



OFFICER NEWSLETTERS

From the Chair

Debra Kuptz, AlixPartners

Dear Colleagues:

I am looking forward to seeing many of you in Las Vegas for our Fall Conference in a few weeks. This is one of my favorite IWIRC events both because we have a great turnout and because the program and intermezzo events are interesting and fun. If you haven't registered yet but can find time to join us, you will not be disappointed! Go to our website to learn more details and sign up.

As you will read later in this newsletter, our Leadership Summit was excellent. My thanks to Liz Vrato of the Garden City Group for her excellent organization of the event and for the fun and creative activities, as well as our world-class program committee leaders, Jennifer McLemore of Christian & Barton and Jill Murch of Foley & Lardner. As always, Shari Bedker executed all the logistics flawlessly. My thanks and gratitude to our sponsors, Epiq Systems, Garden City Group, KCC and Skadden, without whom none of this would have happened.

The main topic of business for your Network Chairs and Board was to discuss and decide on evolving the organization to a 'one-tier membership' in which all members will pay the same annual dues and our Networks will receive increased financial support on a per member basis. Taking this decision was not an easy one and the Network chairs did an excellent job in presenting the challenges as well as advantages of it. The new structure provides a strong platform for the organization's growth and development of more value to our members.

In addition, as your board, we made a commitment to demonstrating that membership in IWIRC is valuable and well worth the dues regardless of whether a member practices locally, regionally, or internationally. We have projects in place to put more valuable tools and functions on our website, to open the directory to the public so potential clients can find you, to increase the number of relevant and interesting regional networking events, and to create more opportunities for Network members to step into leadership roles.

We also agreed a first year schedule of dues for new members, as well as reduced dues for academic and government members that makes IWIRC a very good value. Immediately following this letter is a recap of the benefits of IWIRC membership and the new rate schedule. I hope you will share this information with your colleagues and encourage them to join us in the premier networking organization for women insolvency practitioners!

Most importantly, we will continue to look for ways to make our members more successful by providing an environment that fosters networking and new business development, information that is relevant to your practice, and professional development opportunities that enhance your career.



Debra Kuptz, Chair

Thank you for your continued friendship and support of IWIRC; I will see you in Las Vegas, and if not there, at an upcoming Network event. Please feel free to call me to share your thoughts, concerns and ideas.

Best regards,
Deb Kup

Executive Board:

**Call for Nominations - 2009 Woman of The Year in Restructuring
Deadline: October 26, 2009**

IWIRC will honor one or more women for recent contributions and/or lifetime achievements to the restructuring industry. She may be an attorney, judge, banker, turnaround manager, academic or other restructuring industry professional. She is actively engaged or recently retired from the restructuring industry - and from anywhere in the world. To make sure we don't miss anyone, we need your help.

IWIRC membership is NOT a requirement to make a nomination, nor to be honored

Take a few minutes to consider a woman who...

- Inspired and/or skillfully led a restructuring team
- Provided creative solutions and innovative legal applications
- Creates win-win-win outcomes
- Shows exceptional leadership
- Has made an extraordinary contribution
- Went above and beyond... and made a difference

These achievements do not have to be in nationally renowned cases or even resulting in landmark decisions, they just have to be out of the ordinary. Please feel free to think out of the box on this. We welcome all entries and are not just looking for the most senior woman or the most important case! Please consider those women who have consistently demonstrated a commitment to enhancing the restructuring industry.

E-mail your nomination to info@iwirc.com by October 26, 2009.

- Send contact information including e-mail addresses for you and your nominee
- Tell us why your nominee fits this award, and why we should consider her for this award. Please be descriptive and include facts or examples that help exemplify why you nominated this woman
- Contact Tinamarie Feil with questions or requests for assistance in framing a nomination tfeil@bmcgroup.com or by phone at 206.499.2169

The IWIRC Board of Directors ratifies all selections and its decisions are final. The **2009 Woman of the Year in Restructuring** award will be presented on December 4th, during the ABI Winter Leadership Conference in La Quinta, California.

PROGRAMMING

IWIRC National Leadership Summit

*Elizabeth Vrato, Programming Committee Leadership Summit Co-Chair
Garden City Group*

IWIRC convened its National Leadership Summit in Chicago from August 12 to 14, 2009. The summit's goal was to provide suggestions to invigorate networks; grow our organization; increase referrals; network; and provide access to the industry's thought leaders.



*Judy Elkin, Bob Keach,
Debra Kuptz and
Pat Lagrange*

Starting with a Wednesday night dinner hosted by Kurtzman Carson Consulting at the Flatwater restaurant on the Chicago River, and ending with a Friday lunch on the Trump Hotel terrace hosted by Garden City Group, this year's leadership summit was packed with invigorating interactions, productivity, and fun.

Debra Kuptz, IWIRC chair and managing director at AlixPartners, moderated the summit, which including committee reports and group participation to solicit feedback and generate ideas. Notes from the previous two years' summits were distributed to working groups so that progress could be made by building on the ideas of previous participants.

Thursday had two panels featuring leaders within the restructuring community. The sessions were designed to challenge us as we plan IWIRC's future. The heads of the three premier organizations for restructuring professionals served on the first panel: (1) Patrick C. LaGrange, president of the Turnaround Management Association (TMA) and a Managing Director with Carl Marks in New York City; (2) Robert J. Keach, president of the American Bankruptcy Institute (ABI) and chair of the Restructuring practice at Bernstein Shur in Portland, Maine; and (3) Debra E. Kuptz. Judy Elkins, IWIRC's president-elect and a partner in the restructuring department of Haynes and Boone, moderated to the panel.



*Lynn Heistand,
Debra Kuptz, Hon.
Mary Grace Diehl and
Marcia Goldstein*

The second panel presented thoughts from this year's recipients of IWIRC's Woman of the Year Award. The award honors women for recent contributions to and/or lifetime achievements as part of the restructuring industry. This year's recipients are Marcia L. Goldstein, chair of the restructuring department at Weil, Gotshal & Manges in New York City, and the Honorable Mary Grace Diehl, who has served on the U.S. Bankruptcy Court for the Northern District of Georgia since 2004 and formerly chaired the Bankruptcy practice group of Troutman Sanders LLP. Debra Kuptz also participated on the panel which was moderated by N. Lynn Hiestand, co-head of Skadden Arps corporate restructuring practice in Europe.

Thursday afternoon, participants enjoyed a scavenger hunt on Michigan Avenue. Networking and fun continued on Thursday evening with dinner and bowling at the downtown hotspot, 10 Pin. Epiq Systems generously hosted the entertainment. .

Thank you to the summit coordinators Jen McLemore, Jill Murch and Shari Bedker.

Q&A

IWIRC's Fall Conference—Q&A with Jennifer M. McLemore, IWIRC North American Program Director

*L. Kathleen Harrell-Latham, Communications Committee
Larkin Hoffman Daly & Lindgren, Ltd.*

I have not had the opportunity to attend an IWIRC Conference and I live in an area without a local network. I jumped at the opportunity to speak with Jennifer M. McLemore, the North American Program Director, in the hopes of learning more about this year's Fall Conference at the Paris Hotel in Las Vegas October 17 through October 18, 2009.

Q: I've never been able to attend a conference before because of work conflicts. How can I squeeze it in?

For the first time, the IWIRC Fall Conference falls on a weekend this year. Hopefully, this will open the conference up to those who typically cannot spare the time away from the office. But, this weekend placement still conveniently coincides with the NCBJ and makes it possible to attend both events.

Q: For returning members, will this conference be different from the previous?

