



# Minutes

## Benchers

Date: Friday, January 30, 2015

Present: Ken Walker, QC, President  
David Crossin, QC, 1<sup>st</sup> Vice-President  
Herman Van Ommen, QC, 2<sup>nd</sup> Vice-President  
Haydn Acheson  
Joseph Arvay, QC  
Edmund Caissie  
Pinder Cheema, QC  
Jeevyn Dhaliwal  
Lynal Doerksen  
Martin Finch, QC  
Miriam Kresivo, QC  
Dean Lawton  
Peter Lloyd, FCA  
Jamie Maclaren  
Sharon Matthews, QC  
Ben Meisner  
Nancy Merrill  
Maria Morellato, QC  
David Mossop, QC  
Lee Ongman  
Greg Petrisor  
Claude Richmond  
Phil Riddell  
Elizabeth Rowbotham  
Cameron Ward  
Sarah Westwood  
Tony Wilson

Excused: Satwinder Bains  
David Corey  
Thomas Fellhauer  
Craig Ferris, QC

Staff Present: Tim McGee, QC  
Deborah Armour  
Taylore Ashlie  
Renee Collins Gault  
Lance Cooke  
Su Forbes, QC  
Andrea Hilland  
Jeffrey Hoskins, QC  
Ryan Lee  
Michael Lucas  
Jeanette McPhee  
Doug Munro  
Jack Olsen  
Alan Treleaven  
Adam Whitcombe

Guests: Dom Bautista	Executive Director, Law Courts Center
Mark Benton, QC	Executive Director, Legal Services Society
Prof. Janine Benedet	Associate Dean of Academic Affairs, University of British Columbia
Kari Boyle	Executive Director, Mediate BC Society
Anne Chopra	Equity Ombudsperson, Law Society of BC
Jennifer Chow	Vice-President, Canadian Bar Association, BC Branch
Ron Friesen	CEO, Continuing Legal Education Society of BC
Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
Gavin Hume, QC	Law Society Member of the Council of the Federation of Law Societies of Canada
Bradford Morse	Dean of Law, Thompson Rivers University
Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
Wayne Robertson, QC	Executive Director, Law Foundation of BC
Akash Sablok	President, The Society of Notaries Public of BC
Jeremy Schmidt	Executive Coordinator to the Dean, University of British Columbia
Rose Singh	Vice President, BC Paralegal Association
Prof. Jeremy Webber	Dean of Law, University of Victoria
Ryan Williams	President, TWI Surveys Inc.

## **OATHS OF OFFICE**

The Honourable Chief Judge Crabtree, Chief Judge of the Provincial Court of British Columbia, administered oaths of office sworn or affirmed by President Ken Walker, QC, First Vice-President David Crossin, QC, Second Vice-President Herman Van Ommen, QC and new Bencher Edmund Caissie.

## **CONSENT AGENDA**

### **1. Minutes**

Following review of additional revisions, the minutes of the meeting held on December 5, 2014 were approved as circulated.

## **DISCUSSION/ DECISION**

### **2. President's Report**

Mr. Walker welcomed regular Bencher meeting guests individually, as well as new guest Akash Sablok, President of the Society of Notaries Public of BC, new Dean of TRU Brad Morse, and new Associate Dean of UBC, Jeanine Bénédict. He individually acknowledged all staff present, welcomed the First Vice-President David Crossin, QC, and Second Vice-President Herman Van Ommen, QC, to their new roles as Law Society officers for 2015, and welcomed new Bencher Edmund Caissie.

Mr. Walker also thanked the Benchers for their hard work and commitment throughout 2014, and outlined some priorities from the Strategic Plan for the year ahead, including advancing our Access to Justice initiatives, pursuing innovation around our admissions programs, and facilitating improved communication with the public, members and students.

### **3. Final Review: 2015 – 2017 Strategic Plan and Implementation Plan**

Mr. McGee outlined the proposed final version of the Strategic Plan, noting the strength in its brevity and focus on attainable priorities. Its three goals each reflect the Law Society's commitment to the public interest:

1. The public will have better access to justice.
2. The public will be well served by an innovative and effective Law Society.
3. The public will have greater confidence in the rule of law and the administration of justice.

Mr. McGee presented an implementation plan for the completion of the initiatives in the three year strategic plan, noting however that strategic planning is a dynamic exercise that should be responsive to the progression of the work and possible new course directions or opportunities. The work itself will be carried out by the Benchers as members of our advisory committees and task forces, and supported by staff.

There was a proposal that there should be a designated spot for a First Nations Bencher to increase public representation and diversity at the Bencher table. It was suggested, and agreed, that the Benchers ask the Government to consider the specific appointment of a First Nations appointed Bencher. Mr. Walker noted that the Benchers also should remain alive to various other ways diverse representation can be advanced.

