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Corporation Dissolved Following "Hostile Takeover": MBQB

The court granted a minority shareholder's application under s. 207 of *The Corporations Act* for sale to him of the shares of the majority shareholder in [Zhang v. Chik and ZC Enterprises Ltd.](#), 2011 MBQB 262. The court found that the majority shareholder (an investor in the sushi business managed by the minority shareholder) had acted in bad faith when he took over management of the successful business following an invalidly called meeting in which the minority shareholder's directorship was vacated.

Complex Financial Regulation Decision Upheld: ONCA

The Ontario Court of Appeal recently released its decision in [Jeffery v. London Life Insurance Company](#), 2011 ONCA 683, a class action proceeding in which two insurance companies that merged were found to have breached four provisions of the [Insurance Companies Act](#) and ordered to pay \$390 million into a litigation trust in favour of participating policyholders. The appeal court upheld the trial judge's findings with respect to all but one of the breaches, but found she erred in formulating the remedy. The court reduced the award to \$220 million. These articles discuss the decision:

- [Ontario Court Of Appeal Releases Decision Concerning Compliance With The Insurance Companies Act](#), Fasken Martineau;
- [Court cuts award but upholds London Life decision](#), *Canadian Lawyer*.

Not-for-Profit Legislation In Force

The [Canada Not-for-profit Corporations Act](#), S.C. 2009, c. 23 came [into force](#) October 17, 2011, updating not-for-profit corporate governance procedures and requiring existing federal not-for-profits (governed under Part II of the [Canada Corporations Act](#)) to transition to the new regime within three years. [Corporations Canada](#) has published a detailed step by step

Transition Guide which outlines the process and provides links to the required forms. Also included on the website are sample [model articles](#), [model by-laws](#) and a [by-law builder](#), a [model special resolution for members](#), filing and fee information, and a list of [frequently asked questions](#).

It is expected that similar [legislation](#) governing Ontario not-for-profits will come into force soon.

These articles discuss why both federal and Ontario non-profits should act now:

- [Canada: New Canada Not-For-Profit Corporations Act Proclaimed In Force. What Do We Do Now?](#)
- [Ontario Not-For-Profit Companies Need To Act Now.](#)

Consultation on Franchise Regulations

The province of Manitoba is [seeking feedback](#) on its draft regulation under [The Franchises Act](#), assented to June 17, 2010, but not yet in force. Comments (due by December 15, 2011) will be taken into account in preparing the final regulation. For more information see the [Consultation Paper](#), [the draft regulation](#), the Manitoba Law Reform Commission [Report on Franchise Law](#), and the Gowlings' article [Manitoba Franchise Regulations Released in Draft](#).

White Collar Crime Control

[Bill C-21](#), [Standing Up for Victims of White Collar Crime Act](#), S.C. 2011, c. 6 came [into force](#) November 1, 2011. It cracks down on white collar crime by creating a two year mandatory minimum sentence for fraud over \$1 million, adding to the aggravating circumstances to be considered at sentencing, and creating two new sentencing alternatives. For further details see the [legislative summary](#), the *National* magazine article [Cracking down on white-collar crime](#) [Will Ottawa's anti-fraud legislation make a difference?](#), and this BLG [bulletin](#).

Awaiting the Decision in the National Securities Regulator Case

As noted in this *National Post* [article](#), the Supreme Court is expected to rule soon on whether the federal government's plan for a national securities regulator is constitutional. In the meantime, this article from The Court blog summarizes the issues, law and policy behind the reference:

- [A Primer to the National Securities Regulator Reference.](#)

Complying with RPA Witness Requirements

[Bill 43](#) came into force December 5, 2011, introducing significant changes to real estate practice in Manitoba, including the requirement under [s.72.5](#) and [s.72.7](#) of *The Real Property Act* that transfers of land and mortgages be witnessed "by a barrister or solicitor entitled to practise in the province or territory where the transfer/mortgage is executed." The Land Titles Office interprets this to mean a lawyer holding a practising certificate issued by the Law Society of Manitoba (i.e. not a non-practising or inactive member) in accordance with the definition of lawyer and practising lawyer under *The Legal Profession Act*. The above RPAA sections also specify what witness information is required to prove execution (ss. 72.5(4) and 72.7(3)). Lawyers who are considering purchasing a stamp to use for this purpose should use the following LTO accepted format:

Susan Smith
Manitoba Practising Lawyer
6th floor - 10 Main St.
Winnipeg, MB R3K 3M5

Adding the words "and Notary Public" (to make it a multi-purpose stamp) is also acceptable.

Recommended Reading

Recently published articles on business topics include:

- Ned Brown's [Registering Against and Searching the Names of General Partnerships in the Manitoba Personal Property Registry](#), posted November 4, 2011 on Pitblawg, discusses

the need to reform Manitoba Regulation 80/2000, which requires a lender taking security in personal property belonging to a general partnership to name both the partnership itself and the individual partners in the financing statement.

- [Coming to terms with online copyright](#), *Lawyers Weekly*, November 25, 2011, discusses the much talked about decision in [Century 21 Canada Limited Partnership v. Rogers Communications Inc.](#), 2011 BCSC 1196, a case involving copyright in real estate data. Other articles on the case include: [Website terms, copyright used to shut down real estate data scraping in Century 21 v Rogers](#), by Barry Sookman, and [Century 21 v. Rogers: A Look at Online Copyright Infringement and Breach of Contract](#).
- [Tribunal case sends shivers](#), a November 21, 2011 *Law Times* article, discusses the chilling effect of the Environmental Review Tribunal's decision in [Superior Fine Papers Inc. v. Director, Ministry of the Environment](#), requiring subsequent owners to clean up the site where the original polluter failed to do so.
- [Sale of a business: Don't forget to address HR issues](#), posted November 21, 2011 on *Canadian HR Law*, discusses the importance of addressing human resources obligations early on in the business sale process.

Programs

The Manitoba chapter of the Canadian Corporate Counsel Association is presenting the program [Proposed PIPEDA Amendments and the New Anti-Spam Legislation](#), with Brian Bowman, on December 6, 2011, from 12:15 - 1:30 p.m. For further information see the Corporate Counsel section of the MBA website.

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