This year, attendees will notice that there has been a concerted effort to emphasize opportunities to work on hard skills in lieu of just providing opportunities to network. The idea of this additional emphasis upon hard skills is in hopes that attendees will not only have an opportunity to meet other attendees at the conference but that they will also have an opportunity to learn from each other in a way that will be most useful and effective.

For example, we will have a presentation by Chip Lambert of Network 2 Network on leveraging social media that will provide helpful insight to even the least computer savvy member on how she can develop her rainmaking skills in this age of Web 2.0.

Q: I heard you have a prominent panel of speakers. Can you tell me more about their topic?

"The ABC's of the FDIC, SIPC & SEC" promises to be a particularly timely and interesting discussion. The panel will include Susan Markel, the former Chief Accountant, SEC Division of Enforcement and current Managing Director of AlixPartners; Josephine Wang, the General Counsel of SIPC; and Mike Krimminger, the Special Advisor for Policy to the Chairman of the FDIC. In light of the current climate, the insights these representatives will have to offer about the FDIC, SIPC, and SEC should prove to be helpful to all insolvency professionals regardless of whether they are seasoned veterans or new to the field.

Q: I saw you have a number of interesting breakout sessions - what can we expect in these sessions?

The breakout sessions will continue to be an opportunity to foster connections in a smaller setting of 10-12 people as in years past. However, this year, all of the breakout groups will be held in one big room in lieu of a number of smaller rooms. Hopefully, this room consolidation will make it easier for individuals to move between groups to find the right fit and the topic she finds most relevant to her practice.

Q: There is something called an intermezzo event – can you tell me what that is?

In between IWIRC and NCBJ, we found that IWIRC members were casually getting together to bridge the time. We saw this as an opportunity to do something creative and allow us to get to know each other in a fun setting on an informal basis. Often times, the best networking occurs when you are having fun!

The events are fantastic, and it was even a tough decision for me to pick just one this year. One of the choices for the intermezzo is a tour of the Mandalay Bay Shark Reef Aquarium. Although the Shark Reef Aquarium is in the middle of the desert, it contains

more than 2,000 animals and comprises more than 1.6 million gallons of water. There is also the uniquely Vegas option of learning the table games from the pros at the Paris Hotel Casino. But, I decided to register for the wine tasting at Payard Patisserie & Bistro at Caesar's Palace. It looks like a great opportunity to network while sampling the decadent deserts from the award winning Pastry Chef Francois Payard.

Q: What part of the conference do you look forward to each year?

The breakout sessions are always my favorite part of the conferences because they give you an opportunity to get to know other attendees on a more personal level while building or renewing existing relationships. I am also looking forward to the sessions this year because there will be the added bonus opportunity to learn from the truly talented women that I will have the chance to meet in my group

Q: Any advice for a first time attendee to make this as successful as possible?

Bring your business cards and pace yourself. There will be plenty of opportunity to network and you will want to take advantage of every minute to create the connections in the fun and exciting atmosphere of Las Vegas.

NETWORK NEWSLETTERS

No Blues for the Chicago Network in 2009

Heather L Montgomery, Garden City Group

The Chicago Network has had a busy year! Following are highlights of activities we have enjoyed that allowed fun while promoting networking with members and friends in our region.

Focus on Education Hosted by Monika Machen at the Sears Tower in the Sonnenschein offices overlooking the city, Sara Holtz gave great advice to members as she spoke on the *Top Ten Tips on How to Be a Rainmaker*. Information about Ms Holtz can be found at her website, www.clientfocus.net if any chapters are interested in contacting her.

Also at this February 2009 event, the IWIRC-Chicago Network board announced the inaugural recipient of its Leadership Award - Elizabeth Richert. Elizabeth served as a co-chair of the 2008 High Tea as well as the Oktoberfest Event. In addition, the IWIRC-Chicago Network took the opportunity to recognize its founding members, Carmen Lonstein, Bernadette Barron and Barb Yong, who have continued to support and contribute to the network.

Spring Event Switching gears, and under the leadership of a new Board, members enjoyed a *Savoring the Tastes of Spain* event on May 12, at the Chopping Block at the Mart, a cooking instructional school, located in Chicago's Merchandise Mart. Organized by Heather Montgomery of the Garden City Group, the "Wine Goddess" gave members an instructional wine-tasting of Spanish wines through the different regions of the country. When done, members worked together in teams with different chefs at the school to create a variety of hors d'oeuvres, dinner tapas and desserts that the group then got to sample the delicious results.

Third Thursdays The concept of Third Thursdays began as the brain-child of our Membership Chair, Lori Stanovich of Bowne Financial Communications. Lori recognized that the benefits of membership could be highlighted by allowing a straightforward networking-only focused meeting. Members, when able to attend, are given a location and invited to meet the Third Thursday of every month at a breakfast, lunch or after-hours drinks or dinner depending upon the hostess of the event and members are encouraged to talk about their business and talk about ways that their businesses or contacts could find some other synergy to help one another.

Golf Outing Bernadette Barron of Morris Anderson and Barb Yong of Golan Christie co-chaired the event and worked with a great committee to make this summer's Sixth Annual Golf Outing on June 26th a great success. Members had the chance to take two lessons prior to the big day, when 9 holes at the Diversey Golf Course along the lakefront of Lake Michigan were followed by a dinner and prize giveaways for the lucky players.

Trump Tower Spa Event Many watched Bill Rancik win Donald Trump's *Apprentice* television show, and choose to come to Chicago to help in building the Trump Tower. Thanks to the efforts of Elizabeth Richert at The Coleman Firm, we're taking advantage of this new luxury space at *The Spa At Trump* on September 22, and meeting for drinks, networking and mini-spa treatments in the beautiful setting as the perfect place to see one another and the beautiful Chicago skyline.

High Tea As the gem of the Chicago Network Group's Networking Events, the Chicago Network will be holding its annual High Tea at the *Four Seasons* on December 10th. Carmen Lonstein, at Baker & McKenzie and Colleen Lowmiller at Bridge Associates are this year's co-chairs of the event. Whether you're in town for business, to see Oprah or to shop at Chicago's Magnificent Mile, we have in the past and will continue to welcome Members from other networks to attend.

Liaisons with Other Associations Recognizing the presence of other related women's organizations in Chicago in the restructuring world, the Chicago Network has had the opportunity to enhance their networking by working with the TMA-Chicago Midwest Chapter Women's Group. Christie Childers, an associate at Jenner and Block in Chicago, is the Chicago Network's Liaison Chair and has been leading the charge in making this a priority for our group.

Dine Around Event A resounding success, on April 27th, the two groups joined as co-hostesses for a taste of Chicago in conjunction with the TMA's 2009 Spring Conference held in Chicago. One member from the TMA Women's Group and one Member of the IWIRC Chicago Network departed to one of Chicago's favorite restaurants with conference attendees who were in town and who otherwise wouldn't have gotten the opportunity to have a casual evening of great food and great company.

Chocolate and Cheese Event The two networks will also have the chance to meet up with one another again in November for Chocolate, Cheese and Wine tasting. It promises to be a great time to talk shop over treats we can all enjoy.

IWIRC – New England Network

Carolyn A. Bankowski, Chapter 13 Trustee

IWIRC – New England hosted a benefit gala in April to raise monies for the M. Ellen Carpenter Fund which supports public service programs of the Boston Bar Association that focus on enrichment programs for Boston's youth. Due to the generous support of the insolvency community, IWIRC – New England raised more than \$4,000.00 for the Fund. IWIRC – New England would also like to express its gratitude to the Honorable Joan N. Feeney, United States Bankruptcy Judge, for her willingness to serve as the keynote speaker for the event. All attendees enjoyed the camaraderie of colleagues while supporting a very important program.

