

# Panel



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# Agenda

Cascading Proposals

Consumer Proposal Trends

CRA Clauses

House Equity Valuations

Personal Guarantees & Hidden  
Charges

Discussion/Q&A

# Question for the crowd

Cascading Proposal

Have you filed multiple concurrent proposals  
or encountered conflicting proceedings?

Onsite Poll

# Cascading Proposal

OSB Decision paper issued September 20, 2024

- Cannot file multiple consumer proposals simultaneously
- Canadian insolvency law operates under a single proceeding model,

The Bankruptcy and Insolvency Act (BIA) requires: Only one active consumer proposal at a time.

- the OSB is requesting court annul the first proposal on approval of the second

Role of Licensed Insolvency Trustees (LITs)

- LITs must ensure no existing proposal before filing new ones.
- If a new proposal is necessary, court approval is mandatory under section 66.22(1) of the BIA.
- If a second LIT is involved, they must notify the original LIT to ensure transparency and avoid system abuse.

Practical Consequences

- If court approval is denied, the original proposal remains in effect.
- Creating multiple classes of creditors by filing sequential proposals risks violating the requirement to treat all unsecured creditors equally.

# Question for the crowd

Consumer Proposal Trends

"Do you think surplus income changes have helped or hurt debtors in practice?"

Onsite Poll

# Consumer Proposal Trends

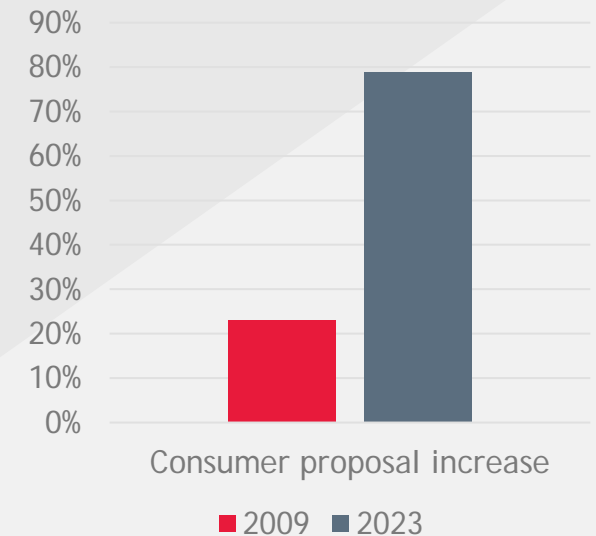
Globe & Mail Article February 18, 2025

What is the cause of the increase?

- 2009 changes
- Asset vesting
- Liquidity
- Stigma
- “Fresh start” to “earned start” philosophy – if you can pay, you should

Conclusion: Benefit to creditors, OSB, Trustee

Proposals in Canada



CPs rose from 23% to 79%  
(2009–2023)

# Question for the crowd

Asset Valuations

"Would you favor an early divest strategy for a bankrupt's home, or a wait-and-see?"

Onsite Poll

# Asset Valuations & House equity

## Asset Valuations & House Equity

- Provincial variation in handling principal residence equity.
- Key cases:
  - *Gwizd* (BC - honoring agreements)
  - *Lepage* (ON increased equity as after-acquired property)
  - *Chan* (AB - waiting for appreciation allowed)



*You've got to know when to hold 'em  
Know when to fold 'em  
Know when to walk away  
And know when to run ...*



# Question for the crowd

CRA Clauses

"Should CRA require compliance clauses in every case, or should it be case-by-case?"

Onsite Poll

# Consumer Proposal Clauses

AAIRP Newsletter December 2022

Purpose of the introduction of a consumer proposal was to provide a streamlined process

S 66.31 of the BIA outlines procedure for a deemed annulment in the monetary obligations in a consumer proposal - gap in the legislation to deal with non-monetary compliance

AAIRP Newsletter December 2022:

If an Administrator is going to submit a certificate of full performance in advance of the anticipated completion date, then CRA has asked that they be notified before filing the certificate so if there is a compliance issue, it allows them to review their files and notify the Administrator before the issuance of the certificate of full performance.

# Question for the crowd

Personal Guarantees

"Should there be stronger regulation or mandatory independent legal advice standards?"

Onsite Poll

# Personal Guarantees and Charging Orders

## Asset Valuations & House Equity

- Hidden charges and weak independent legal advice prevalent
- Co-borrower risks: individuals unknowingly sign away property rights
- Growing need for better disclosure and understanding



# Key Takeaways

## Cascading Proposals



- Only one active proposal allowed.
- New proposal annul the previous; Court approval needed (BIA s.66.22(1)).
- LITs must confirm debtor's status before filing.

## Proposal Trends



- Consumer proposals rose from 23% to 79% (2009-2023).
- Fresh start → Earned start philosophy; surplus income rules impact decisions.

## Asset Valuation



- Provincial variance in handling increases in house equity.
- Key Cases: Gwizd (BC), Lepage (ON), Chan (AB).

## CRA Clauses



- Compliance clauses not automatic anymore.
- Notify CRA before filing early full performance certificates.

## Personal Guarantees



- Hidden charges and poor independent legal advice common
- Regulation and borrower education needed

# Questions and Discussion

Thank you for engaging and joining us today. We encourage all participants to ask questions and engage with the panel. Your insights and feedback are valuable to us.





# Thank You for Participating!

We appreciate your engagement and contributions.  
Your participation makes a difference in our  
discussions.

Thank you for joining us today!

