

March 13, 2017

Davies' 2017 Corporate/Securities Law Moot

Two judicial decisions were released in 2016 that shook the complacency of Canadian M&A practitioners who believed that court approval of arrangement transactions under corporate statutes had become a predictable process. First came the decision of the Alberta Court of Queen's Bench in *Smoothwater Capital Corporation v Marquee Energy Ltd.*, in which the Court ordered (until overruled on appeal) a vote of the shareholders of both parties to the arrangement, not just the applicant corporation. Then the Yukon Court of Appeal, in *InterOil Corporation v Mulacek*, decided that the usual form of fairness opinion obtained in Canadian arrangements was neither sufficiently independent nor informative. In the 2017 Davies' moot problem, Beaverlodge Capital Corp., a shareholder of Little Lost Lake Silver Ltd., did not like a proposed merger by way of arrangement between Lost Lake and Tailings Inc., so decided to try to persuade the court that the arrangement should not be approved, using *Smoothwater*, *InterOil* and a couple of other arguments based on the requirements of section 192 of the *Canada Business Corporations Act*.

Recognized as the leading event of its kind in Canada, Davies' annual Corporate/Securities Law Moot, which was held on March 10 and 11, provides an opportunity for top students from Canadian law schools to debate current legal issues in corporate and securities law with senior practitioners from Toronto law firms and corporations, regulators from the Ontario Securities Commission and judges. The students were tested on their written advocacy (presented in a factum delivered prior to the competition) and their oral advocacy. Each student was required to argue twice during the competition, once on behalf of the appellant and once on behalf of the respondent.

Twelve law schools from across Canada competed in the two-day event before panels of judges drawn from Davies, the judiciary and the legal and business communities. The two top teams, the University of Toronto and Western University, competed in a final round before a five-member panel, consisting of The Honourable Justice Andromache Karakatsanis of the Supreme Court of Canada, retired Supreme Court of Canada Justices Ian Binnie and Morris Fish, The Honourable Justice Robert Sharpe of the Court of Appeal for Ontario and Mr. Grant Vingo, Vice-Chair of the Ontario Securities Commission.

Results of this year's moot are as follows:

Top Team Awards

1. University of Toronto – Doug Fenton, Jennifer Heaton, Eric Patenaude and Avram Spatz
2. Western University – Justin Black, Adam Driedger, Christopher Scotland and Mark Van Ginkel
3. Dalhousie University – Sarah Baddeley, Sydni Kind, Matthew Lee and Andrew Roy

Top Factum Awards

1. Tie – Dalhousie University and University of Toronto
2. University of Alberta
3. Tie – University of Ottawa and Western University

Top Oralist Awards

1. Doug Fenton, University of Toronto
2. Sydni Kind, Dalhousie University

3. Apeksha Jain, University of Ottawa

Our congratulations to all the students and their coaches for a very successful moot.