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## **Libby F. Gillman, B.A., LL.B**

355 St. Clair Ave West, Suite 2306

Toronto, Ontario, M5P 1N5

Business and Mobile: 416.418.7204

E-Mail: libbyg@lawgill.com

*Experienced business advisor and strategist, trained as a corporate and commercial lawyer, with proven business acumen, strong management skills and particular expertise in financial institution incorporations, retail bank products and services (including, without limitation, bankcard products), privacy and security, financial institution regulation, corporate governance, sophisticated and international payment systems, electronic banking products and emerging technology-based financial products and services.*

### **Education and Professional Qualifications**

- Member of The Law Society of Upper Canada since February 1977
- Bachelor of Laws (LL.B.), University of Manitoba (1975)
- Bachelor of Arts (B.A.), University of Manitoba (1972)

### **Professional Affiliations**

- Law Society of Upper Canada
- The Canadian Bar Association

### **Professional Experience**

***GILLMAN PROFESSIONAL CORPORATION, Barristers & Solicitors, January, 2004 to the present***  
***Partner***

I provide regulatory and legal advice to regulated financial institutions and financial services firms and their non-financial counterparties (payment systems, electronic financial services organizations technology and other bank vendors and providers of diversified financial services on a number of matters affecting a wide variety of financial institutions and other organizations. Examples include the following:

I perform day to day legal work to assist with overflow of legal work for several major Canadian financial institutionsø legal

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departments and with a Schedule II bank on matters relating to their credit card portfolio;

I work with a major accounting firm on bank set-up projects;

I work with a trust company on credit and prepaid card acquiring and issuing sponsorship agreements;

I recently assisted an association of financial institutions to review their compliance program;

I provided legal assistance for a consortium of Fortune 500 companies in connection with an innovative e-commerce payment product and developed a comprehensive customer agreement for that purpose;

I assisted a major accounting firm's clients with a variety of privacy related matters;

I assisted a financial services organization with an application for licensing as a bank;

I provided legal advice to a company in connection with the legal issues surrounding prepaid cards;

I assisted in the establishment of a major Canadian financial institution's National Privacy Office and, specifically:

- Assisted in the development of that institution's privacy complaint escalation process and procedures.
- Assisted in the development of the National Privacy Office database as well as keeping it up-to-date with critical information.
- Managed well over 700 issues to resolution or containment.
- Liaison with constituent parts of the financial institution and its affiliates where privacy issues arose to enlist their assistance in issue resolution.
- Developed an integrated approach across LOB's to facilitate problem resolution.
- Kept the National Office Privacy team up to date on privacy-related legislative and regulatory developments in Canada.
- Advised of relevant OPC decisions and of their implications to the Bank, particularly as they related to issues under management.

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- Assisted in the training of new Privacy Officers or Customer Care privacy specialists on the legal and regulatory aspects of privacy. As well, prepared cheat sheets for the assistance of other Privacy Officers and Customer Care privacy specialists to assist them in their handling of privacy issues.
  - Acted as Theme Champion for account-related as well as Visa issues.
  - Assisted in the preparation of correspondence and submissions in response to customer complaints, including to the OPC and other regulators in response to specific investigations.
  - Assisted in responding to questions posed by the internal auditors relative to the National Privacy Office's first internal audit.
  - Developed and delivered a presentation to the team on the legal and regulatory elements of the federal *Personal Information and Electronic Documents Act*.
  - Developed and implemented forms of letters to be sent to customers requesting their non-disclosure of personal information inadvertently provided to them, the forms of non-disclosure documents to be executed and procedures to implement this requirement.
  - Reviewed and revised financial institution's privacy policy brochure.
  - Provided a sounding board/advice and assistance to the Privacy Officers to assist in their daily management and resolution of privacy issues.
  - Assisted the financial institution in the identification of root causes of privacy breaches and implementation of initiatives to deal with these root causes.
  - Assisted in the development of a Privacy Office Manual.
  - Assisted in the development of several major procedural changes to assist in the resolution of key root causes of privacy breaches, including, amongst others,
    - the default to "customer not present" at teller to forestall the inadvertent delivery of personal information to a non-customer;
    - the implementation of procedures to ensure that transaction journals prepared, at the request of customers, showing all transactions for all branch customers, would be vetted or

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prepared to reveal only the requesting customer's information.

