

PROMOTION RECOMMENDATION
The University of Michigan
Law School

John A.E. Pottow, assistant professor of law, Law School, is recommended for promotion to professor of law, with tenure, Law School.

Academic degrees:

J.D.	1997	Harvard Law School, <i>magna cum laude</i>
A.B.	1993	Harvard College, Cambridge, MA, Psychology, <i>summa cum laude</i>

Professional Record:

2003 - present	Assistant Professor of Law, Law School
2002-2003	Attorney, Weil, Gotshal & Manges, New York, NY
1999-2002	Attorney, Hill & Barlow, Boston, MA
1998-1999	Law Clerk, The Rt. Hon. Beverley McLachlin, Supreme Court of Canada
1997-1998	Law School, Judge Guido Calabresi, U.S. Court of Appeals, Second Circuit

Summary of Evaluation:

Teaching – Professor Pottow is a superb teacher. His teaching has been evaluated by CRLT course evaluations, class visits by Tenure Committee members, and interviews with former students. By all of these measures, Professor Pottow’s teaching is already outstanding, and his CRLT scores place him within our very top group of teachers. He has excellent knowledge of his subjects, communicates with great clarity and enthusiasm, and has the ability to deeply engage and challenge students in class. Former students nearly unanimously ranked him as one of their very best teachers at the law school.

Research – Professor Pottow has already established himself as an important commercial and bankruptcy law scholar and among the country’s leading scholars in international bankruptcy law. In the past five years, he has published numerous articles and book chapters on these issues, all of which show his remarkable productivity. His most significant scholarly contributions, however, involve five substantial articles, listed below. Three of the articles explore and add to a major debate in international bankruptcy, that between “universalists,” who advocate selecting one substantive law to apply to all assets in a cross-border bankruptcy, and “territorialists,” who would retain the traditional rule of territorial jurisdiction over a bankrupt’s assets. The first of these three examines the successful United Nations Commission Model Law on Cross-Border Insolvency and offers a novel and persuasive analysis of the Model Law as an incrementally “universalist” approach. The second, which won the International Insolvency Institute’s 2005 Prize, analyzes the local interests that are the concern of “territorialists.” Professor Pottow contributes significantly to the debate through his insight that “local interests” consist both of monetary interests of local creditors (“greed”) and non-monetary interests of a sovereign state in applying its own law (“pride”). The third carefully and thoughtfully disputes a critique of universalism as encouraging rampant forum shopping. He also argues persuasively that some of the most significant problems may simply be an artifact of a transitional time between the two approaches. The fourth and fifth articles are in the field of consumer credit. In the fourth article, Professor Pottow provocatively argues that, in the context of today’s lending environment, creditors are better placed than debtors to rationally evaluate the likelihood of repayment and thus should bear liability for “reckless lending.” The fifth article meticulously analyzes and critiques the policy of making student loans nondischargeable in bankruptcy and offers a more appropriate alternative. We fully expect Professor Pottow to continue to be a leading

scholar in the field of international bankruptcy, as well as to emerge as a leader in domestic commercial and bankruptcy law.

Recent and Significant Publications –

“Private Liability for Reckless Consumer Lending,” 2007 *U. Ill. L. Rev.* 405.

“The Nondischargeability of Student Loans in Personal Bankruptcy Proceedings: In Search of a Theory,” 44 *Canadian Business Law Journal* 245 (2006).

“The Myth (and Realities) of Forum Shopping in Transnational Insolvency,” 32 *Brooklyn Journal of International Law* 785 (2007).

“Greed and Pride in International Bankruptcy,” 104 *Michigan Law Review* 1899 (2006).

“Procedural Incrementalism: A Model for International Bankruptcy,” 45 *Virginia Journal of International Law* 935 (2005).

Service – Professor Pottow has made significant contributions to the Law School and to the broader community. He has served on important committees at the Law School, including our Legal Practice and Personnel Committees. He has been an active participant in the life of the law school, organizing talks and assisting the law school in hosting significant conferences. He also has served as an organizer of the Law School’s weekly Fawley lunch series, for which he has solicited speakers and moderated the discussion. Outside the Law School, in addition to giving frequent talks on his scholarly work, Professor Pottow has become an International Consultant for the ALI-III joint project on Global Guidelines in cross-border insolvency proceedings. He also contributes regularly to the pre-eminent academic bankruptcy blog.

