

Navigating A Perfect Storm

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Goodmans^{LLP}



Contents	Tab
Goodmans Presents: Navigating A Perfect Storm Superior Glass Design Inc. Facts	1
Issues and Crisis Management and Risk Lesson Learned	2
Organization Bios and Presenter Bios	3
McCain Foods Limited Ketchum Canada Goodmans LLP	
Christa C. Wessel Geoffrey Rowan Stephen H. Halperin Celia Rhea John A. Keefe Robert J. Chadwick	



This program has been accredited by the LSUC for 1.0 Professionalism Hour and 0.5 Substantive Hours for a total of 1.5 CPD Hours.

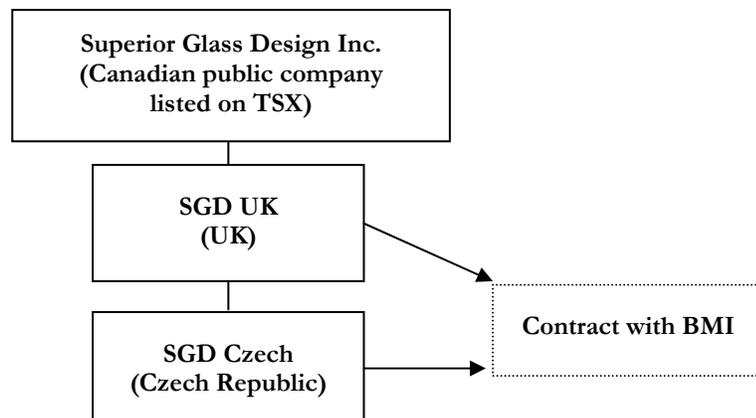
Please note: the program has also been accredited for 1.5 New Member Hours.

Superior Glass Design Facts

Basic Facts

- Superior Glass Design Inc. (“SGD”) is a manufacturer of glass products and has been in business for over 30 years
- Canadian public company (listed on the TSX) with international operations
- Headquartered in Toronto
- SGD recently acquired a UK corporation with subsidiaries in the Czech Republic – the acquisition increased the size of the company by 50%
- SGD Czech and SGD UK have a material contract with British Memorabilia Inc. (“BMI”) to manufacture memorabilia glassware relating to the wedding of Prince William and Duchess Katherine
- EBITDA from the BMI contract is expected to represent 50% of SGD Canada’s EBITDA for the current fiscal quarter

Corporate Structure



Cast of Characters

- General Counsel for SGD Canada
- Mr. Jonas – Member of the Board and Chair of Audit Committee
- Mr. Kovak – Financial Manager, Czech Plant
- CEO of SGD Canada
- CFO of SGD Canada
- CEO of SGD UK
- Local counsel, Czech Republic
- Plant Manager, Czech Plant

Part I: Initial Problem

7:00 a.m.

- As General Counsel for SGD Canada, you are informed by e-mail of an early morning fire at the plant in the Czech Republic
 - Damage assessment is underway but no injuries reported
 - Fire has made news in Prague, but not in Canada
- You receive an urgent call from CEO of SGD UK – he is concerned and wants to discuss impact of the fire
- You know your CEO has a meeting with an important client that morning and decide to tell him once the meeting is over. You scramble to get to the office!

8:00 a.m.

- You arrive at work and have a message on your phone from your Canadian CEO
- The Canadian CEO also received call from CEO of SGD UK but had no idea what he was talking about. He wants to know what's going on ASAP!

9:00 a.m.

- Your CFO is at your office door to confirm he can sign the drawdown certificate for a scheduled normal course draw on SGD's syndicated credit facility

9:30 a.m.

- A frantic call comes in from Mr. Jonas (member of the Board and chair of Audit Committee) who is on vacation in Prague
 - Mr. Jonas had arranged to visit the plant and learned of the fire upon arrival
 - Mr. Jonas mentions that no one seems able to reach the Plant Manager

10:00 a.m.

- The Canadian CEO's assistant lets you know that he has planned a meeting with an important analyst at 4 pm (Toronto time)
- When you suggest that the meeting be cancelled, he refuses

Part II: The Problem Escalates

10:30 a.m.

