



# Securitization Bulletin

Corpfinance International Limited

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## Burns' Briefs

### SECURITIZATION IS SECURE

A Court Victory for Widows and Orphans and for Securitization.

A recent case decided by the Ontario Court of Appeal upheld a securitization transaction as being "a true sale" of the assets which were securitized and not a "borrowing".

In summary, the question the Court had to decide was whether a securitization transaction breached a restrictive covenant which prohibited Telus from redeeming bonds "by the application, directly or indirectly, of funds obtained through borrowings". Telus entered into a securitization transaction and used the lower cost proceeds to redeem its 11.35% bonds some of which were held by a fund to benefit Widows and Orphans of Toronto Police Officers.

The case, Metropolitan Toronto Police Widows and Orphan's Fund v. Telus Communications Inc. is important because it is the first case in Canada to consider the requirements of a "true sale" from a legal perspective in the context of securitization.

I do not propose to bore you with the details of the case but I want to bring to your attention a couple of points to refresh your understanding of our structure and some of its benefits. The trial judge stated that:

"The basic concept of securitization is that a corporation

raises cash by selling certain of its assets to a special purpose vehicle an ("SPV") such as CFI Trust or CFI Asset Trust "which, in turn, issues securities to investors in the market to raise the purchase price of the assets purchased from the corporation. The sale of the assets by the corporation to the SPV is structured in such a way that it removes, to the extent practical, the assets from the estate of the corporation in the event of the bankruptcy or insolvency of the corporation".

Some of the benefits of securitization, in terms of having the assets bankruptcy remote, are to allow the Trust to raise funds less expensively than the corporation doing it directly; providing balance sheet leverage; and the potential for significant capital tax savings, all hinged on that characterization

Don't worry about the Widows and Orphans of the Toronto Police Force. The Court found that since the money was borrowed by the Trust to pay the purchase price for the securitized assets, the redemption breached the covenant as being funds "directly or indirectly" from borrowing so they got back their 11.35% bonds.

As you will appreciate, this decision has been welcomed by the financial community for confirmation of the legal effect of securitization. If any of your colleagues in the leasing business were holding off securitizing with us for this type of confirmation, then pass this along and have them call us at CFI.



## Rozmin's Corner

While both General Motors and the Leafs lost ground with investors and fans alike last week, GM took the pragmatic approach with a proposal to sell a 51% stake in GMAC to generate much needed cash for GM and revive its sinking credit rating. The Leafs, however, sans Belfour whose back injury is totally comprehensible as he carried the team on his back during the preliminary round, blamed their fragile psyche and mental errors for losing ground on the run up to the play-offs.

Short term rates however have been on the up tick on both sides of the border. The Feds raised rates 25bps earlier this week and will probably follow suit at the next meeting in May and hold ground thereafter as higher energy prices, a slower housing market and a pressurized debt load take a toll on the consumer spending and lower economic momentum. The Canadian money market is priced in for another 25bps rate hike in April taking the bank rate to 4% (prime rate to 5.75%) and a pause thereafter for the balance of the fiscal year. The 2 year bond hasn't gained much ground since last month - currently trading at 3.98% (3.95% last month) which would put the rate to fix with

CFI at 5.48% while the rate to float at 5.14%. It should be noted that market has partially priced in the April Bank of Canada rate hike into the 30 day commercial paper rate, hence the higher floating rate.

Both Canada and United States experienced modest vehicles sales growth in the first quarter of 2006 but despite the increase both GM and Ford announced lower production schedules for the second quarter. In Canada the growth came from European auto sales with Mercedes recording a 25% surge year to date. The increase sales though is geographically dispersed with Alberta outperforming as it thrives off the oil sands and energy boom while Ontario endures the effects of manufacturing layoffs and a soaring loonie.

With the short term rates inching up, CFI originators have opted to fix portions of their portfolio and lock in rates taking the fix-float combination to 63%-37% from 65%-35% two months ago, with most originators diversifying internally with 55% of the individual fleet fixed and the balance floating.