At the annual meeting in June, 2009, the New England Network voted to elect Natalie Sawyer, Esq., of Hanify & King, P.C., as co-chair of the Network and re-elected Nancy Gregory, MBA, of Verdolino & Lowey, P.C., as treasurer of the Network.

On October 15, 2009, the New England Network will host a meet and greet reception for the Honorable Frank J. Bailey, United States Bankruptcy Judge. The reception will take place at McCormick & Schmick's, Faneuil Hall in Boston from 6:00 p.m. – 8:00 p.m. If you are interested in attending, please email Carolyn Bankowski at cbankowski@ch13boston.com or Natalie Sawyer at nbs@hanify.com. If anyone is

interested in volunteering to serve on a planning committee for future New England Network events, please email Carolyn or Natalie.

MIWIRC – Michigan Network

Violeta Zdravkovic, Conway MacKenzie, Inc.

On August 26, 2009, O’Keefe and Associates, a MIWIRC sponsor, hosted a members-only wine tasting event at their beautiful Bloomfield Hills, Michigan offices. Nidal Daher, from Unique Wine Cellars in Bloomfield Hills, served as the Sommelier for the evening. Mr. Daher did a wonderful job pairing different wines with compatible appetizers. The guests were treated to five courses catered by Ferndale’s Canapé Cart, as well as an informative and entertaining lesson by Mr. Daher. The beautiful outdoor location, weather, wine, food and great friends provided a fitting end to MIWIRC’s 2008-2009 program year.

MIWIRC is in the process of planning our opening event scheduled for October 28, 2009. Because of the current economic environment and the proximity to Halloween, the board determined a panel discussion of “Career Development in the Frightful New Economy” would be a timely way to open the new 2009-2010 year. We are working on enlisting some interesting panel participants and hope that members of our sister networks will be able to join us.

We have conference grants in the amount of \$300 each that can help cover the cost of travel, lodging, tuition and other fees for attendance at this and other events. If you could benefit from the use of these funds, please apply for the grant by filling out the application that is on the IWIRC website.

We are looking forward to a wonderful 2009-2010 year!

Central Ohio Chapter of IWIRC

MaryAnne Wilsbacher, Assistant U.S. Trustee

In celebration of its 15 years in the Columbus bankruptcy community and the international IWIRC community at large, IWIRC Central Ohio Network (“ICON”) hosted its second gala event in April 2009, Banca Rotta Part Deux. The gala was held in The Veridian, at the Franklin Park Conservatory in Columbus, Ohio. Banca Rotta, Latin for “broken bench,” is the phrase from which the word bankruptcy is derived; and in medieval days, a broken stand in the marketplace was a sign of a merchant’s insolvency. The gala was an excellent night of networking and celebration for our members, the bankruptcy bar, Judges, and Court staff. Pictured sharing in the celebration are past co-chairs, Stephanie Union from Kegler, Brown, Hill & Ritter and Andria Beckham from Bricker & Eckler, and members Jill Whitworth from the Bureau of Workers Compensation, Pamela Maggied who is a solo-practitioner, and Judith Fisher from JP Morgan Chase. We would like to especially thank our all of our sponsors, who are all reflected in the picture of our Sponsor Board.



Jill Whitworth, Pamela Maggied and Judith Fisher

ICON is also anxious to start its financial education program for elementary school girls, in partnership with a local Girl Scouts of America troop in October 2009. The financial literacy program is based on the Girl Scout’s “Money Sense Badge” and the requirements consist of learning how to earn, save, spend and invest money. ICON’s goal is to provide basic financial information to the young girls to foster an awareness of how money works and to train on issues such as writing checks and how credit works. ICON would like to continue its partnership with the Girl Scouts as a staple program in the future, as well as establish and present its financial education program to older students and in local school districts.

We are also looking forward to other programs scheduled for this year, including a cooking class and a “Fiscal Fitness” Roundtable, which will include a discussion of 401K contributions, budgeting, reading balance sheets, saving for college and other relevant topics.

And finally, the Network would like to welcome our new co-chair Christy Prince, who is an associate with Kegler, Brown, Hill & Ritter, along with Violynn Joseph, who is law clerk to the Honorable Charles Caldwell. A big “thank you” goes to Andria Beckham who enthusiastically served as co-chair for the Central Ohio Network the past two years. Thank you!

GUEST ARTICLES

The Bankruptcy Advantages of Delaware Statutory Trusts

Doris J. Krick, Christiana Trust Company, LLC

When you select an entity for your clients going through a bankruptcy proceeding, you should consider a Delaware Statutory Trust (DST), one of several special purpose entities (SPE) created by a state with a long history of corporate-friendly law.

Statutory trusts in general may be described as “deals,” in John Langbein’s words, arrangements that arise in a business setting, as opposed to those arising from a desire to give property to others. Yet the traditional fiduciary standards of loyalty and impartiality that arise from donative trusts can be applied to statutory trusts merely by characterizing them as such.

Evolving from prior business trust legislation, Delaware statutory trusts offer much more certainty than trusts based on common law. Statutory trusts are defined as a type of voluntary, unincorporated business association created by a written governing instrument to which property is transferred for management for the beneficial owners. Delaware recognized statutory trusts in 1988 (12 Del C 3801, et. seq.) and improved the initial legislation by passing amendments in succeeding years. Formation is simple: the trustee files with Delaware’s Secretary of State a one-page certificate of trust signed by all trustees, one of which must be a Delaware resident trustee. No additional or future public filings other than amendments or statements of termination are required.

Since Delaware law states that “it is the policy of this subchapter to give maximum effect to the principle of freedom of contract and to the enforceability of governing instruments,” the parties write the governing provisions themselves. Basic issues of importance to all business entities such as creditors’ rights; the rights of each party to the agreement; taxation; capital structure, jurisdiction, and the like, are defined in an agreement that is not filed with any governmental or regulatory authority. DSTs are subject to minimal limitations; for example, DSTs can eliminate annual shareholder meetings as well as a shareholder’s right to inspect the books.

The instrument, not the statute, covers all aspects of the relationship among the trustee, beneficial owners, and others, including the delegation of management responsibilities and liabilities; fiduciary responsibilities; procedures for amending the trust; provision for creating several classes of ownership with different rights and responsibilities; and the delineation of voting rights.

Here are some general features of a Delaware Statutory Trust of importance to bankruptcy professionals:

- DSTs may be perpetual. As a separate legal entity, creditors of beneficial owners cannot force the trust’s termination except in accordance with the instrument. Thus, the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner does not cause the termination of the trust.
- The trust may be taxed as a trust, association, limited partnership, or corporation at the discretion of the trust’s management, based on the tax advantages desired. Most DSTs are taxed as pass-through entities akin to partnerships.
- Unlike a corporation, no Delaware franchise taxes are imposed on DSTs.
- It may sue or be sued.

- It is under the jurisdiction of the Court of Chancery of Delaware, a court of equity that does not handle criminal or tort actions.

“Beneficial owners” named in the trust instrument, unless otherwise provided:

- Contribute cash, property, services, promissory notes or other obligations to provide cash, property or services to the trust, or become a beneficial owner without contributing anything.
- May serve as trustee or advisor to the named trustee.
- Are personally liable only to the statutory trust.
- Are entitled to the same limitation of personal liability extended by Delaware law to stockholders.
- Own an undivided beneficial interest in trust’s corpus and share in profits and losses.