- In your overloaded email inbox, you see an e-mail from Mr. Jonas, who said he feels compelled to advise other Board members and attaches a draft e-mail that he will send in 30 minutes...that was 45 minutes ago
- He copied you on email to the Board (“to ensure privilege” he said) – email uses very strong language about Czech situation
- E-mails from directors are now flooding in

11:00 a.m.

- You receive a call from the TSX Market Surveillance group
- They’ve noticed unusual trading on the stock and are asking about plans for disclosure of the fire in Prague

11:15 a.m.

- You had put Mr. Kovak (financial manager for SGD Czech who only speaks Czech) in touch with your outside counsel in Prague who calls you to debrief after the meeting:
 - Mr. Kovak had an argument with Plant Manager the week before about unexplained payments and threatened to bring this “right to the top” if he didn’t get answers from the manager
 - He believes Plant Manager was unable to meet BMI contract milestones and suspicious payments have been payoffs to BMI reps for falsifying reports,
 - He suspects that Plant Manager set fire to plant in an attempt to cover tracks
- Serious questions exist about whether SGD Czech will be able to perform contractual obligations with BMI

Part III: Starting to Deal with the Problem

2:00 p.m.

- The CFO is back in your office:
 - He has been briefed by the COO that situation in Prague is more than “just” a fire
 - Having delivered the drawdown certificate to agent bank earlier, he wants to know if he will become personally liable for signing it
 - He wants to know if he should call the agent bank for the lending syndicate to update them
- Loan proceeds are not expected to be received from lending syndicate until tomorrow
- Without the funds from this drawdown, SGD will be in a serious cash crunch

2:30 p.m.

- CEO of SGD UK calls you, having received the whole story from outside counsel in Prague, he is demanding to be the sole point of contact for SGD with BMI
- He asks you what will happen if there is a major issue with the BMI contract. Will the parent company support the European operations?

3:00 p.m.

- You prepare a press release to be issued before markets open tomorrow and provide a draft to BMI for comment
- BMI is adamant that there be no press release until they are able to get their own experts on the ground in Prague to assess the situation - they say it will take 48 hours.
- The CEO of SGD UK agrees with BMI and has asked that he be permitted to participate in the board meeting when the disclosure discussion takes place
- You relay his request to the Canadian CEO, who tells you that if the UK CEO keeps it up, he will get himself fired

Issues and Crisis Management

Preparedness

map...

Your **values**, **audiences**,
assets, **monitoring**

engage...

How **early**, How **often**;
Identify **right channels**,
right tools, **right tone**

plan/train...

Plan and test, **before the crisis** (you'll wish you had)

Response

diagnose...

Problem, assess **potential impact**, define **desired outcome**

manage...

Respond with most **appropriate voice**, through the **right channels**, with **transparency**

redefine...

Align actions and words, measure, understand, improve



For more information, contact:

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Loss Cause:

- Background to the issue
- Description of Loss – what, when, where, who
- Enter picture



Contributions to Severity

- Factors impacting the loss

Financial

- Financial Implications

Response

- Emergency response, was it activated, what did it do
- Where there outside agencies involved

Lessons Learned

- What was learned as a result
- Root Causes Identified
- What was Implemented

Contact: Contact (Enter Name) for more information.

Organization Bios



McCain Foods Limited is an international leader in the frozen food industry, employing approximately 19,000 people and operating 50 production facilities on six continents. A privately owned company headquartered in Florenceville and Toronto, Canada, McCain generates annual sales of about CDN\$6 billion. McCain is the world's largest manufacturer of frozen potato specialties and also produces other food products, including pizza, appetizers, oven meals, juice and desserts. The company's products can be found in thousands of restaurants and supermarket freezers in more than 160 countries around the world. McCain also owns The Day & Ross Transportation Group, which is based in Hartland, New Brunswick and is one of the largest transportation companies in Canada.



Ketchum Canada is the Canadian arm of Ketchum, one of the world's largest and most respected full-service public relations agencies.

Operating in Canada for more than 25 years, we support a wide range of corporate, consumer, healthcare and technology clients with corporate reputation, public affairs, government relations, brand management, consumer marketing, social and digital media, financial communications and much more.

Headquartered in Toronto, we serve our Canadian clients in every region of Canada and in both official languages. Globally, Ketchum operates in 70 countries with 103 owned and affiliated offices worldwide.



