HOT TOPICS

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Consumer Hot Topics

Topics of Discussion:

1. Gambling-related Insolvencies
2. Bankruptcy and Residential Evictions
3. Division I Proposal Approvals

Gambling-related Insolvencies

The Rise in Online Sports Betting, Online Casino Gambling, Crypto Gambling

Causes:

- Accessibility, Cultural and Social Normalization, and Marketing and Media Influence.
- Ontario's open-market model has contributed to high participation in regulated gambling, with 83.7% of users accessing licensed sites across numerous platforms.
- Smartphones keep gambling constantly within reach, increasing exposure and temptation.
- In June 2026, Ontario experienced a significant increase in sports betting activity, largely driven by the FIFA World Cup. Sports betting operators recorded $1.03 billion in wagers, a 34.5% increase from June 2025, while generating $78.6 million in revenue, up 34.4% from the previous year.
- Crypto gambling has grown in recent years, driven by its anonymity, secure transactions, and low withdrawal fees. Industry experts project that the crypto gambling market will surpass $400 million by 2028.

- Koczerginski, Robin. “Unlike Other Addictions, Online Sports Betting Is Nearly Impossible to Avoid.” *The Globe and Mail*, 19 June 2026, https://www.theglobeandmail.com/opinion/article-unlike-other-addictions-online-sports-betting-is-nearly-impossible-to.

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- Christopher, Will. “Ontario Emerges as North America’s Strongest Live Casino Market.” *Sports Gambling Podcast*, 18 Aug. 2026, https://www.sportsgamblingpodcast.com/2026/08/18/ontario-emerges-as-north-americas-strongest-live-casino-market/.

- “Crypto Gambling Boom: Why 2025 Is the Year to Bet with Blockchain.” *Platinum Crypto Academy*, 19 Aug. 2025, https://www.platinumcryptoacademy.com/cryptocurrency-investment/the-crypto-gambling-boom-why-2025-is-the-year-to-bet-with-blockchain.

Gambling related Insolvencies: Why It Matters

- Gambling is estimated to play a role in approximately **1% to 20% of Canadian bankruptcies**, depending on the study and methodology.
- Research suggests problem gamblers enter insolvency proceedings at a disproportionate rate compared to non-gamblers.
- Canada has seen a dramatic expansion of gambling accessibility:
  - Casinos
  - Online gambling
  - Sports betting
  - Electronic gaming machines (VLTs/slots)
  - The traditional legal view of gambling as a moral failing has largely shifted to viewing gambling disorder as an addiction or health issue.
  - Canadians with gambling disorders have not developed these disorders in a vacuum. Gambling is readily accessible in Canada because the federal government legalized it and provincial governments promote many different forms of it, including highly addictive EGMs. By making gambling more accessible, these political decisions have contributed to the rate at which Canadians experience disordered gambling. These political decisions have also proven to be very lucrative for governments. Canadians profit off an activity that proves harmful for a minority of participants.

Source: "Help is the Sunny Side of Control": The Medical Model of Gambling and Social Context Evidence in Canadian Personal Bankruptcy Law 1, (2020) 56 Osgoode Hall LJ 489 - 528

The Bankruptcy & Insolvency Act Problem

BIA s. 173(1)(e): Gambling Remains a Listed Ground

The Act provides that where a bankrupt has:
"**brought on, or contributed to, the bankruptcy by gambling**"
the court cannot grant an absolute discharge.

Practical Consequences

- Opposition to discharge
- Conditional discharge orders
- Suspension of discharge
- Court-imposed counselling or treatment requirements

Case Example:

Re Donaldson 2019 NSSC 33

The Court ordered conditional terms for the bankrupts' potential discharge rather than granting an immediate discharge. Debtor must: (1) attend counselling for gambling issues until obtaining a professional opinion that they can conduct themselves without recourse to gambling; (2) refrain absolutely from gambling and enroll in the voluntary exclusion program with Casino Nova Scotia; (3) refrain from obtaining credit except as approved by the Trustee; and (4) disclose and turn over any property that comprises "property of the bankrupt.“ Upon compliance with these conditions for at least five years, the Donaldsons may apply for discharge.