A trustee, unless otherwise provided in the trust instrument:

- May be any person or persons named in the governing instrument, including a beneficial owner.
- May take direction from a beneficial owner or third party named in the instrument. Is personally liable only to the statutory trust.

Specific DST Advantages for Bankruptcy Use

- Depending on its purpose and provisions, a DST may not always be able to initiate a bankruptcy case as a debtor under the Federal Bankruptcy Code, an advantage available to corporations but not special purpose entities.
- Beneficial owners may direct the trustee without risking personal liability for the debts of the trust or that a beneficial owner’s creditors could reach the DST’s assets.
- DSTs may indemnify and hold harmless all the parties to the trust – beneficial owner, trustee, and other -- as its governing agreement provides.
- DSTs avoid the issue of whether a “liquidating trust” under federal bankruptcy rules is considered to be an issuer of equity securities. DSTs are under no obligation to issue securities or any other evidences of ownership.
- An unrelated trustee, such as the requirement of a Delaware trustee, eliminates or lessens control by the sponsor, which in turn gives credence to a nonconsolidation analysis.
- Delaware does not impose state taxes of any kind on DSTs.
- Jurisdictional responsibility of Delaware’s Court of Chancery offers access to one of the most esteemed judiciaries in the country, a court with long experience and expertise in corporate matters. As a corollary, Delaware has a developed body of law that offers a high degree of predictability.

Services Offered by the Delaware Trustee

Bankruptcies involve many standard services offered by institutional trustees such as the custody of assets, recordkeeping, and disbursements according to the written direction of another, albeit, in a slightly different context because many of these duties may extend beyond the dissolution and/or reconstitution of the original entity.

Example: Hospital A was forced into bankruptcy because of mismanagement but wanted to emerge from the situation with a clean slate. A DST was selected using a Delaware trustee like Christiana Bank & Trust Company, and assets sufficient to satisfy the existing claims against it were transferred to it. The bank invests the funds and will continue to pay out claims at the written directive of a third party until all claims are satisfied, regardless of the corporate status of Hospital A. Neither the hospital directors nor the hospital itself face liability for the DST assets, nor can the assets be diverted from their stated purpose.

For so many reasons, a Delaware statutory trust is ideal entity for bankruptcy situations.

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Three Views of Cross Border Insolvency: A Perspective from the English Court, the Italian Court and the New Cayman Islands Rules and Procedures

The English Court's Approach to COMI and Cross Border Insolvency Co-operation

Devi Shah and Catherine Pedler, Mayer Brown International LLP

Introduction

The Cross Border Insolvency Regulations 2006 (“**CBIR**”), which implement the UNCITRAL Model Law on Cross Border Insolvency in Great Britain, are becoming an increasingly important tool for insolvency practitioners appointed to foreign companies with a presence or assets in Great Britain. Following is an analysis of two recent cases decided under the CBIR.

***Re Stanford International Bank Limited & Others* [2009] EWHC 1441 (Ch)**

In this case, the English High Court was faced with competing applications by insolvency practitioners appointed to Stanford International Bank Limited (“**SIB**”) and various companies for recognition of the proceedings to which they were appointed as “foreign main proceedings”.

The United States District Court for the Northern District of Texas appointed a receiver over the worldwide assets of SIB in connection with a complaint filed by the US Securities Exchange Commission against SIB alleging securities fraud and violations of the securities laws. In parallel with those actions, the Antiguan regulatory authorities were also taking action against SIB which eventually led to the Antiguan court making a winding up order and appointing liquidators to SIB.

The CBIR define a “foreign main proceeding” as a foreign proceeding taking place in the State where the debtor has the centre of its main interests or COMI. The CBIR also provide that in the absence of proof to the contrary, the debtor’s registered office is presumed to be the centre of the debtor’s main interests.

In determining the location of SIB’s COMI, the Court applied the test laid down by the ECJ in the *Eurofood* case, which was agreed between the parties as being the correct approach. In *Eurofood*, the ECJ held that the presumption regarding COMI can only be rebutted if factors which are both objective and ascertainable by third parties enable it to be established that an actual situation exists which is different from the COMI being located in the place of the registered office.

SIB’s registered office was located in Antigua and there were a number of other factors supporting a finding that its COMI was in Antigua. These included that it occupied a building there, a high proportion of its staff worked there, its contracts were largely governed by Antiguan law, its marketing material gave prominence to its presence in Antigua, cheques from depositors were sent to Antigua, private banking facilities were provided there, it was regulated by Antiguan regulators and its accounts were audited in Antigua. In attempting to rebut the presumption and establish that SIB’s COMI was located in the US, the US receivers relied on factors including that the principal movers of the alleged fraud were located in the US, SIB’s clients were all residents and citizens of countries other than Antigua, the investments were managed outside Antigua (although this was done by management companies engaged by SIB rather than SIB itself) and the real management of SIB was performed in the US. The Court held that these factors were neither ascertainable to third parties nor, even when taken together, sufficient to rebut the presumption. Accordingly, the Court found that SIB’s

COMI was in Antigua and granted recognition of the Antiguan proceedings as foreign main proceedings.

The Court went on to consider whether the US proceedings could be afforded recognition as foreign non-main proceedings. To be afforded recognition under the CBIR, proceedings must be collective proceedings pursuant to a law relating to insolvency in which the assets and affairs of the debtor are subject to control or supervision by a foreign court for the purpose of reorganisation or liquidation. The Court noted that the appointment of the US receivers was made “to prevent waste and dissipation of the assets of the Defendants to the detriment of the investors” and was not made pursuant to insolvency law. Accordingly, the court held that the proceedings were not collective proceedings pursuant to insolvency law and, therefore, they were not given recognition as non-main proceedings.

Comment

An appeal against this decision has been lodged and is likely to be heard around the end of 2009.

Rubin & Anor v Eurofinance & Ors [2009] EWHC 2129 (Ch)

In this case, the Court considered an application, under the CBIR, by the joint receivers and managers of The Consumers Trust (“TCT”) for recognition of the TCT bankruptcy proceedings as foreign main proceedings and an order enforcing a default judgment of the US bankruptcy court, holding the respondents liable for the debts of TCT as a judgment of the English courts. The US bankruptcy proceedings could apply to TCT as if it were a separate legal entity pursuant to the “Business Trust” classification under US law.

The respondents argued that, for the proceedings to be given recognition under the CBIR, it had to be established that TCT was a “debtor” which, although not defined in the CBIR, had to be given its ordinary meaning under English law. In other words, a debtor would have to be a legal entity recognised by English law, which a business trust was not. In concluding that TCT could be regarded as a debtor for the purposes of the CBIR, the Court had regard to the international origins of the definitions in the Model Law, the fact that the CBIR provide that regard is to be had to that international origin and to the need to promote unity in its application. The Court held that these considerations would be disregarded if the court were to apply a definition of debtor that was recognised in its jurisdiction and, thereby, refused to provide recognition of a bona fide insolvency proceeding taking place in a foreign jurisdiction. As it was common ground that TCT’s COMI was in New York, and the Court having found that TCT was a debtor subject to foreign insolvency proceedings, those proceedings were recognised as foreign main proceedings under the CBIR.

The Court was not, however, prepared to make an order enforcing the judgment against the respondents pursuant to the CBIR. Absent the insolvency of TCT, that judgment could only have been enforced by TCT at common law. A precondition to such enforcement is that the defendants have in some way submitted to the jurisdiction of the foreign court, which they had not done in this case. The Court held that its discretion to cooperate with foreign courts or foreign representatives should not be exercised in a manner that is inconsistent with the principles of its own legal system. Accordingly, given that the judgment was unenforceable at common law, the court declined to make an order for enforcement under the CBIR.