***CAP GEMINI ERNST & YOUNG, May, 2000 to December 31, 2003***

***Senior Manager***

**Key Achievements:**

- Developed strategy, business case, and managed and executed creation of Canadian Tire Bank and Sears Canada Bank, including application process and business restructuring to reflect new bank status.
- Identified opportunity for, project lead and subject matter expert on project whereby Canadian financial institution became member of proprietary PKI and an Identrus member (global consortium of banks to facilitate authentication of parties to Business to Business transactions online) and advice and assistance regarding their rights, roles and responsibilities.
- Project manager and lead subject matter expert in a project to perform a payments marketplace scan for an association of Canadian banks.
- Project manager and lead subject matter expert in a project to develop a payments strategy for major e-commerce solutions provider.
- Provided subject matter expertise and guidance to a 120+-member association of European banks in connection with a Paris-based CGEY feasibility study on an e-business facilitated payments solution.
- Project lead and subject matter expert to assist wholly-owned subsidiary of a major French-based bank establish a foreign bank subsidiary in Canada; provided regulatory advice and assistance in connection with the establishment of the Schedule II bank, including preparation of draft and formal application, development of all policies, preparation and publication of Notice of Intention to Apply for Letters Patent, and compliance with all regulatory requirements;
- Provided advice to numerous dot coms with regard to legal implications and issues associated with doing business on-line, including assistance with payments issues and a major on-line promotion.

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- Developed comprehensive end-to-end CGEY privacy compliance product to assist companies comply with the new federal *Personal Information Protection and Electronic Documents Act*.

***DONAHUE AND PARTNERS, May, 1997 to May, 2000***

**Key Achievements:**

- Assisted the Canadian Payments Association in its analysis of its role in the emerging on-line payments environment and within a Public Key Infrastructure. Along with professionals from Ernst & Young, the technical, legal and business implications of their strategy were addressed.
- Provided assistance and advice in assessing current state and gaps in the privacy compliance program of a major, multinational publishing company.
- Introduced opportunity to participate in and provided legal advice to a major Canadian chartered bank in connection with a global financial services Public Key Infrastructure initiative.
- Operational lead of a joint Donahue & Associates and Ernst & Young team which prepared a Report to the Task Force on the Future of the Canadian Financial Services Sector which analyzes the rate of technology spending and adoption and advises on the legal and regulatory impediments to the future adoption of emerging technologies. The analysis reviews key issues affecting the future of the financial services sector, including legal uncertainties surrounding electronic cash (whether such payments constitute money and currency; whether such instruments are deposits for Bank Act and CDIC purposes), contract, jurisdiction, and privacy issues arising in connection with PC Banking, writing requirements in financial services legislation, and the need for digital signature legislation, amongst others.
- Operational lead of a joint Donahue & Associates and Ernst & Young multidisciplinary team which prepared a Report to the Canadian Bankers Association to assist with its response to one of the key issues raised in the Discussion Paper released by the Task Force on the Future of the Financial Services Sector, namely, the principal issues surrounding alternate forms of corporate structure for financial institutions. The Report provides a comparative analysis of the main structural models from the perspective of the key stakeholders. The Report also addresses the question whether constraints on organizational structure are necessary and provides an analysis of the

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different corporate structures in the United States, Germany and the United Kingdom.

***VISA CANADA ASSOCIATION, Toronto, Ontario, January, 1992 to January, 1997***

- Senior Vice-President, General Counsel and Secretary  
1995-1997
- Vice-President, General Counsel and Secretary  
1994-1995
- General Counsel and Assistant Secretary  
1992-1994

