

AGAINST THE ODDS – Risk and the Canadian Construction Industry
CALGARY VANCOUVER TORONTO
Nov. 6-7, 2006 Nov. 8-9, 2006 Nov. 13-14, 2006

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In Calgary November 6-7, 2006 (2 days)
 In Vancouver November 8-9, 2006 (2 days)
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Early Bird Special Price: (If you register on or before Oct. 2, 2006)
 2 days @ \$1525 + GST (91.50) = \$1616.50

OR

Regular Course Price: (If you register after)
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AGAINST THE ODDS – Risk and the Canadian Construction Industry
VANCOUVER, TORONTO AND CALGARY

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Dates and Venues:

The Calgary course is being held on November 6-7, 2006 at:
 Calgary Telus Convention Centre, 120 - 9th Avenue SE, Calgary,
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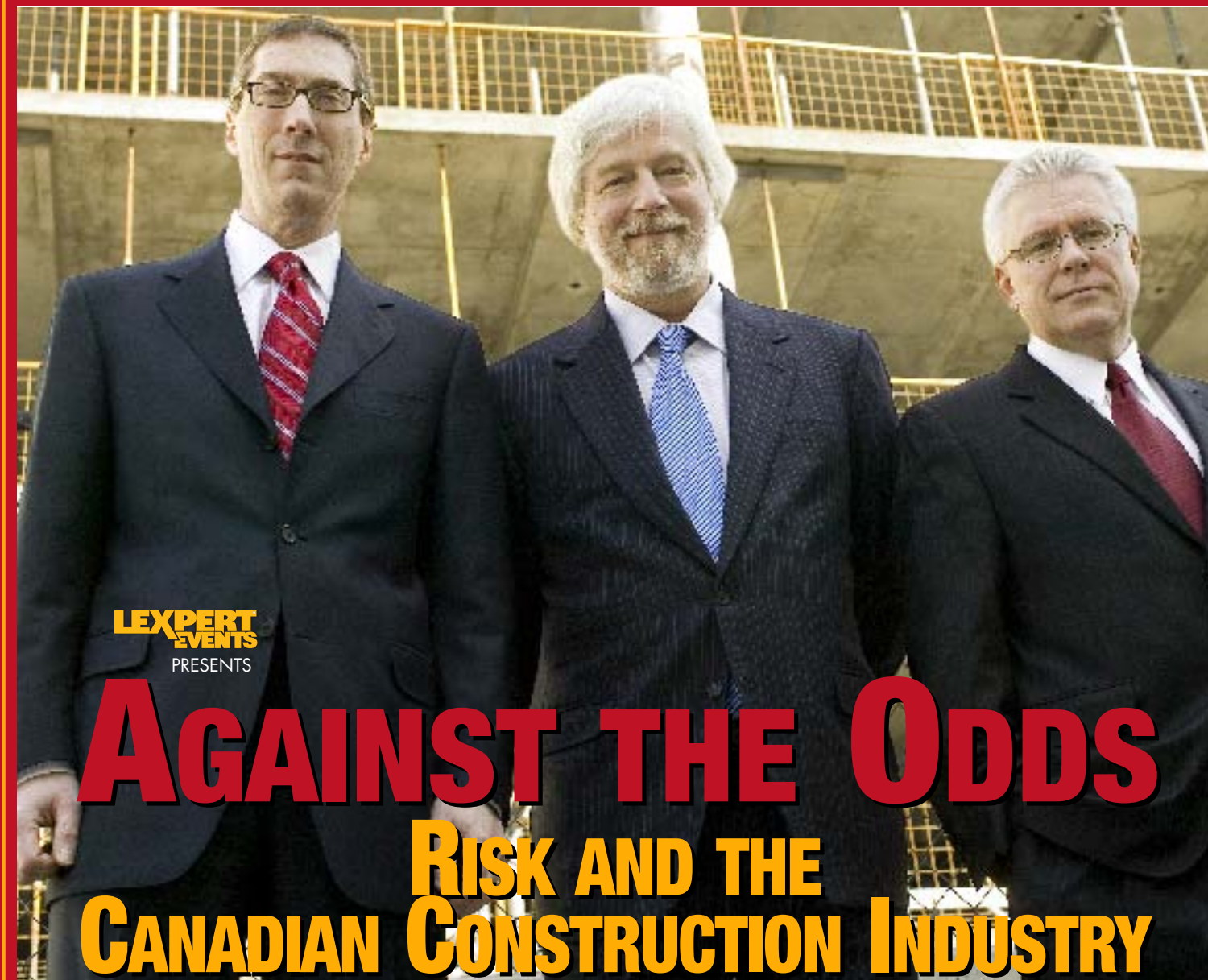
This is a **"MUST ATTEND"** if you are a:

- CEO
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- Architect
- Engineer
- Electrical Contractor
- Mechanical Contractor
- Subcontractor
- Construction Lawyer

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 PRESENTS

AGAINST THE ODDS

RISK AND THE CANADIAN CONSTRUCTION INDUSTRY

Robert F. Scott's last message found after his fatal attempt at the South Pole was this: "We took risks, we knew we took them; things have come out against us, and therefore we have no cause to complain". Are you taking potentially fatal risks in following outdated procurement practises and procedures. The law has moved on, have you? If you don't keep up with new developments, don't complain if they overtake you.

Speakers:

Howard Wise

Partner, Goodmans LLP

Bruce Reynolds

Partner, Borden Ladner Gervais LLP

Duncan Glaholt

Partner, Glaholt LLP

Topics Include:

- Pre-construction risks
- Scope growth & schedule slippage
- Financing concerns
- Responsibility of consultants
- Dispute resolution
- First party contracts
- Insurance
- Court imposed solutions
- Avoiding conflict

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Eman Aboelsaud Toll free at 1-800-342-6288 ext. 5882 or e-mail eman.aboelsaud@thomson.com

Calgary Telus Convention Centre, November 6-7, 2006
Vancouver Executive Hotel Vancouver, November 8-9, 2006
Toronto St. Andrew's Club, November 13-14, 2006



AGAINST THE ODDS

RISK AND THE CANADIAN CONSTRUCTION INDUSTRY

DAY 1

9:00 INTRODUCTION

9:15 Pre-construction Risks

Many decisions are made during the pre-construction phase that have profound effects subsequently. What are the risks? What are the risk management tools at your disposal? How do you use them effectively?

- Standard risk matrices, their uses and abuses
- Choosing the appropriate project delivery model: what works, what doesn't
- Price Structures:
 - Fixed price
 - Cost plus
 - Guaranteed maximum price
 - Force account, time & material
- Project Structures:
 - Design/Bid/Build
 - Design/Build and its variants
 - E.P.C. and its variants
 - P.P.P. and its variants
 - Pros & cons of joint ventures and partnering

10:30 Refreshment Break

10:45 Risks Arising During the Course of Construction

If it can happen, it will. The most comprehensive risk management tools must accommodate the unforeseeable. Who is to take the risk of supervening events? How is that risk to be priced? Who is best able to bear that risk?

- Late design
- Commodity price fluctuations
- Physical changes: access, methodology, dewatering and other subsurface phenomena.
- Scope growth and schedule slippage
- Subtrade default and insolvency
- Financing concerns
- Force Majeure and political risks
- Design errors

12:00 Networking Luncheon

1:15 Dispute Resolution Risks

Complex procurement problems are often solved with the implementation of processes that drive solutions and resolutions. What are these processes? Do they work? Are there alternatives?

- The changing role & responsibility of consultants
- Traditional and non-traditional roles
 - The effect of procurement models on the role of the consultant
 - Their contracts, limitations and exclusions
 - Effect of joint liability

Dispute Resolution models

- Standard form, multi-tier dispute resolution, its pros and cons
- Writing and enforcing notice provisions
- Arbitration and its consequences
- Adjudicative models
- DRB/DAB pros and cons
- Expert determination
- Adjudication on the European model

2:30 Refreshment Break

2:45 Downloading and Offloading Risk Onto Third Parties

There are well-established markets to take up selected risks, failing which there is always someone willing to gamble or buy into risk. Do you get what you pay for in insurance and surety markets? What is it that you are buying? When you sell risk to another, is it a good bargain?