Comment

It is clear that the court in this case did not want to exercise its discretion to provide assistance if that would effectively elevate the status of the judgment beyond what it would have enjoyed had TCT not been in insolvency proceedings. However, the decision appears to leave the creditors of TCT without remedy unless TCT’s receivers can find jurisdiction to bring the claim again in England.

Cross-border Insolvency: COMI Concept as Recently Applied by Italian Courts

Daniela Bramati, Freshfields Bruckhaus Deringer LLP (Milan office)

1. COMI concept under the EC Regulation on insolvency proceedings

Central to any cross-border insolvency proceedings is the concept of the centre of main interests (“**COMI**”) of the debtor, essential to identify the competent jurisdiction (and the applicable law). At the European Union level, reference is to be made to the EC Regulation No. 1346 of 29 May 2000 (the “**Regulation**”), providing that “*The courts of the Member State within the territory of which the centre of a debtor’s main interests is situated shall have jurisdiction to open insolvency proceedings*” (See Article 3.1 of the Regulation).

However, notwithstanding its essential role, the Regulation does not define the COMI and its meaning, setting forth only that “**in the case of a company or legal person, the place of the registered office shall be presumed to be the center of its main interests in the absence of proof to the contrary**”. Besides, according to Recital 13 of the Regulation, “*the “centre of main interests” should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by the parties*”, without indicating elements to address the meaning of “conduct of administration” and “interests”. By way of simplification, within this regulatory framework, there are two general criteria to identify COMI: (i) the necessity to locate the State where the debtor actually conducts its activities and business; (ii) the recognisability of the debtor’s office by third parties.

Therefore, within this regulatory framework, when dealing with the insolvency of a multinational corporation, discussions on where COMI of a subsidiary is located can raise the following question: does COMI correspond to the company’s place of incorporation (presumption set forth by the Regulation) or does it correspond to the place where the company actually conducts its business on a day-by-day basis. In this respect, the European Court of Justice (“**ECJ**”), resolving Eurofood case, clarified that the presumption in favour of the registered/incorporation office “*can be rebutted only if factors exist which are both objective and ascertainable by third parties*”. As a consequence, the mere fact that a company is controlled by a parent company in another Member State is not sufficient to rebut the registered office presumption, being necessary to give evidence that the company/subsidiary does not conduct any actual activity in the Member State of incorporation. Case law resolving upon COMI issue within a context of EC cross-border insolvency has differed as to the criteria for determination of COMI, notwithstanding the precious guidelines set forth by Eurofood judgment of 2 May 2006 (In Case C-341/04).

2. COMI concept as applied by Italian Courts

Italian Courts have generally weighed a number of factors in determining whether COMI corresponds or not to the registered office of the company and reached different outcomes. The three main relevant criteria for the identification of COMI are: (a) the State in which the company actually conducts its activity; (b) the State in which the company’s driving centre is based; (c) the recognisability by third parties of the actual centre. Based on the importance given by the Courts to the criterion of “recognisability” by third parties the identification of COMI could be different. Examining Italian case law, the “driving centre” criterion has been followed by the Court of Rome in In Cirio, the food multinational corporation declared insolvent and admitted to the Italian extraordinary administration proceedings (2003) and in In Parmalat, the multinational Italian dairy and food company (2004).

In particular, in In Cirio, the Court of Rome recognised that a company with registered office in Luxemburg had its COMI in Italy, stating that the company’s management and driving centre were located in Italy and where Cirio companies group were managed (See In Cirio, Court of Rome, 26 November 2003, in *Foro italiano*, 2004, I, page 1567).

Later, the Court of Parma admitted to the Italian extraordinary administration proceedings companies of Parmalat group with registered office in The Netherlands, Luxembourg, Ireland, Malta and Germany, stating that their COMI was based in Italy (In Parmalat). These companies included financial companies that had issued bonds (in The Netherlands, Ireland and Luxembourg), intermediate holding companies or trading companies (Malta), and even operating and commercial companies (Germany). In all these cases, the Court of Parma ascertained that the management and the driving centre of several EU-based Parmalat companies was in Italy, even if those companies were incorporated in other Member States (See Court of Parma, 20 February 2004, in *Il Fallimento*, 2004, page 1265).

Furthermore, the Italian Court of Cassation (*Corte di Cassazione*) (Cassazione Civile, no. 10606/2005), ruling on the impacts on COMI identification in case of transfer of the registered office abroad, specified that such transfer does not imply the transfer of COMI for the purposes of Regulation, in the event that in the new office there will be no any actual exercise of the business or the transfer of the centre of the directional, administrative and management activity of the company". Thus, the Italian Court of Cassation recognized that the COMI has to be located where the company conducts activity or it has its management centre. All the aforesaid decisions were issued before Eurofood judgment, which stressed the importance of the recognisability by third parties in locating the COMI. However, as said, also after Eurofood judgment and its valuable guidelines, Italian Courts differed as to the criteria for the identification of COMI.

On July 2007, in *In Nylstar*, the Court of Monza ascertained that the COMI of the Dutch holding company of Nylstar Group was in Italy, relying on the factual elements relating to the driving-centre of the holding, the lack of activities in the place of incorporation of the company, the nationality of directors and the place of activity of the management. In particular, the Court of Monza ascertained that:

- (i) the Dutch holding did not have any operative structure in The Netherlands;
- (ii) the Dutch company had no employees;
- (iii) the activity of the company (to find funds for the activity of the group and to manage the equity participation) was conducted mostly in Italy;
- (iv) the directors, who were all Italians except one, held the board meetings through videoconferences from Italy;
- (v) the external auditor sent its report to the offices of the Italian subsidiary in Italy;
- (vi) the Dutch holding company had no creditors in the Netherlands, except one utilities company which was completely aware that the COMI was not in the Netherlands.

Based on these elements, the Court of Monza ascertained that the Dutch holding had its COMI in Italy at the subsidiary's registered office, as ascertainable by third parties, thus giving importance to the recognisability of the COMI by third parties (See Court of Monza, 27 July 2007 no. 72, in *Diritto e Pratica del Fallimento*, no. 1, 2008, page 37).

In *In IT Holding* analogous interpretation has been followed. The companies of the fashion group having there registered office in Luxemburg had been admitted to the Italian extraordinary administration proceedings. For example, the Court of Isernia extended the Italian insolvency procedure also to the Luxemburg subsidiary of the Group and the issuer of the bond, since notwithstanding the company's registered office was in Luxemburg, objective factors ascertainable by third parties have been submitted to the Court: the executive directors carrying out the main functions were only Italians, the entire equity was owned by an Italian company, the activity of the company was only the issuance of bonds, all guaranteed by the Italian companies (Court of Isernia, 10 April 2009, no. 12). Also in this case, the company was not operating and commercial, but just a financial company that issued the bond. Once more, the Court focused its attention on the recognisability of COMI in a Member State different from the one of the incorporation.

Conversely, in some cases, the Italian Courts have located in Italy the COMI of operating companies incorporated in other Member States and having plants,

employees, production and clients in such other Member States. In this respect, the COMI of the Polish company of Maflow Group, the multinational group player in the market of reinforced rubber and composites hoses for automotive industry, has been located in Italy by the Court of Milan. The latter has ascertained that the COMI of the Polish company corresponded to the registered office of the holding Italian company, which was the actual driving centre of the Polish company, dealing with the clients and suppliers of the Polish company and managing all the decisions of the Polish company (See Court of Milan, 11 May 2009, no. 261), although the production of the Polish company was carried out in plants situated in Poland, the company registered more than 1,000 employees, only one of which was Italian, and had Polish suppliers and clients in many countries, not only in Italy.