**Key Achievements:**

- Established the legal department and designed and developed all processes, forms and procedures for its efficient operation. Internalized legal work resulting in savings of more than \$3 million over 4½ years.
- As a member of Visa Canada's Executive Management Committee, participated proactively in the overall management of Visa Canada and in the planning of strategic initiatives and provided innovative legal and business advice as General Counsel and Secretary of Visa Canada to the Board of Directors, the President and the executive team;
- Acted as Corporate Secretary to the Visa Canada Association. In that capacity, prepared all resolutions, minutes, and attended and provided counsel at all Visa Canada Board meetings;
- Provided creative, business-oriented, timely and cost-effective legal services for Visa Canada's team of marketing, delivery systems, operations and finance professionals and to Visa International in support of Visa's business-as-usual activities and numerous strategic initiatives, including the following:
- Played a key role in the creation and development of leading-edge electronic banking products and services for the Canadian marketplace such as the Visa stored value card (Visa Cash), Visa TravelMoney (an electronic travellers cheque), as well as remote (PC, telephone, T.V.) banking, electronic commerce and chip-based products and services.
- Successfully negotiated and concluded arrangements with MasterCard International and MasterCard financial institutions to facilitate the acceptance of Cirrus cards at Plus ATMs and Plus cards at Cirrus ATMs, thereby strengthening the value of the Visa brand to the Visa member organizations.
- Provided strategic input, advice and direction in the negotiation of, and drafted the contractual arrangements for, Visa's participation in the

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- CBC broadcast of the 1996 Summer Olympics as well as advice and guidance for all advertising and promotions in connection therewith.
- Developed strategy acceptable to the Regie des alcools, des courses et des jeux in Quebec whereby invested assets of Visa Canada were held in trust as security for \$1 million in prizes offered in connection with a Visa Canada contest. This resulted in savings of substantial bank fees and a \$90,000 capital gain when security was sold.
  - Developed a streamlined card approval system which became the model for other regions of Visa International.
  - Provided strong leadership and direction in the organization, planning, preparation and contractual arrangements for the highly successful 1996 Visa International Worldwide Meeting in Montreal (June, 1996).
  - Facilitated the successful launch into the Canadian marketplace of the Toronto-Dominion Bank GM card, the Canadian Imperial Bank of Commerce Ford card, the TD U.S. dollar card and numerous other innovative card products.
  - Developed a membership strategy for the Association and directed and managed the corporation's membership portfolio.

***THE BANK OF NOVA SCOTIA, Toronto, Ontario, February, 1985 to January, 1992***

- Senior Solicitor
- Solicitor

**Key Achievements:**

- Responsible for the provision of legal advice to the domestic retail bank in connection with all domestic retail bank products
- Bank representative on Canadian Bankers Association committee considering 1991 Bank Act revision and regularly provided advice on Bank Act regulatory compliance and governance matters.
- Contributed significantly in the product development and launch of the ScotiaGold card in 1989 and of the instant Scotia GIC, Scotia Home Insurance, Scotia Accident Insurance Plan and TeleScotia products.
- Significantly internalized RRSP, consumer credit, retail banking, private banking and Scotia Mortgage Corporation legal work resulting in reduced reliance on external counsel and significant cost savings.
- Developed Scotiabank's signature plain language RRSP, annuity, RRIF, mortgage, Visa card, consumer loan and other consumer-friendly contractual documents.
- Played a major role in eliminating additional and costly documentation used in Quebec for direct lending purposes and counselled the Bank extensively in the termination of free ScotiaLine Life insurance and the

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introduction of optional life insurance for Scotia Plan loans and in the development of a variable rate promissory note for use in connection with the Bankø consumer lending activities.

- Facilitated the Bankø ability to charge search and credit bureau fees in connection with the Bankø direct consumer lending activities.
- Represented the Bank at the Canadian Bankers Association in connection with the development of the CBA Model Privacy Code and developed the Bankø own privacy code based thereon.
- Managed and directed the Bankø domestic and international trade mark portfolio including advising on the registrability of proposed trade marks, infringements and oppositions.

***FEDERAL BUSINESS DEVELOPMENT BANK, Montreal, Quebec  
February, 1977 to June, 1984***

- Solicitor 1977-1984

**Key Achievements:**

- Coordinated and executed several major (\$50 - \$100 million) successful private placements to institutional investors.
- Developed standard form commercial lending documentation for use by FBDB regional offices.