Goodmans LLP is recognized internationally as one of Canada's premier transaction law firms because our lawyers and clients are industry leaders. Our lawyers excel in their fields to help clients excel in theirs – both ensuring ever-higher levels of service and business success. Further, we offer a unique combination of skills – spanning business law and litigation; public and private; tradition and innovation. With a strategic entrepreneurial history and deal-making mindset, Goodmans lawyers deliver intelligent solutions, responsiveness, energy, talent, and determination to get the deal done. It's more than just legal services; it's strategic business advice. Clients appreciate our dedication to exceptional service, community partnership and mutual respect. That's why so many clients have been with the firm since their businesses began – for over 30 years in some cases. Even now, with clients among Canada's largest corporations, financial institutions and multinationals, the firm honours its roots – in client service and in community service.

Speaker Bios



Christa C. Wessel

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Christa C. Wessel, B.A., LL.B., C. Dir., is the Chief Legal Officer of McCain Foods Limited and is responsible for the global legal function. McCain Foods Limited is a global leader in the frozen food industry and the world's largest supplier of French fries and potato specialties. McCain operates more than 50 production facilities around the world and has sales in 130 countries. McCain also owns Day & Ross Transportation Group, a leader in the North American transportation business.

As General Counsel for Siemens in Canada from 2002 to 2008, Christa was instrumental in the establishment of the Regional Compliance Office for Siemens in Canada, as well as the design and implementation of the ethics and compliance program.

Christa has been involved in a variety of community initiatives and has served on several boards including Oakville Hydro Electricity Distribution Inc., Halton Healthcare Services Corporation and Oakville Christian School. She also served as a member of the board of Siemens Canada Limited as well as several of its Canadian affiliates.

Christa is a frequent speaker at conferences pertaining to compliance and ethics, and has written several articles concerning governance, compliance and ethics in the corporate setting.

Christa was called to the Bar in the Province of Ontario, Canada in 1986. She is currently pursuing a Certificate in Enterprise Risk Management at the University of Toronto.



Geoffrey Rowan

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Geoff Rowan brings more than 30 years of communications and public affairs experience in the U.S. and Canada to his work with Ketchum clients. More than 20 years of that experience was as a business journalist, writing for major print and broadcast outlets in both countries.

His work in public relations/public affairs has involved high stakes reputation management, stakeholder relations, influencer relations and brand development across many sectors. His background includes extensive public affairs counsel, issues management and corporate reputation management and visibility programs. He has provided communications counsel to Ketchum clients on issues including energy policy, telecommunications, productivity and innovation, mergers and acquisitions, corporate social responsibility and philanthropy programming, bilateral trade, labour relations, transportation, climate change, NGO relations, and international mining standards among others.

He is also experienced in stakeholder relations programs that include all levels of government, industry organizations, public and private companies, unions, academia, financial and industry analysts and employee communications.

As managing director of Ketchum in Canada, Geoff has been responsible for pulling together a team of Canada's best communications professionals, while guiding the Canadian subsidiary of one of the world's most respected public relations firms.

He is a graduate of The Institute For Corporate Directors' Corporate Governance Course, offered through the University of Toronto's Rotman School of Management. The program provides an "Accredited Director" designation to those who successfully meet its criteria. He is also a graduate of Syracuse University's Newhouse School of Public Communications.

Geoff is a member of the board of directors of MedicAlert Canada. He is married, with three children.



Stephen H. Halperin

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Profile

Steve Halperin is a partner and member of the Executive Committee and co-chair of the corporate securities group at Goodmans. His practice has for many years been focused upon transactional corporate and securities law, with particular emphasis on domestic and international corporate finance, mergers and acquisitions and corporate governance matters. Between late 2007 and early 2009, Steve acted as lead counsel to the Pan-Canadian Investors Committee for Third Party Asset Backed Commercial Paper, which initiated and successfully implemented the \$32 billion restructuring of that market.