In such case, however, it could be argued that, considering the size and the production activity carried out by the companies having the registered office in other Member States, the third parties were aware that the COMI of said companies was not in the State of incorporation but in Italy. Indeed, the Judgment declaring that the COMI of the Polish company of Maflow Group was in Italy had been challenged by some creditors, thus arguing about the recognisability of the location of COMI identified by the Courts.

In the light of the above, it seems possible to locate in Italy the COMI of companies incorporated in other Member States: (i) if the executive directors carrying out the main functions are Italians; (ii) the subsidiary carries out activities instrumental to the Italian parent company and/or guarantees all the transactions; (iii) in cases where third parties perceive that the actual location of the company's business is Italy; and (iv) the Italian parent has guaranteed the financing of the subsidiary. Therefore, the place of the registered office appears to constitute only one of the factors to be taken into account with the whole of the evidences and other factors available in order to locate COMI.

3. COMI under Chapter 15 of US Bankruptcy Court

The concept of COMI is also central to Chapter 15 of the US Bankruptcy Code, which is derived from the Uncitral Model Law on Cross-Border Insolvency and, in many significant respects, is similar to the Regulation. Chapter 15 is planned to harmonize foreign proceedings and to assist foreign representatives of those foreign proceedings that, upon specific requirements, take place in a country where the debtor has its COMI. Consistent with the Model Law and similarly to the Regulation, US Chapter 15 does not define COMI, but contains a presumption that it corresponds to the place of incorporation. The proceedings opened where the debtor's COMI is located constitute the main proceedings.

In some recent cases, US Bankruptcy Courts had to address the concept of COMI. As explained In re Sphinx, it is a rebuttable presumption that the debtors' place of registration or incorporation is its COMI but, in order to rebut such presumption, the court has to investigate factors such as "the location of the debtor's headquarters, management, primary assets, creditors, and the jurisdiction whose law would apply to most disputes", which should constitute objective and ascertainable to third parties. *In re Sphinx*, 351 B.R. 103 (Bankr. S.D.N.Y. 2006), *aff'd*, 371 B.R., 10 (S.D.N.Y. July 2007). In this case, the bankruptcy court ruled that, based on objective factors and ascertainable to third parties, the COMI of the Cayman company had not its COMI in the Cayman Islands and rebutted the statutory presumption. Subsequently, Judge Lifland decided to reject the Chapter 15 application of the Cayman proceedings of Bear Stearns hedge funds, rebutting the presumption that the COMI was the debtors' registered office in the Cayman Islands, even though no parties objected to the Chapter 15 application. The Judge based his decision on the fact that there were no employees or managers in the Cayman Islands, since the manager and the administrator of the fund, as well as its books and records and assets were located in the United States.

Therefore, similarly to the concept of COMI under the Regulation, the identification of the Chapter 15 debtors' COMI requires a fact-based inquiry in order to verify whether the registered office is the actual COMI of the debtor, but the registered office constitutes the starting point of the analysis of the Court.

Relevance of New Company Liquidation Provisions in the Cayman Islands to Cross-Border Insolvencies

Andrea Dunsby, Senior Associate, Turner & Roulstone

In May of this year, the corporate liquidation procedures in the Cayman Islands were substantially overhauled. The entire section of the Companies Law (2007 Revision) dealing with liquidations was replaced; a new section on international cooperation was added; Companies Winding Up Rules were introduced for the first time and related rules and regulations came into effect.

The nature of the economy in the Cayman Islands is such that purely domestic insolvency proceedings and even individual bankruptcy proceedings are rarities. The new provisions take into account the international factors which are so often found in liquidations of Cayman Islands companies and seek to ensure that cross-border insolvencies are dealt with economically and expeditiously.

Although the changes and the clarity which they bring are welcome, they are not so radical that company liquidations have changed beyond recognition. There are no major changes to the grounds on which a company may be wound up, either compulsorily (namely, by the court), or voluntarily (namely, following a shareholder resolution). To a large extent, even the new international provisions simply codify the existing common law.

The Companies Winding Up Rules 2008 provide clarity for Cayman Islands insolvency procedures. Previously, reference was made to the English Insolvency Rules 1986 so long as there was no inconsistency between those rules and Cayman Islands law. Much of the English rules were, however, irrelevant as the English insolvency regime incorporates processes which have not been adopted in the Cayman Islands, such as company voluntary arrangements, administration and administrative receivership. Many of the rules found in the Companies Winding Up Rules will be familiar to English practitioners, but the rules are not by any means the same, so care must be taken by those accustomed to applying the English rules to a Cayman Islands company in liquidation.

Who may act as liquidator?

Any person may be appointed to act as a voluntary liquidator (this position is unchanged from the previous practice). This enables foreign insolvency practitioners to take appointments in relation to solvent companies if the shareholders consent. In a compulsory liquidation on the other hand, at least one insolvency practitioner, qualified under the new Insolvency Practitioner's Regulations 2008, must be appointed. These regulations contain a Cayman Islands residency requirement as well as professional qualification and other requirements. The amendments to the Companies Law do however permit a foreign insolvency practitioner to be appointed to act jointly with a Cayman Islands insolvency practitioner (a practice which was regularly adopted even before the revisions to the law).

A new provision, which any person who takes appointment in a voluntary liquidation needs to be aware of, requires that for a voluntary liquidation to continue as such, the directors of the company must file a solvency declaration within 28 days of the resolutions appointing the voluntary liquidator. In the absence of such a declaration, the liquidator must make application to the court for the winding up to be continued subject to the supervision of the court. An order that a winding up be continued subject to the supervision of the court effectively converts the liquidation into a compulsory liquidation. This means that a Cayman Islands qualified insolvency practitioner needs to be appointed as liquidator.

International Cooperation offered to Foreign Bankruptcies

The international cooperation provisions which have been inserted as a new Part XVI of the Companies Law apply where a foreign entity is subject to some form of bankruptcy in its country of incorporation and the appointed insolvency practitioner seeks assistance from the Grand Court of the Cayman Islands. The Grand Court may make orders ancillary to the foreign bankruptcy proceeding for the purposes of (among other things) recognising the foreign representative to act in the Cayman Islands on behalf of the debtor; preventing or staying proceedings or enforcement against the debtor in the Cayman Islands; requiring the examination of persons in possession of information relating to the affairs of the debtor; and turning over the property belonging to the debtor. In determining whether to make an ancillary order, the Grand Court will be guided by matters which will best assure the economic and expeditious administration of the debtor's estate.

In the case of a debtor which is registered in the Cayman Islands as a foreign company, the Grand Court must consider whether it should make a winding up order in respect of the local branch.

International Protocols in Concurrent Bankruptcies

Order 21 of The Companies Winding Up Rules applies where a Cayman Islands registered company is in official liquidation pursuant to the Companies Law and is subject to a concurrent bankruptcy proceeding in a foreign country, or its assets located in a foreign country are the subject of a bankruptcy proceeding or receivership under the law of that country. In such circumstances, it is the duty of the liquidator to consider whether an international protocol with the foreign officeholder is appropriate to promote the orderly administration of the estate and avoid duplication of work and conflict between the two officeholders.