External Reviewers:

Reviewer (A):

“Professor Pottow’s views [in *Procedural Incrementalism* and *Greed and Pride*] on legal mechanisms that might encourage movement toward universalism are carefully laid out and strike me as intuitively reasonable and practical . . . Overall I would say that the quality of Professor Pottow’s work is consistent with what one would expect from a commercial law scholar at a top law school in terms of his productivity and his ability to identify interesting and important issues . . .”

Reviewer (B):

“My bottom line is that Professor Pottow is a provocative and prolific scholar whose work involves major issues in commercial law. . . . Pottow has engaged important and topical issues in an interesting and competent way. . . . I consider him to be a serious scholar whose work deserves consideration, even if I disagree with [his] bottom line.”

Reviewer (C):

“The field of international bankruptcy is populated by only a small number of scholars. Pottow has successfully placed himself among the group of individuals who are moving this field forward. I have no doubt that he satisfies your standard of having demonstrated ‘significant achievement as a scholar and [showing] promise of future achievement.’ I can add that I am confident Pottow’s work would be sufficient to be granted tenure at my own institution, were he being considered for promotion here.”

Reviewer (D):

“I found [*Reckless Lending*] very well written, interesting, and relevant. It made me much more willing to entertain the notion of reckless lending than I was before reading it. It encompasses all of the issues and is realistic in its overall assessment. I think it is a significant plus . . .”

Reviewer (E):

“It is, I hope, clear from the foregoing that Professor Pottow has made a significant contribution to the scholarship on transnational insolvency. I hope it is also evident that his work reflects the kind of scholarly disposition that can advance debates through an academic habit of constructive engagement. . . . His work to date certainly, in my opinion, meets your standards for promotion and tenure. His interesting scholarly profile suggests that he could, in the future, produce scholarship that forges some paths more interesting than those followed by many of his peers.”

Reviewer (F):

“The area of law in which Pottow produces his best work could well become the most important area of bankruptcy law over the next decade, and Pottow is in a position to become the leading player in the area. . . . [Were he my colleague,] I would actively support the award of tenure.”

Reviewer (G):

“This brief analysis of Professor Pottow’s scholarship indicates that I believe he has made a significant contribution to legal scholarship and that he shows considerable promise of becoming an internationally recognized bankruptcy law scholar. His work is well-researched, theoretically grounded and innovative. My sense is that among his peers, in terms of time in the academic community, he has distinguished himself by the depth and breadth of his analysis. He would rank among the top of young scholars internationally in the area of consumer bankruptcy law.”

Reviewer (H):

“I think John Pottow would make an easy case for tenure at any law school in the country. He is bright, creative, and prolific. Best of all, he is intellectually fearless. I would be delighted if he were my colleague here”

Reviewer (I):

“Overall, the [*Greed and Pride*] article does an important and commendable job of careful analysis of all the elements of the problems . . . and contributes some quite useful and creative proposals. . . . [Professor Pottow] is already emerging as an important figure in his generation of scholars and stands out among the rest.”

Internal Review:

In keeping with the Law School’s tenure procedures, a Tenure Committee conducted a comprehensive review of Professor Pottow’s performance. The Committee read all of Professor Pottow’s publications, solicited and read inside and outside reviews, observed his classes, interviewed students, and prepared a recommendation for the Law School faculty. The Tenure Committee unanimously concluded that Professor Pottow satisfies the requirements for tenure and promotion. In accordance with Law School procedure, the tenured faculty considered the Committee’s report and recommendation twice. At the second meeting, the tenured faculty voted overwhelmingly to recommend Professor Pottow for promotion to Professor of Law, with tenure.

Summary of Recommendation:

Professor Pottow is a superb teacher and a prolific researcher who is a fertile source of ideas. He has already established himself as a scholar of national and international reputation in the field of international bankruptcy. It is with the support of the Tenure Committee and the Law School's tenure faculty that I recommend him for promotion to professor of law, with tenure, Law School.



Evan Caminker
Dean, Law School

May 2008