

## Course Outline

**COURSE:** LAWS 3206A

**TERM:** Fall 2012

**PREREQUISITES:** PER CALENDAR

**CLASS:** **Day & Time:** Mondays from 6:05 PM to 8:55 PM  
**Room:** Please check with Carleton Central for current room location.

**INSTRUCTOR:** Samuel Schwisberg  
**(CONTRACT)**

**CONTACT:** **Office:** Loeb B442  
**Office Hrs:** Mondays 5:30 to 5:55 PM and by appointment  
**Telephone:** 613 740 1965  
**Email:** samuel.schwisberg@redcross.ca

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You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

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## **COURSE DESCRIPTION**

The laws of Canada relating to banking will be explored within the context of the international and domestic financial systems. Students will be exposed to the constitutional and regulatory framework, and will then consider the U.S. subprime mortgage/credit crisis. We will discuss whether the Canadian regulatory framework insulated Canada from a similar event. We will consider how the regulation and economics of banking interact with international trade, sovereign debt (looking at current EU and American government debt issues) and the economic health of a country. This will be followed by a more detailed examination of the key relationships among banks, account holders and borrowers. The rights and obligations of customers will be examined. Elements of

creditor/debtor law will also be considered. The legal implications of e-commerce and e-banking will be discussed.

**Lecture format:** The lectures will generally entail explanation of or elaboration upon the course materials by the Instructor. Each lecture will cover previously assigned readings, and assist students to focus upon the key issues to consider in the readings assigned for the following week. The Instructor will encourage interchange with students and active discussion among students of the concepts covered during the lecture. There will be a small evaluation at 3 of the lectures and students are expected to complete 2 of the 3 evaluations. See the evaluation section below for more details.

**Syllabus:** The table of contents of the Text Book supplemented orally by the Instructor throughout the term and by selected reading materials available on the Web or in-class handouts, as periodically assigned.

**Objective:** The student will gain a good understanding of the key legal issues in banking law particularly as they relate to customers as well as some grounding of the interplay between bank regulation and economics.

## **REQUIRED TEXTS**

M.H. Ogilvie, Banking Law: Cases and Materials, 4th edition, (Toronto: Captus Press, 2008) (“The Casebook”).

M.H Ogilvie, Bank and Customer Law in Canada, (Toronto, Irwin Law Inc., 2007) (“The Text”).

Occasional Handout

## **SUPPLEMENTARY TEXTS**

The following texts are not examinable except the extent to which they are covered in class. Class notes will suffice for examination purposes. These readings are for those interested in learning beyond the parameters of the course.

Martin Wolfe, Fixing Global Finance, (The John Hopkins University Press, 2010)

Andrew Ross Sorkin, Too Big to Fail, (Penguin books, 2010)

Allan M. Taylor, “The Financial Rebalancing Act”, Foreign Affairs. Pages 91 to 99, July/August 2011

## **EVALUATION**

**(All components must be completed in order to get a passing grade)**

Class Feedback Sessions	<b>10%</b>	<b>See below</b>
Participation	<b>10%</b>	<b>See below</b>
Mid -Term Examination (2.5 hours)	<b>35%</b>	<b>October 22, 2012 (in class)</b>
Final Examination (3.0 hours):	<b>45%</b>	<b>Formal Examination Period</b>

**Class Feedback Sessions and Participation** At the conclusion of 3 lectures, those of **OCTOBER 15, NOVEMBER 5 AND DECEMBER 3**, students will be given up to 45 minutes to respond in writing to one or two general questions, provide feedback on what they have learned and describe how they have participated in class

to that point. These sessions will be entirely open book. Students must write two of these and can write all 3, in which case the best two results will be chosen. Each feedback session will be worth 5%. The description of how the student has participated to that point will help the instructor fairly assess the participation mark, worth 10%. So, in summary, two class feedback session papers will each be worth 5%, for a total of 10%, but the student can write all 3 in which case the best two results will be used. As for the participation mark, it will be determined by the contribution a student makes to class discussions over the course of the term. A student who is uncomfortable speaking in front of others may opt out of the participation mark, write all 3 class feedback session papers and meet the professor during the last scheduled class, or another time near the end of the term and by appointment, to discuss the course content for 15 minutes. The participation mark will be graded on the basis of this interview for any student who selects this option. **A student choosing a personal interview over class participation as the basis of grading for the 10% participation mark must communicate this choice to the Professor in writing or by email on or before NOVEMBER 12, 2012, OTHERWISE THIS GRADE WILL BE ASSIGNED ON THE BASIS OF CLASS PARTICIPATION.**

## **SCHEDULE**

<b><u>Lecture</u></b>		<b><u>Topic and/or Reading</u></b>
September	10	<u>Introduction</u>  Review of key business concepts relevant to banking; Sources of liability; forms of business organizations; Contract law and banking; guarantees and mortgages; floating charges, secured and unsecured creditors; the litigation process  <b><u>Readings:</u></b> No assigned reading
	17	<u>The Constitutional context and international framework</u>  <b><u>Readings:</u></b> Text, chapter 1 Casebook, pages 1-64
	24	<u>The Regulation of Banks and Banking in Canada</u>  <b><u>Readings:</u></b> Text, chapters 2, and 3
October	1	<u>The 2008 Global Financial Crisis and Banking: Did Regulation spare Canada?</u>  <b><u>Reading:</u></b> Hand-outs provided in prior weeks
October	8	<b>THANKSGIVING – NO CLASS</b>
	15	<u>1)Banks as Business Corporations and 2) Banking Business</u>  1) <b><u>Readings:</u></b> Text, chapter 4 Casebook, pages 67 to 88

- 2) **Readings:** Text, chapter 5  
Casebook, pages 90 to 140

**CLASS FEEDBACK EVALUATION SESSION #1**

22 **MID TERM EXAMINATION IN CLASS (2.5 HOURS)**

29 Bank and Customer Relationships

- Readings:** Text, chapter 6  
Casebook, pages 142 to 160, Pages 187 to 228, 269 to 278, and 284 to 293

November 5 Bank and Customer Relations continued

- Readings:** Completion of prior week readings

**CLASS FEEDBACK SESSION #2**

12 Bank Accounts and Operation

- Readings:** Text, chapters 7, 8 and 13  
Casebook, pages 299 to 313, 319 to 325, 328 to 359, 364 to 389, 396 to 432

19 Electronic Commerce and Banking

- Readings:** Text, chapters 9 and 10  
Handouts distributed during prior week

26 Credit cards and Safekeeping

- Readings: Text, chapters 11 and 12  
Handouts distributed prior weeks

December 3 REVIEW

**CLASS FEEDBACK SESSION #3**