Steve was described by *International Financial Law Review* as “one of the most experienced and respected M&A counsel in Canada”; was one of six lawyers profiled as “elite mergers and acquisitions lawyers” in *The National Post* (Canada); and one of seven lawyers profiled as the “Top M&A Lawyers in Canada” in *The Daily Deal* (USA). He is one of three Canadians designated as “star performer” (highest rating) in Corporate/M&A in *Chambers Global Guide to the World’s Leading Lawyers (UK)* – and the only Canadian to have held that designation for the past six years. *Chambers Global* has described Steve as “universally acknowledged to operate at the very top level”, a “go-to guy, particularly for complex, larger scale corporate finance and M&A” and “as good as it gets in Canada”. He was selected by Lexpert as one of Canada’s “Top 30 Corporate Dealmakers” and one of Canada’s 100 Most Creative Lawyers”. He has also consistently received the highest rating in various fields of corporate and securities law in several Canadian and international survey based rating services.

Steve has been selected as the 2012 Best Corporate Lawyer in Toronto by *Best Lawyers in Canada* and has been named by *Euromoney* as one of the 25 leading capital markets lawyers in the world.

Steve has developed particular expertise in significant cross border M&A and similar strategic transactions involving Canadian targets and foreign investors/acquirors, both negotiated and unsolicited. Examples of clients for which Steve has led Goodmans’ representation in such transactions include:

- Norilsk Nickel (Russia) in its initially unsolicited, and ultimately board-supported, \$6.8 billion acquisition of LionOre Mining International;
- TOTAL S.A. (France) in its initially unsolicited and subsequently board approved \$1.5 billion acquisition of UTS Energy;
- Fortress Investment Group (USA) in its negotiated \$2.8 billion acquisition of Intrawest;
- Royal Group Technologies, in responding to Cerberus’ unsolicited acquisition proposal and its subsequent negotiated \$1.7 billion acquisition by Georgia Gulf (USA);
- Avion Group (Iceland) in its unsolicited bid for, and successful \$500 million acquisition of, Atlas Cold Storage;

- British Telecom PLC (UK) in its two strategic investments in major Canadian telecommunications companies for (\$2 billion);
- Battle Mountain Gold Company (USA) in its \$2 billion merger with Hemlo Gold Mines Inc.

He has also led Goodmans' teams in numerous high profile domestic M&A transactions, including: *Schneider-Maple Leaf-Smithfield*; *Diamond Fields* – Falconbridge-Inco; *Abitibi-Consolidated* – Donohue; *Hummingbird* – Open Text; *Mackenzie Financial Corporation* – CI Fund Management – Investors Group; *ZENON Environmental* - General Electric; Forzani Group-*Canadian Tire*, (Goodmans' client in italics).

Steve is also a member of the bars of, and has practiced in, Quebec and Alberta. A past member of the Securities Advisory Committee appointed by the Ontario Securities Commission (“OSC”), he is currently a member of the OSC’s Senior Securities Lawyers Advisory Group. He has held several public company directorships and is currently a director of Cott Corporation. He is also a governor and member of the Resources Committee of Mount Sinai Hospital and has been active in various community and charitable organizations.

Steve has a strong commitment to legal education. He taught Advanced Corporate and Securities Law at the University of Toronto Law School for seven years and has lectured at several other Canadian law schools, and presented major papers on corporate and securities law topics at the Law Society’s Special Lectures; Meredith Memorial Lectures (McGill University); and Queen’s Annual Business Law Symposium.

Education

Concordia University, B.A. (Hons), 1972
McGill University, BCL, 1975
McGill University, LL.B., 1978

Professional Affiliations

Bar Associations of Quebec, Alberta and Ontario



Celia Rhea

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Profile

Celia Rhea is a partner at Goodmans. As the former head of one of the business law sections, Celia has played a critical role in building Goodmans' corporate practice. She joined Goodmans in 1988 and has been a partner since 1992.

Celia has a transactional practice that encompasses private equity, financing, mergers and acquisitions, restructuring and workouts.

Recent mandates Celia has been involved in include representing:

- Canwest Media's noteholders in the \$2 billion acquisition of Canwest Global's broadcasting assets by Shaw Communications
- Postmedia Canada Corp. in its \$1.1 billion acquisition of Canwest's publishing business and ongoing corporate matters
- Masonite International in its cross-border restructuring and ongoing corporate matters
- the investor group led by Teachers' Private Capital in the \$52 billion proposed acquisition of BCE
- Tembec Inc. in its US\$1.2 billion recapitalisation
- as Canadian counsel to Thomas H. Lee Partners and Fidelity National Financial in the financing of their US\$5.3 billion acquisition of Ceridian Corporation.