**Speaking Engagements and Other Activities**

- American Conference Institute, Emerging Payment Systems:  
öManaging Privacy and Data Security Risks in the Emerging Payments Landscape: The Canadian Experienceö, September 2011, Washington, D.C.
- Canadian Instituteø 6th Annual Forum on Payment Cards in Canada, Strategies to Leverage Customer Data without Breaching Privacy Laws to be held in Toronto, February 17-18, 2011.
- American Conference Institute, Practical, Legal and Compliance Forum on Balancing Innovation with Consumer Protection in Emerging Payment Systems: öThe International Emerging Payments Landscape, Including Overseas Regulatory Oversight: Lessons Learned From Foreign Modelsö, November 18, 2010, Washington, D.C.
- ACT Canada Cardware ø9 on Prepaid Cards: The Promise and the Peril regarding the legal and regulatory framework surrounding prepaid cards (June 18, 2009).

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- Have spoken regularly on electronic commerce and privacy issues at numerous major conferences, including Insight, Canadian Institute and Canadian Bar Association, including:
  - Institute for International Research Privacy 2000: "Update on International Privacy Initiatives and their Impact on Canadian Business Privacy Policies" (September 25, 2000)
  - Insight "Being Prepared for Bill C-6: Strategies for Implementing the New Privacy Legislation" (October 11, 2000)
  - Canadian Institute Privacy Protection in Canada: Privacy Compliance for Multiple Jurisdictions (November 16, 2000)
  - Canadian Institute Privacy Protection in Canada: Co-Chaired Half-Day Post Conference Workshop on "Developing an Effective Privacy Compliance Program" (November 17, 2000)
  - Canadian Institute 6<sup>th</sup> Annual Forum on Regulatory Compliance for Financial Institutions "Regulating Financial Institutions in Light of New Personal Information and Electronic Documents Act (Bill C-6)"
  - Canadian Institute Insurance Online Conference: "Ensuring Compliance with Privacy Requirements for Online Insurance Business" (December 4, 2000)
  - Quoted in the January 12, 1999 edition of The Wall Street Journal, "Regulators Seek Better Disclosure of Y2K in Canada" and in Les Whittington's book on "Banks" in Canada.
  - Authored article "Canadians Stand on Guard for Privacy" which appeared in the February edition of Bottomline, the Canadian Chartered Accountants publication
  - Canadian Institute Conference on Privacy Compliance in Multiple Jurisdictions, and co-chaired a workshop on Developing a Privacy Compliance Program, May, 2000.
  - Chaired and organized Donahue & Partners/Ernst & Young conference on *Preparing for the New Canadian Banking Environment, Opportunities and Challenges for Foreign Banks in Canada, January, 2000*
  - Speaker at Annual Institute of Continuing Legal Education, Canadian Bar Association (Ontario Section) January 27, 2000, to deliver paper entitled "Net Income: Helping Clients Do Business on the Internet, Forms of Electronic Payments"
  - The Entrepreneurs Symposium: Key Challenges in 2000 And Beyond, Y2K Legal Consultation - Solutions, Process and Resolution, Toronto.

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- Emfisys Trusted Electronic Services Executive Forum for the Bank of Montreal Group of Companies: PKI Activities within the Canadian & International Financial Sector, Toronto, and May 21, 1999.
  - 5th Annual Life Insurance National Congress, E-commerce and Privacy for the Life Insurance Industry, Toronto, June, 1999.
  - Preparing for the New Canadian Banking Environment, Canada: Opening the Competitive Marketplace, June 29, 1999.
  - Preparing for the New Canadian Banking Environment, Presentation, Deutsche Bank, Canada, August 23, 1999.
  - Electronic Commerce Legal Issues, Tax Directors Conference - Hockley Valley Resort, September 14, 1999.
  - Security.net 99 Conference: Understanding Your BusinessøLegal Obligations in the Electronic Information Age, Toronto, and September 23, 1999.
  - Emerging Electronic Liability Issues on the Net: Break on Through to the Other Side - Ivans Fall Technology @Work Conference, Tampa, Florida, October 1999.
  - Developing an Electronic Commerce Product for ITAC, October 1999.