

# BOWLEY • CUFFARI NEWSLETTER

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**Dirty lawyers** Every newspaper occasionally succumbs to a bit of sensationalism and even the Ottawa Citizen has its lapses. Not that long ago, an entire forest was turned into newsprint to detail the sins of every beastly barrister, sleazy solicitor and crafty counselor. In the zeal to get the bad guys, a whole profession was lynched.

Yes, there should be a law against bad lawyers. We like more laws-- they're good for business. But there should also be a law against gullibility and naivety. The best defense against bad people is common sense. So, until the Citizen manages to eradicate all evil, here are a few pointers to keep you out of the clutches of perfidious professionals. Sadly, they're all drawn from real cases.

- beware the confidence man. The guy who whispers in your ear, "This is our little secret" has his hand in your pocket.
- flee the maverick. Trust neither a quack doctor or a quack lawyer. Unless you're personally into conspiracy theories, if the guy seems weird, get a second opinion.
- avoid the lawyer who avoids talking about his costs. You're entitled at least to a realistic estimate for the task at hand.
- when a lawyer offers to do something illegal, immoral or unethical (or asks you to do so), bolt for the door and report the guy.
- almost every lawyer who "goes bad" has some serious personal problem-- drugs, alcohol, gambling, money or psychological. Would you get on a plane if the pilot was on drugs? If you see obvious signs of a life out of control, get away.
- if you ask straight questions and don't get straight answers, go somewhere else. If the lawyer can't explain the case to you, what's he going to do with the jury?

The above rules, by the way, apply equally to investment counsellors, massage therapists and bricklayers. Life's like that.

**Y2K (again!)** Sometime around September the media will suddenly discover Y2K as a survival crisis and all of Ottawa-Carleton will descend on Trailhead, Home Depot and Loblaws to stock up on food, fuel and batteries. Then they'll scurry down to their banks and brokers. Won't that be a hoot!

We like to think that our clients are too clever for that, having already picked up a few extra groceries every week and ordered an extra cord of firewood. You just know there's going to be stampeding and hoarding and silly stuff. Why not take ten minutes tonight after dinner to begin a family preparation strategy for the possible shortages that Y2K (or another ice storm) could bring? An excellent paper on personal preparedness is available at [www.cassandraproject.org/howtoprep.html](http://www.cassandraproject.org/howtoprep.html).

On the business side, Revenue Canada is allowing an accelerated Capital Cost Allowance of up to \$50,000.00 for Y2K computer remediation. In simple terms, this means that necessary hardware and software purchases made before June 30 to replace Y2K susceptible equipment is probably fully deductible. For details, search [www.rc.gc.ca](http://www.rc.gc.ca).

**Dying generously** As government largesse (i.e. your tax dollar) shrivels, charities rely increasingly on gifts. Remembering your synagogue, hospital, or favorite charity is not only generous but can give the estate some very significant tax breaks, a win-win. That tax-saved dollar is leveraged by worthy organizations into significant good, whether in our community or in the third world.

Don't forget, though, that charity begins at home. We always strongly advise that charitable giving should only become a factor in estate planning when the needs of a surviving spouse and dependent children are fully considered.

*"The one who can't dance says the band can't play."*

*Yiddish saying*

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# BOWLEY • CUFFARI

Number 7

Page 2

**Featured Client** Build your business on who you are! That rule, plus plenty of hard work has made **Venus of Europe** at 14 Clarence Street one of Ottawa's most unique and delightful gift shops. Featuring the crystal and crafts of his native Czech Republic, the founder has established **Venus** as the place to obtain quality craftsmanship. We wish them all the best in the years to come.

**A Real Estate Revolution** Title insurance, electronic registration and closing centers are about to turn the practice of residential real estate law inside out. Will consumers get a better deal? Don't hold your breath unless you think insurance companies just got religion. Watch this space for breaking news!

**Succession Planning for the Family Business** You've built the business and it's going strong. Maybe not tomorrow, but sooner or later you're going to turn the show over to the kids, then travel and enjoy the good life. Good plan? Certainly! Easy and foolproof? Not on your life!

Recently we've watched such empires as the McCain Foods family and the Canadian Tire family become embroiled in costly and ugly civil wars. Good estate and succession planning needs to consider the "big picture", not just tax issues. Too often the so-called secondary issues of succession are ignored or left "for tomorrow". Questions such as transferring control, unfriendly spousal claims, income for retiring parents and insurance funding need to be addressed years, and ideally a decade, before the actual event. Creative analysis might lead to spinning off a division, layering shares, locked-in vetoes of certain action by trusted advisors, forced buyouts, "shotgun" provisions or other buy-sell arrangements. Together with the tax issues, the general rule is that the sooner the planning starts, the better the result. Some of the really good stuff just can't be done at the last moment.

Good succession planning can be fairly costly, but it invariably pays for itself many times over, not only in tax savings but in maintaining profitability and

harmony within the family business.

## **Out with the old, in with the same old....**

The good news is that the Supreme Court of Canada struck down Ontario's 1.5% probate fees as being imposed by Regulation and not by Statute (a bit arcane, but correct). However, the court told the province that it could fix the problem retroactively. Consequently, the new *Estate Administration Tax Act, 1998* provides that henceforth there will be a probate tax of 1.5% instead of a probate fee of 1.5%, and that all of the probate fees charged since 1950 will be refunded then collected back as a tax. Got that? Feel better?

**Staying put-- for now** Rumors of our move are greatly exaggerated. In truth, we did look hard at moving the "downtown" office, but everything we liked required a five year lease. Exactly what this firm will look like in five years we don't know, but we thought better of locking into fixed space at this time. We'll stay at the Isabella location at least for the next little while!

## **The Prayer of St. Francis**

*Lord, make me an instrument of thy peace;  
where there is hatred, let me sow love;  
where there is injury, pardon;  
where there is doubt, faith;  
where there is despair, hope;  
where there is darkness, light;  
and where there is sadness, joy.*

*O Divine Master,  
grant that I may not so much seek  
to be consoled as to console;  
to be understood as to understand;  
to be loved, as to love;  
for it is in giving that we receive,  
it is in pardoning that we are pardoned,  
and it is in dying that we are born to eternal life.*

*Francis of Assisi, 13th century*