The scope of an international protocol may allocate responsibilities between the two officeholders including in respect of formulating a scheme of arrangement; preservation and realisation of assets outside the Cayman Islands; commencing proceedings outside the Cayman Islands; exchange of information; reporting to stakeholders in the bankrupt's estate; adjudicating proofs of debt; paying claims; and the remission of funds between the officeholders. Any international protocol must be approved both by the Grand Court and the foreign court or authority.

Conclusion

The Cayman Islands legislature has not enacted the UNCITRAL Model Law on Cross-Border Insolvency, but even prior to the changes made this year, the insolvency laws and practice of the Cayman Islands met substantially all of the benchmarks contained in the Model Law. The changes have enhanced the position and demonstrate that the Cayman Islands is one of the most progressive jurisdictions in the world as far as adopting a cooperative and unified approach in multi-jurisdictional insolvencies is concerned.

MEMBER NEWS

[Editors Note: We are pleased to announce that our membership directory is available online at our website at www.iwirc.com as valuable resource for finding Bankruptcy and Insolvency Professionals around the world]

N. Lynn Hiestand was featured as **Dealmaker of the Week** by American Lawyer. She was recognized for her involvement in two high-profile deals. On General Motors's sale of its Saab Automobile unit, announced June 16, Hiestand negotiated on behalf of buyers Koenigsegg Group AB, a consortium led by Swedish automaker Koenigsegg Automotive AB. That soon was followed up with leading the team of lawyers representing Nokia Siemens in its acquisition of the advanced wireless technology business of Nortel Networks, Canada's largest telecom. (In addition to GM's bankruptcy proceedings in the U.S., Saab is in bankruptcy in Sweden, and Nortel is in both Canadian and U.S. court-led reorganization.) Hiestand, co-head of Skadden's restructuring practice in Europe, has legal and business credentials perfectly suited for this post-Lehman Bros. collapse business world, with 25 years of experience in distressed M&A and several 363 sales to her credit.

Leyza F. Blanco, attorney at GrayRobinson, P.A., was recently appointed to serve as Vice-Chair of The Florida Bar's Business Law Section [Bankruptcy/UCC Committee](#). Blanco's practice of more than 12 years is dedicated to a wide range of litigation and insolvency matters in state and federal courts, as well as bankruptcy appeals at the district court and circuit court of appeals levels. Blanco's involvement with the Business Law Section of The Florida Bar also includes her new appointment as a member of the committee for the newly created Diversity Committee and the Membership/Law Student Committee. She was recently recognized as a "Rising Star" in 2009 by *Florida Super Lawyers* and had previously been recognized as one of *Florida Trend's* "Legal Elite" in 2008. Blanco currently serves as Co-Chair of the International Women's Insolvency and Restructuring Confederation's Florida Network and is a member of Executive Council of the Business Law Section of The Florida Bar. In addition, Blanco is currently an Adjunct Professor at the School of Law of her alma mater, the University of Miami, where she received her J.D. (1996, magna cum laude) and B.A. (1992). Leyza is the New Lead Professor of FIU bankruptcy clinical program.

Melissa Dimitri, Grant Thornton, recently participated in a panel discussion for the Grant Thornton/DLA Piper seminar on construction project mothballing held on August 5th. Melissa led the discussion regarding lender negotiations.

Laureen M. Ryan has joined Alvarez & Marsal (A&M), as a Managing Director in New York where she is responsible for expanding the Dispute Analysis & Forensic Services business. For more than 25 years, Laureen has worked with boards, corporations and stakeholders to help resolve high stakes financial, regulatory and legal issues across a broad range of industries. She has led numerous complex multinational investigations and has presented her findings to the Securities and Exchange Commission, the New York State Banking Department and the U.S. Bankruptcy Court. She has also provided oral and written testimony in civil and criminal matters in various venues in the U.S. and the ICC International Court of Arbitration in cases involving economic, accounting, auditing, financial, valuation, regulatory, fraud and bankruptcy-related issues. Further, Laureen has conducted investigations, pursued litigation and resolved complicated business matters in her fiduciary roles as Chapter 11 Trustee, Responsible Officer and Liquidating Trustee, and served as a mediator for the Supreme Court of the State of New York.

Christine E. Baur recently started her own firm. Christine was a partner with Baker & McKenzie LLP in San Diego, California, in the Financial Restructuring, Creditors' Rights and Bankruptcy Practice Group. She represent debtors, creditors' committees, equity committees, secured and unsecured creditors, acquirers of distressed assets, lenders, trustees and other parties-in-interest in Chapter 11 bankruptcy proceedings across the country. I also advise and represent companies in filing Chapter 7 bankruptcy

proceedings. I can be contacted as follows: Christine E. Baur, Esq., Law Office of Christine E. Baur, 4653 Carmel Mountain Road, Suite 308 #332, San Diego, CA 92130

Lori L. Payne recently founded Payne Financial Forensics, a consulting firm specializing in forensic accounting and fraud investigations with a special focus on distressed entities and insolvency or bankruptcy litigation. Payne, who is Co-Chair of the Southern California Network, says “The firm is off to a great start, and we look forward to working with many of our IWIRC colleagues!” For more information, see the Payne Financial Forensics website at www.PayneFF.com

In addition to practicing Financial Restructuring at Stroock & Stroock & Lavan LLP, **Irina Gomelskaya** recently transformed her jewelry-making hobby into a business with the launching of Shalva Pearls (www.shalvapearls.com), specializing in high-quality, elegant, one-of-a-kind jewelry for today’s sophisticated women. In addition, Irina is a founder of Stringing Success(tm), which offers jewelry networking events for professional women and provides a powerful resource for women to connect while participating in a fun and creative activity that is naturally appealing to most women (<http://store.shalvapearls.com/stringing-success.htm>).

IWIRC sponsored a panel at the recent ABI Southwest conference. IWIRC members participating in the “Women in Finance: A Winning Hand” panel included: **Lori Payne**, Payne Financial Forensics; **Kesli J. Jensen** PricewaterhouseCoopers; **Leigh Ann Schultz**, AlixPartners; **Elizabeth B. Monty**, Veriti Consulting; and **Susan M. Smith** Mesriow Financial Consulting.

Sheryl Toby, Dykema law firm, was named “Best Lawyer” in the 2010 edition of the Woodward/White **Best Lawyers In America** guide. Selection is made by their peers in their respective fields. Ms. Toby was recognized in the category of Bankruptcy and Creditor-Debtor Rights Law. She is the co-leader of the Bankruptcy and corporate restructuring practice group. Ms. Toby is known for her approach in providing creative solutions to creditors, debtors and lenders in addressing troubled company situations. Ms. Toby is a frequent national speaker and consultant in her field. She has been recognized by awards such as: Named “Michigan Super Lawyer” in Bankruptcy & Creditor/Debtor Rights by Law & Politics (2007 & 2008); in 1999 selected to *Crain’s Detroit Business* “40 Under 40” list; in 1999 received honorable mention as one of the country’s Outstanding Young Bankruptcy Professionals by Turnaround and Workout Publications; featured in an article in the March 5, 2004 Daily Bankruptcy Review “Mover and Shaker of the Week”. She has served in numerous positions for national and local organizations such as American Bankruptcy Institute – Member, Board of Directors 2008-2010 (Education Committee); Commercial Fraud Task Force Committee Co-Chair, 2007-2008; Advisory Board Chair, American Bankruptcy Institute Central States Division 2006-2007; Founder and Former Chair, Michigan Network – International Women’s Insolvency and Restructuring Confederation and numerous other positions. A resident of Sylvan Lake, Ms. Toby received her B.A. from Michigan State University and her J.D., *cum laude*, from Wayne State University.