First party contracts:

- Exclusion and limitation clauses: testing the limits of enforceability
- Bonus/penalty provisions
- Claim pass through and pay-if-paid clauses: testing the limits of public policy

3:30 Third party contracts:

- Insurance: what does the market offer; what are the exclusions and limitations?
- Bonds: what does the market offer; what are the limitations of surety bonds?
- Subcontractor default insurance: what is it and does it work?

Court imposed solutions:

- Good faith/bad faith in negotiation and contract performance
- Economic loss for beginners

4:15 Delegates Open Forum

DAY 2

9:00 WORKSHOP #1: Avoiding Conflict vs. Managing Conflict

- Is there good conflict and bad conflict?
- Managing conflict to grow your organization
- Values and ethics for the construction professional in a confrontational world

10:30 Refreshment Break

10:45 WORKSHOP #2: Adjudication in Depth

- Adjudication in the UK
- Adjudication by contract
- Major policy issues
- Managing for change

12:00 Close of Conference



Howard Wise
Partner, Goodmans LLP

Howard is a partner with Goodmans LLP specializing in the areas of construction law and commercial litigation. Howard is retained as counsel by owners, general contractors, subcontractors, material suppliers and lenders in large construction claims and negligence claims. Howard litigation practice includes trial and appellate work, as well as mediation and arbitration of construction disputes. He has also acted for owners and contractors in negotiating complex construction contracts including design build agreements, alternate finance agreements and EPC Contracts. Howard is the author of the *Manual of Construction Law*, co-author of *Construction, Builders and Mechanics Liens in Canada* (7th Edition), both published by Carswell, and is a contributing author to *Construction Disputes: Representing the Contractor* (Aspen Publications, New York). Howard is a Founding Fellow of the Canadian College of Construction Lawyers, and is past Chair of the Canadian Bar Association Construction Law Subsection.



Bruce Reynolds
Partner, Borden Ladner Gervais LLP

Bruce Reynolds is the National Leader of the Construction Law Practice Group of Borden Ladner Gervais LLP. He focuses his practice on both the contentious and non-contentious aspects of construction and surety law. He is the co-author of the text *Scott and Reynolds on Surety Bonds* (Carswell, 1993). He is also a co-author of *Construction, Builders and Mechanics' Liens in Canada*, 7th Edition (Carswell, published 2005). Mr. Reynolds is a member of the Board of the Surety Association of Canada and a past member of the Executive of the CBA Construction Law Section. He was a member of the Executive of the Construction Law Section of the OBA for over ten years, including two years as Chair of the Construction Law Section of the OBA. He is an Affiliate Member of the ABA and a former Vice-Chair of the Fidelity & Surety Law Committee of the Torts & Insurance Practice Section of the ABA. He is also a member of the ABA's Forum on the Construction Industry. Mr. Reynolds was a Founding Fellow of the Canadian College of Construction Lawyers. He has served on the Board of Governors of the College for nine years, and served as President of the College for 2002-03. In 2005 Mr. Reynolds became a Member of the Chartered Institute of Arbitrators.



Duncan Glaholt
Partner, Glaholt LLP

Duncan W. Glaholt is the founder and partner of the nationally recognized construction law firm of Glaholt LLP. This firm is consistently rated one of the province's most highly recommended construction law practises. Mr. Glaholt is an experienced arbitrator and mediator and is a member of the Chartered Institute of Arbitrators. He is certified as a Specialist in Construction Law by the Law Society of Upper Canada. He is the author of *Construction Trusts and Conduct of a Lien Action*, co-author of the annual *Annotated Construction Lien Act* and co-author of *Construction Builders' and Mechanics' Liens in Canada*, Bristow, Glaholt, Reynolds & Wise. Mr. Glaholt is currently a Governor, Founding Fellow and Immediate Past President of the Canadian College of Construction Lawyers. Mr. Glaholt is a frequent speaker, mediator and arbitrator and sits as Vice-chair of the William Osler Health Centre.

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