

Canadian Court Relies on Expert Opinion From Partner James Gadsden in Interpreting Indenture Language

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Relying on an expert opinion submitted by partner James Gadsden on the interpretation of an indenture governed by New York law, claims asserted against former officers and directors of Lightstream Resources Inc. in the Court of Queen's Bench of Alberta were dismissed in Reasons for Decision issued on August 27, 2019 by Justice Hollins of that court (*Mudrick Capital Management LP v. Wright*, 2019 ABQB 662). The plaintiffs were investors who held unsecured notes issued by Lightstream Resources Inc. Other noteholders entered into a private exchange offer whereby they exchanged their unsecured notes for secured notes in a discounted principal amount. Lightstream subsequently became subject to an insolvency proceedings and the investments of the unsecured noteholders were lost. The plaintiffs asserted claims under Canadian law for oppression and misrepresentation against the officers and directors by reason of the failure of Lightstream to permit the plaintiff to participate in the exchange. Mr. Gadsden's report addressed the claim the transaction was oppressive by demonstrating that the exchange transaction was permitted by restrictive covenants in the Indenture. The only claim to survive was a claim against one defendant who was alleged to have made misrepresentations to the plaintiffs concerning their ability to participate in the exchange transaction. Mr. Gadsden, a former Chair of the Committee on Trust Indentures and Indenture Trustees of the American Bar Association's Section of Business Law, and the author of the chapter on Corporate Trust Opinions in the *Legal Opinions in Business Transactions* treatise published by Practising Law Institute, has frequently acted as an expert in matters involving indentures for debt securities.

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