Sheryl L. Toby

Lisa Sumner, Poyner Spruill LLP, was recently recognized as a “2009 Triangle Movers & Shakers” by *Business Leader* magazine. She was honored for her business accomplishments, proven leadership ability and active community participation. Recognized as one of *Law & Politics* North Carolina “Rising Stars” in 2009, Lisa Sumner exemplifies leadership as the Chair of Poyner Spruill’s Creditors’ Rights and Bankruptcy practice group. Lisa’s reputation and involvement in national organizations such as the American Bar Association’s Section of Business Law has kept Poyner Spruill highly regarded in the bankruptcy and creditor’s rights arenas. Lisa also serves on several boards, including the Board of the Carolinas Network of the International Women’s Insolvency and Restructuring Confederation.

Daniela Bramati joined the Dispute & Resolution team at Freshfields (Milan office) effective October 1, 2009. Daniela may be reached at: Freshfields Bruckhaus Deringer LLP, Dispute Resolution, Via dei Giardini, 7, 20121 - Milano, Tel. +39 02 625301, Fax +39 02 62530800 daniela.bramati@freshfields.com

MEMBERSHIP STRUCTURE

International Women's Insolvency & Restructuring Confederation

Benefits of IWIRC Membership

Relationship Building in a Professional Service Practice

Successful professional services practitioners understand that building a healthy referral base requires creating and nurturing healthy relationships with referral sources (other service professionals) and/or clients. There are four basic steps in achieving productive business relationships:

AWARENESS... that you exist
KNOWLEDGE... of the services you provide
RESPECT... for your expertise, credentials and experience as it relates to their need
CHEMISTRY... with you as a person; ability to envision a positive working relationship with you

IWIRC, the premier networking organization for women in the practice of insolvency and restructuring, helps its members achieve productive relationships by providing a range of practice development and networking opportunities that enhance their professional stature within an open and friendly culture. The benefits of IWIRC include:

- 800 global members, comprising many of the senior women in the bankruptcy field, provide a robust network of contacts, an excellent resource for referrals, career guidance, practice expertise and camaraderie.
- Thirty networks worldwide offer opportunities to actively participate at a local level “at home” as well as be welcomed at events in other locations.
- The publicly-accessible member directory promotes each member’s specific expertise, field of practice, experience and capabilities, and is searchable by a set of useful criteria.
- A fast track to leadership positions at the Network and the Board level of the organization is available to all who are actively involved.
- Members have access to programs and tools relevant to their practice.
- Members are invited to speak, publish and/or present their intellectual capital at meetings, via the website, and through mail and email and other channels of communication, enhancing their professional profile.
- An international events calendar is available on the website to keep members aware of the 100+ events that take place annually on a local and regional basis.
- Reduced registration fees for members are offered to the annual Spring Luncheon and Fall Conference, as well as many of the Networks’ regional and local events.
- Members save time and travel dollars on major IWIRC meetings because they are piggybacked with other professional meetings such as NCBJ, ABI, TMA and INSOL.
- A quarterly e-newsletter provides publishing opportunities to members and our online chat rooms helps members stay in touch.
- IWIRC members are able to join INSOL International at a reduced rate.

NEW MEMBER DUES SCHEDULE

Effective September 15, 2009

Standard annual membership	\$225
Contributing annual membership (voluntary)	\$275
New practitioner annual membership (< 3 years in practice)	\$95
Government and Academic annual membership	\$75
Student annual membership (limited to four years)	\$20
Special Limited Offer membership (first-time members joining between September 15, 2009 and January 15, 2010; one time only)	\$100
Transition Benefit: Members who joined for the first time between July 1, 2009 and September 14, 2009	Membership extended by 3 months

Each member selects a primary Network when they initially join; and as always, members are welcome and encouraged to participate in any other Networks events or to be included in their mailing and notification lists.

Separate Network membership dues will no longer be assessed.

MEMBERSHIP DIRECTORY

To utilize as many available tools as possible for IWIRC members to network effectively and efficiently, IWIRC has set up a LinkedIn and a Facebook Group. To join one or both of the groups, please search on "IWIRC" in the groups section of LinkedIn and Facebook and request to join the group. Members must be approved by the IWIRC administrative director.

Another tool available to you for networking and job postings is through the IWIRC forum through the Members Only Section of the IWIRC website, www.iwirc.com. If you need your userid and password, please contact Shari Bedker or Marcy Gravatt at info@iwirc.com or 703-449-1316.

As an added benefit to membership, we will be making the searchable members' directory accessible to the general public in the very near future. Please note that IWIRC members can upload their professional resume/bio through the members only section so that their information is available to anyone who searches the directory.

- If you have not already done so, please take just 2 minutes to go to the members only section of the website [at this link](#).
- If you need your userid and password, please contact info@iwirc.com or 703-449-1316.
- Once you are in the "members only" section, on the left-hand side under "Administration", you can upload your bio and change your password, if you would like.
- To have a photo included with your profile, please send photos to info@iwirc.com so that we can format it properly for the website.

IWIRC Welcomes New Members

who have joined between April 29, 2009 and September 22, 2009

Anne-Marie Barley
Krys & Associates
Grand Cayman, Cayman Islands

Robyn Barrett
Factors Southwest, LLC
Phoenix, AZ USA

Rilyn Carnahan
Markowitz Davis Ringel & Trusty
PA
Miami, FL USA

Diana Casas
Moglia Advisors
Schaumburg, IL USA

Meghan Cashman
Stevens & Lee, PC
Wilmington, DE USA

Deborah Clark
Strategic Capital Corporation
Houston, TX USA

Kelly Conlan
Connolly Bove Lodge & Hutz LLP
Wilmington, DE USA

Susan Barnes de Resendiz
Laredo, TX USA

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Milton, FL USA

Simone Fitzcharles
Lennox Paton
Nassau, NP Bahamas

Karen Gartenberg
Morgan, Lewis & Bockius LLP
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Mariaelena Gayo-Guitian
Genovese, Joblove & Battista, P.A.
Fort Lauderdale, FL USA

Gail Greenwood
Pachulski Stang Ziehl &
Jones LLP
San Francisco, CA USA

Neesha S. Hetcher
Manier & Herod, P.C.
Nashville, TN USA

Jane Hoffner
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Birmingham, AL USA

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O'Keefe & Associates Consulting
Bloomfield Hills, MI USA

Florence V. Lentini
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Carol Levine
Arthur B. Levine Co., Inc.
New York, NY USA

Bindu Liang
Waller Lansden Dortch &
Davis, LLP
Nashville, TN USA

Sue Liu
Brooklyn, NY USA

Margot MacInnis
Krys & Associates
Grand Cayman, Cayman Islands

Cameron McCord
Jones & Walden, LLC
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The Law Offices of Sarah Ludlow
McCurry
Midlothian, VA USA

Maxwell McGee
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Tamara McGrath
FTI Consulting
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Sharon Roth
Walker Truesdell & Associates
New York, NY USA

Gabrielle Scheibe
AlixPartners
Los Angeles, CA USA

Susan Seflin
Los Angeles, CA USA

Reema Shah
U.S. Bankruptcy Court
Voorhees, NJ USA

Maria Sponza
Arthur B. Levine Company
New York, NY USA

Andrea J. Steinkamp
Stout Risius Ross, Inc.
Southfield, MI USA

Leslie F. Su
Andover, MA USA

Simone Tomkins
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