Hosseini (Re), 48 CBR (5th) 222

2008 decision. 2nd bankruptcy. Stated cause: gambling

16 The Bankrupt is demonstrably dishonest, and stands convicted for such. He cannot very well be said to be unfortunate when his debts are, he says, the result of his own decision to gamble. There is no evidence of illness or mental compulsion to gamble, and no explanation was offered for not paying his taxes. I find that the very integrity of the insolvency system would be called into question by Canadians if bankrupts such as the one at bar were allowed a discharge on anything less than full repayment of all of their debts. This system, it has been said, is not a car wash for debt. In order to have any hope or expectation of relief, a debtor must approach this process honestly, and with a demonstrated desire to rehabilitate. The more so, as in the case at bar, where the Bankrupt has sought and been granted such relief under the BIA previously. That is non-existent here. I note, in closing, that the budgets submitted by the Bankrupt at the time of the assignment and at the hearing, show significant monthly shortfalls. This is clear evidence, in my view, of a lack of financial rehabilitation, and supports me in my conclusion that no discharge ought to be granted.

Practical Takeaways for LITs and Insolvency Professionals

Look Beyond the Medical Diagnosis

A gambling disorder may explain behaviour, but social factors often drive insolvency:

- Easy access to gambling
- Online platforms and 24/7 availability
- Financial vulnerability
- Life events (divorce, bereavement, unemployment)

Consider the Policy Tension

- Governments generate billions from gambling revenues.
- Gamblers may be treated more harshly than other debtors who overspend on legal activities.

Best Practice

- Identify gambling issues early.
- Provide resources and referrals.
- Encourage treatment rather than compel it.
- Focus on rehabilitation <u>and financial recovery.</u>

Takeaway

Gambling-related insolvencies are no longer simply a question of debtor misconduct. They require a nuanced analysis of addiction, accessibility, social context, and rehabilitation

High and Low Risk Investing - Is this a form of Gambling?

- Is there a distinction between gambling and investment losses ? How does a LIT assess and differentiate between the two?
- Common indicators: repeat cash advances, payday borrowing, unsecured credit escalation, and asset depletion.
- Would investing in a low risk GIC and investing in the stock market be considered forms of gambling ? If not, what factors would a LIT consider when distinguishing between legitimate investment losses and gambling losses?

Causes and Influence "Moral Outrage"

- Mental Health Issues vs. Deliberate- Recreational High Risk
- To what extent should an underlying mental health condition be distinguished from or in conjunction with , a gambling addiction when assessing the causes of financial difficulty
- Should the LIT consider the extent to which the gambling behaviour controlled the bankrupt's decision making surrounding its financial consequences?
- Should the LIT assess the gambling addiction independently from any underlying mental health condition ?
- Factors to consider, was the gambling compulsive or addictive? How long did the gambling continue? How much money was lost or debt incurred? Was credit or borrowed money used to gamble? Has the gambling stopped? What steps have been taken to prevent a recurrence?

- Distinguish recreational activity from addiction-driven financial behaviour
- Review bank records, gaming transactions, e-transfers, and credit card cash advances;
- Assess ongoing gambling risk when evaluating proposal viability or rehabilitation;
- Consider counselling referrals and budgeting conditions
- Practical considerations: (i) Large pre-bankruptcy gambling losses may attract creditor opposition; (ii) Court focus is typically on honesty, rehabilitation, and future conduct rather than moral blame; (Iii) Evidence of continued gambling during insolvency proceedings can undermine credibility and feasibility

GAMBLING-RELATED
INSOLVENCY

ROOT CAUSE 1

Addiction / Mental Health
Underlying Issue

ROOT CAUSE 2

Deliberate / Recreational
High-Risk Gambling

LIT ASSESSMENT

Root Cause

Exclusion

Amount of Debt

LIT'S APPROACH

Discharge / Conditions /Recommendations in a Bankruptcy
Recommendation in a proposal to creditors

Bankruptcy and Residential Evictions

Bankruptcy is increasingly being filed at the eleventh hour in eviction proceedings, and it can create a short-term enforcement pause, but the emerging Ontario jurisprudence makes clear that the BIA is not a mechanism to revive a tenancy that has already been terminated by the LTB.

- Eviction and Debt are two distinct issues - the LIT should consider each separately when assessing the bankrupt;

- To what extent are bankrupt's using the bankruptcy process to prevent and delay evictions?

- Factors LIT's need to consider: are we dealing with a bankrupt who owes rent and is not a homeowner ; a bankrupt who is in default under their mortgage; or a property that has not vested in the Trustee?

Does bankruptcy stop enforcement of an LTB eviction order?

Snaith is now the leading Ontario bankruptcy decision on the issue.

LTB terminated tenancy and ordered eviction for major arrears.
- Divisional Court imposed payment conditions to maintain stay.
- Tenant defaulted; stay lifted; Sheriff authorized possession.
- Tenant filed bankruptcy days later.
- Issue: did the BIA stay block eviction?

