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Just Gambling? Ethical Challenges Pertaining to Gambling Provision, Policy and Research

Abbott, Max; Banks, James; Belanger, Yale; Brown, Dan;
Christensen, Darren; Hancock, Linda; Harrigan, Kevin; Johnson,
Mark; Lund, Anna; Markham, Francis...

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Presentation

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La Plus Ça Change?

Canada's 100-Year-Old Law on Bankrupt Gamblers

Alberta Gambling Research Institute

Anna J Lund

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Disclosures:

**Alberta Gambling Research Institute,
Postdoctoral Fellowship (2015-16)**



Overview

I. Bankruptcy 101

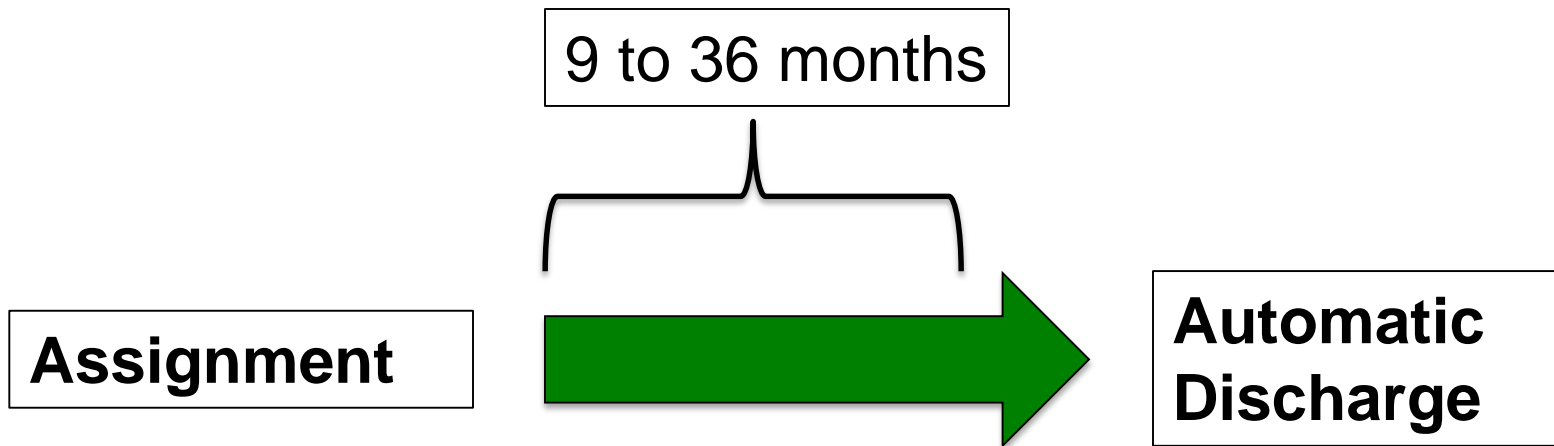
II. The Legislation: *Bankruptcy and Insolvency Act*,
s 173(1)(e)

