



Fellow of INSOL International

International Association of Restructuring, Insolvency & Bankruptcy Professionals

Inaugural INSOL Fellows Refresher Course in San Francisco Hailed as a Great Success

Review by Allan Nackan

Fellow, INSOL International
Farber Financial Group
Toronto, Canada

James Sprayregen, immediate Past President of INSOL International, said that “*The Fellowship Program is one of the jewels of INSOL International*”. Those of us who have been privileged enough to participate in the Global Insolvency Practice Course and then go on to be recognized as Fellows of INSOL International, know first-hand what a rich and rewarding experience it really is.

The Fellows Committee is continually working on initiatives to enhance the value proposition of being a Fellow. These include exclusive networking events for Fellows at conferences; promoting frequent, rich communication among Fellows which enhances business referrals; thought leadership opportunities by participation on panels, contributions to INSOL World magazine and other INSOL Publications such as the recent book on Avoidance Proceedings (Fellows contributed to 14 of the 19 contributions to this important project); and much more.

At the San Francisco Regional conference in March 2015, a further important piece was added in the form of the Fellows Refresher Course. The Fellows Committee felt that an opportunity for Fellows to update the core knowledge attained on the Global Insolvency Program, and to learn from each other’s practical experiences would greatly enhance the value of the being a Fellow.

The Refresher course was held on the day prior to the main conference. Content was delivered by Fellows for approximately 33 Fellows who were in attendance. The half-day session was generously sponsored by EPIQ Systems and Archer & Grenier LLP.

Co-Chairs of the jam-packed education session were Lucas Kortmann of RESOR (Netherlands) and Allan Nackan of Farber Financial Group (Canada). Our 11 panelists showcased their expertise as they presented on a broad range of technical topics and real-world case studies.



The opening discussion was titled: *I want that back – Avoidance of Antecedent Transactions and Cross-Border Insolvency*. Presenters were Jean Baron, SCP Caviglioli-Baron-Fourquie (France); Jane Dietrich, Cassels Brock & Blackwell LLP (Canada); and Said Jahani, Grant Thornton (Australia). The legislation and practice in each jurisdiction was compared and contrasted and there was fascinating discussion amongst all Fellows around the strategic importance of “choice of law” in pursuing avoidance actions in cross-border cases.

The next technical panel was a discussion about *The Proposal to Revise to the EU Insolvency Regulation*. Professor Michael Veder, RESOR and Radboud University Nijmegen (Netherlands) provided a crash course in some of the most important areas of reform that are being proposed, including: scope and application of the Regulation; COMI; interconnection of electronic insolvency registers across EU; and Corporate Groups. Mark Craggs, Norton Rose Fulbright (UK) provided practical insights from the UK, particularly regarding the creative practice that has developed around Schemes of Arrangement. Ivo-Meinert Willrodt, PLUTA Rechtsanwalts GmbH (Germany) added a German perspective, including discussion about “synthetic secondary proceedings”.

Next up was *What’s wrong with the Model Law? - Recent Cases and Adoption Issues*. Panelists Scott Atkins, Henry Davis York (Australia); Samantha Bewick, KPMG LLP (UK); and Daniel Saval, Brown Rudnick LLP (USA) led a cutting edge discussion about recent case law from each of their jurisdictions. US cases such as *Fairfield Sentry*, *In Re Barnett* and *Qimonda* have all tested the scope and application of Chapter 15. The SAAD case from Australia, and the *Pan Ocean Co. Ltd.* case out of the UK, have seen challenges to modified universalism.

Going South: Restructuring in Colombia was the next session. Colombia adopted the Model Law in 2006 and, in so doing, it has been a real success story in South America. Diana Lucia Talero Castro, Independent Senior Consultant (Colombia) shared three recent cases. Particularly fascinating was *Stanford International Bank* case, where the Superintendencia de Sociedades denied recognition of an Antigua liquidation proceedings on the grounds of “lack of reciprocity”. In a surprising reversal, the ordinary civil courts recognized the proceedings.

Richard Pedone, Nixon Peabody LLP (USA) wrapped up a stimulating afternoon with *An Insider’s Look at the GTAT (Apple) case*. This high profile Chapter 11 case attracted much media attention because it provided a rare view into Apple’s supplier relationships and how those contractual relationships were tested to the brink in the US Bankruptcy Court.

Lively participation from the audience during all sessions added significantly to the learning experience. This level of engagement flows naturally in a small group who know each other so well and who have highly-developed expertise in their subject area.

Due to overwhelming positive response, the Fellows Refresher will become a regular feature at future INSOL conferences...one of the many enduring benefits of being a Fellow. 🙌