Celia is a frequent speaker at industry conferences and is recognized as a leading lawyer by various legal publications including Lexpert®, Chambers, IFLR and *The Best Lawyers in Canada*.

Education

University of Western Ontario, B.A. (Huron College), 1980
McGill University, LL.B., 1984

Year of Call

1986 Ontario



John A. Keefe

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Profile

John Keefe is a partner in the Litigation Group at Goodmans. John practises commercial litigation with emphasis on commercial disputes, white collar crime and securities fraud, domestic and international arbitration, competition law and injunctions. He has appeared before the Supreme Court of Canada, the Federal Court and all levels of Court in Ontario and before numerous administrative tribunals.

His practice involves issues involving complex commercial disputes, which are usually international in nature. He has also been involved in numerous matters relating to white collar crime and securities fraud including corporate governance issues, internal investigations, cross-border investigations, employee dishonesty, conflict of interest, theft of trade secrets, tracing assets, money laundering and the bribery of foreign officials. He has acted as counsel to boards of directors, audit committees and special committees to investigate allegations of corporate misconduct and conflict of interest. John is the past Secretary of the Section on Business Crime of the International Bar Association.

He has also acted as counsel and arbitrator in numerous domestic and international arbitrations including those that fall under the rules of the International Chamber of Commerce, the American Arbitration Association, UNCITRAL Model Law, the Zurich Chamber of Commerce, and the Ontario International Commercial Arbitration Act.

He is a member of the Canadian Panel of Arbitrators of the International Chamber of Commerce and the British Columbia International Commercial Arbitration Centre. He is a past director of the Arbitration and Mediation Institute which has recognized him with its Chartered Arbitration (C. Arb.) designation. He is a past director of the Advocates' Society, the organisation that represents all trial lawyers in Ontario.

John is regularly recognized as a leading practitioner in the *Canadian Legal Lexpert Directory* (corporate commercial litigation, commercial arbitration, and securities litigation), the *Lexpert/American Lawyer Media Guide to the Leading 500 Lawyers in Canada* (international arbitration), *Chambers Global Guide to the World's Leading Lawyers for Business* (dispute resolution), *Best Lawyers in Canada* (alternative dispute resolution, corporate and commercial litigation, international arbitration and securities) and *Euromoney's Guide to the World's Leading Litigation Lawyers and Experts in Commercial Arbitration*.

John is credited with a number of speaking engagements and has written many articles. He was an adjunct professor of Trial Advocacy at the University of Toronto Law School for over 15 years.

Education

University of Toronto, B.A., 1971
University of Toronto, Faculty of Law, LL.B., 1974

Year of Call

1976 Ontario



Robert J. Chadwick

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Profile

Robert J. Chadwick is a partner and a member of the Executive Committee at Goodmans. He practices corporate and commercial law and in the areas of corporate restructuring and insolvency, financial services and private equity law. Rob focuses his practice on corporate, banking, private equity, insolvency and reorganization law and mergers and acquisitions. He also has expertise in national, cross-border and international transactions. Rob has participated in significant financings and acquisitions and other transactional matters in various industries on behalf of a diverse group of clients. He has been an advisor in many of the major Canadian and cross-border commercial matters and restructurings. He is also an advisor to a number of boards of directors of companies in Canada.

He is recognized as a leading practitioner of insolvency and restructuring law by several leading industry guides including *The Canadian Legal Lexpert Directory*, the *Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada*, the *Lexpert Guide to the Leading US/Canada Cross-Border Corporate Lawyers in Canada* and *Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada*, *Chambers Global Guide to the World's Leading Lawyers*, *PLC Which Lawyer?*, *PLC Restructuring and Insolvency Handbook*, *Euromoney's Guide to the World's Leading Insolvency and Restructuring Lawyers*, *IFLR1000*, *The International Who's Who of Insolvency and Restructuring Lawyers and Best Lawyers in Canada*. In 2002, he was named by Lexpert as one of Canada's "Top 40 Lawyers Under 40". He is a member of the Ontario Bar Association, INSOL International, the Insolvency Institute of Canada, and other professional organizations.

Education

University of Western Ontario, LL.B.
Dalhousie University, B.Comm.

Professional Affiliations

Law Society of Upper Canada
Ontario Bar Association
INSOL International
Insolvency Institute of Canada
American Bankruptcy Institute
Turnaround Management Association