III. The Practice: Insolvency Trustees & Judicial
Officers

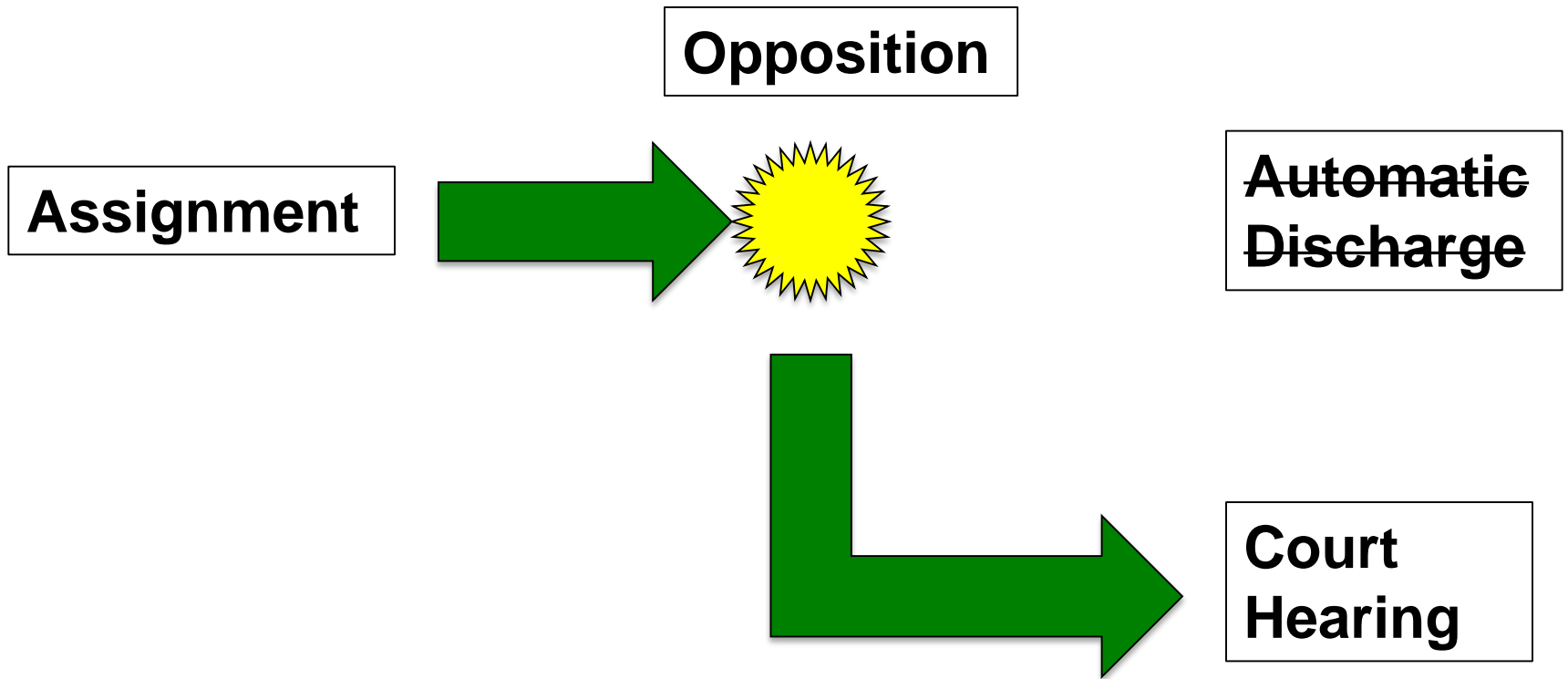
IV. Next Steps



Automatic Discharge



Discharge Hearing



Possible Court Outcomes

Discharge

- Absolute
- Suspended
- Conditional
- Refused

Adjournment



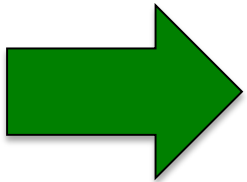
Who is filing oppositions?

Opponent	Oppositions where sole opponent (%)	Oppositions where an opponent (%)
Trustees	87.43	94.27
Creditors	5.03	11.40
OSB	0.32	1.00



Facts for which discharge may be refused, suspended or granted conditionally:

- **Fraud**
- **Multiple bankruptcies**
- **“Unjustifiable extravagance in living”**
- **Frivolous or vexatious litigation**
- **Gambling**



Changes to Gambling in Canada Since 1919

- Legalization & Expansion
- Medicalization



Changes to Legislation Since 1919

Bankruptcy Act of 1919, s 59(e)

“That the bankrupt... has brought on, or contributed to his bankruptcy... by gambling...”

Bankruptcy & Insolvency Act, RSC 1985 c B-3, s 173(1)(e)

“the bankrupt has brought on, or contributed to, the bankruptcy... by gambling...”



CAIRP's Submission to Industry Canada, July 2014

"Clearer directions on dealing with gambling would be helpful where a bankrupt suffers more from a gambling addiction rather than dishonesty."



Methods

(I) Interviews:

- 40 trustees & 3 support staff
- 16 communities in 8 provinces (not PEI or QC)
- A range of offices by volume (i.e., files opened/month)

(II) Case Law Review:

- 78 written decisions from discharge hearings involving bankrupts with gambling debts



Identifying Gambling

Easy Cases

Forthcoming gamblers

Gamblers identified through bankruptcy process

Hard Cases

Gamblers not being identified

People making false claims of gambling



Responses to Gambling

Primary Responses

Always oppose

Only oppose if debtor not addressing gambling

Other Responses

Never oppose

Refuse to file assignment

Recommend proposal



Type of Order	% of Total	Details
Absolute Discharge	1.28%	
Suspended Discharge	48.72%	1 month – 15 years
Conditional Discharge	65.38%	Payment 94.11%; \$547 - \$210,000 Exclusion Order 25.49%; 1.5-5 years Credit Ban 25.49%; 2-5 years Counselling 11.76%
Refused	23.08%	

Recommendations

1. Practice Guidelines

1. Legislative Changes



Questions?

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