Central findings:

- Eviction order is not a claim provable in bankruptcy.
- Possession remedy is distinct from rent collection.
- s.84.2 BIA did not apply because tenancy was already terminated.
- Alternatively, stay would be lifted under s.69.4 due to prejudice and equitable grounds.

Bankruptcy does not revive a tenancy already terminated by an LTB order.

Snaith Reinforced:

Wallerstein (Re), [2025] OJ No 4560, 2025 ONSC 5757 at para 31

31 Additionally, the situation faced by Mr. Ciabarri is similar to that faced by a landlord who has an eviction order from the Landlord and Tenant Board and is faced with a stay of proceeding from a tenant's insolvency filing. This Court has consistently found that a landlord was materially prejudiced by a stay and lifted the stay of proceeding to allow for a landlord to continue with an eviction as provided for in an order of the Landlord and Tenant Board.

File No LTB-L-069063-25-RV, 2026 LNONLTB 2085, 2026 ONLTB 4637 at para 25

25 10. Where the tenant becomes bankrupt after the LTB has issued an order under section 69 of the RTA terminating the tenancy and evicting the tenant, the bankruptcy results in the landlord being unable to recover the arrears. However, the Court Enforcement Office (Sheriff) is able to enforce the eviction and return possession of the unit to the landlord. **[*Paterson* v. *City of Oshawa*, 2023 ONSC 2287 (CanLII), *Re Lafond*, 2023 ONSC 4065 (CanLII) and *Re Snaith*, 2025 ONSC 3413 (CanLII)]**

Practice Points for LITs

- Identify the tenancy stage before filing.
- Pre-bankruptcy arrears may be compromised, but possession rights may survive.
- Post-bankruptcy rent remains critical.
- Manage expectations where an eviction order already exists.
- Expect landlord motions under s.69.4.

Division I Proposal Approvals- comparison of asset values and creditor recoveries in a bankruptcy versus a Division I Proposal

- Is one opinion of value sufficient for a Property evaluation , or should a LIT obtain additional valuations to determine the Properties current market value based on today's market conditions?

- Are appraisals on other assets necessary?- such as cars, tools of the trade; art collections

- The LIT’s Report to Creditors should include a comparison flowchart bankruptcy vs proposal

- The LIT’s Report should include an equity calculation reflective of mortgages registered on title and any outstanding property taxes in comparison to a bankruptcy

- The Trustee’s Report should clearly set out and compare the estimated net recovery to creditors under a bankruptcy and a proposal, including a detailed breakdown of the anticipated distribution and recoveries to creditors in each option

Bankruptcy vs. Division I Proposal: The Core Economic Test

What Are Creditors Comparing?

When voting on a Division I Proposal, creditors are fundamentally asking:

"Will I recover more under this proposal than I would in a bankruptcy?"

Bankruptcy Scenario

Assets Realized

- Forced liquidation values
- Professional costs
- Secured creditor realizations
- Potential asset disclaimers
- Reduced going-concern value

Result

- Often lower net recoveries
- Longer realization period
- Increased litigation risk

Division I Proposal Scenario

Value Sources

- Going concern value preserved
- Future earnings/cash flow
- Refinancing or investor contributions
- Shareholder injections
- Sale through a controlled process

Result

- Recoveries funded from future value, not just existing assets

Takeaway: a successful Division 1 proposal allows creditors to participate in the value of a business's future, whereas a bankruptcy generally limits recovery to the value of its present assets

Comparing Creditor Recoveries: Illustrative Example

	Bankruptcy	**Division I Proposal**
Inventory realization	$600,000	Retained
Accounts receivable	$300,000	Retained
Equipment realization	$400,000	Retained
Total gross value	$1.3M	N/A
Less realization costs	($250,000)	N/A
Net estate available	$1.05M	N/A

Proposal Funding

Operating cash flow: $1.2M
Shareholder contribution $500,000
New lender contribution: $300,000
Total Proposal Fund $2.0M

Proposal captures: ongoing business value, future profits, 3rd party contributions and avoids liquidations costs

Unsecured claims: $5M

	Bankruptcy	Proposal
Recovery pool	$1.05M	$2.0M
Dividend	21¢/$	40¢/$

Approval Battles: Asset Values and Recovery Assumptions

Common Creditor Challenges

- Liquidation values are too low
- Forecasts are too optimistic
- Hidden litigation value exists

(Think: Preference claims, TUVs, director liability claims)

- Financing is uncertain

Practical Tips

- Present a conservative bankruptcy analysis
- Stress-tested cash flow forecasts
- Quantify liquidation costs
- Explain why going-concern value exceeds liquidation value
- Demonstrate recovery premium

Key Takeaway: Creditors approve proposals when recoveries are demonstrably better and more certain than bankruptcy.