate business practices so severely impacted their competitors will be sanctioned.

Finally, it is our opinion that any disciplinary actions by the OSB against an LIT for improper referral arrangements should be made public, at minimum via the OSB website. Such action would serve as a deterrent for LITs contemplating further such arrangements, communicate the OSB’s mandate in protecting the public interest, and support the notion of the LIT/OSB being the trusted and regulated partner in consumer debt solutions.

We thank you for the opportunity to respond to the draft Directive.