Ms. Morellato moved (seconded by Mr. Van Ommen) that the Benchers approve the 2015-2017 Strategic Plan. The motion was passed unanimously.

#### **4. BC Code of Professional Conduct: Appendix C: Real Property Issues**

At the December, 2014 Bencher meeting, the Benchers approved amendments to the BC Code of Professional Conduct: Appendix C concerning exceptions permitting practitioners to act for more than one party in real estate transactions. Amongst other revisions, the term “institutional lender” was changed to “bank, trust company or credit union”. This recommendation was made following consultation with practitioners; however, upon the publication of the amendment, feedback was received from a number of real estate practitioners that the amendment would be problematic as written.

Accordingly, the Ethics Committee has recommended that the Benchers pass a resolution rescinding the amendments related to the term “institutional lender”, and then conduct broader consultation with affected members before recommending further revision.

Mr. Crossin moved (seconded by Ms. Rowbotham) that the Benchers rescind the amendments to the BC Code of Professional Conduct Appendix C approved in December, 2014.

The motion was passed unanimously.

### **GUEST PRESENTATION**

#### **5. 2014 Employee Survey Results**

Ryan Williams, President of TWI Surveys Inc., presented a summary of the results of the 2014 Law Society Employee Survey. Mr. Williams explained the purpose and value of annual employee surveys, noting that 2014 marked the ninth successive year that a voluntary survey has been conducted by the Law Society. Mr. Williams also noted the consistently high rate of

participation; at 88%, it topped last year's high water mark of 86%. Further, the poll indicates the Law Society's results are significantly higher than the norm for typical organizations.

In response to questions asked, Mr. Williams detailed certain poll questions and responses, providing further context and perspective. A copy of Mr. Williams's full PowerPoint presentation is attached as Appendix 1 to these Minutes.

## **REPORTS**

### **6. Finance & Audit Committee: 2014 Enterprise Risk Management Plan – Update**

Peter Lloyd, Chair of the Finance and Audit Committee, advised that the Committee had reviewed and accepted the 2014 Enterprise Risk Management Plan (attached at Appendix 2), which is an update of the original 2011 Plan. He introduced Jeanette McPhee, CFO, who described the Plan as a tool to identify risks to the Law Society's mandate or strategic goals, determine priorities based on likelihood and potential impact, and develop mitigation strategies to reduce, avoid or transfer risk.

The ERM Plan categorizes risks as regulatory, financial, operational, staff and working environment and Lawyers Insurance Fund; Ms. McPhee detailed some of the risks, noting that while some were determined to be in the "moderately high" range of likelihood, none were identified as in the "high" range. Mr. McGee reiterated that risk management is ongoing and dynamic, and invited the Benchers to contact Mr. Lloyd or himself with any observations or concerns. The Benchers were also reminded that all are welcome to attend Finance and Audit Committee meetings for further information.

### **7. Report on the Outstanding Hearing & Review Reports**

Written reports on outstanding hearing decisions were received and reviewed by the Benchers; there were no outstanding conduct review reports.

Mr. Walker reminded the Benchers of the importance of timeliness in creating reports, to fulfill public expectation. While this should never be at the expense of the quality of report, it should remain the goal wherever possible.

### **8. CEO's Report**

Mr. McGee provided highlights of his written report to the Benchers (attached as Appendix 3 to these minutes) including the Operational Priorities for 2015, the communications strategy for the Legal Services Regulatory Framework Task Force and an update on the Paralegal Certification Project.

Mr. McGee reported on his participation at the 2014 International Institute of Law Association Chief Executives (IILACE) – Annual Conference: Mr. McGee confirmed that the Law Society’s priorities are in line with law societies globally. He also noted issues of significance in other jurisdictions, including the declining number of US law school applications, with a corresponding pressure on schools to lower admissions standards and the gap between legal education and practice, sparking innovative UK programs to better prepare young lawyers for practice

In response to the latter report, UVic Dean Jeremy Webber noted that the experience of Canadian law schools differs from what has been happening in the United States. He noted that while more students are applying, fewer are actually accepting offers. Noteworthy as well is the increase in numbers of students going overseas for law school, and then returning to Canada to practice.

In response to questions, Dean Webber further clarified that UVic statistical data confirms most students appear to be obtaining articles (with the specific timing post-graduation being difficult to measure), but fewer may be retaining positions after completion of articles, indicating a possible softening of the market.

Alan Treleaven, Director of Education and Practice, noted that the Lawyer Education Advisory Committee is continuing to monitor articling conditions, with a view to preventing the difficulties Ontario has experienced.

## **9. Briefing by the Law Society’s Member of the Federation Council**

Gavin Hume, QC noted that the Federation Governance Review Committee is in the process of visiting all provincial law societies to generate a frank exchange of ideas on a range of topics; the recent session with the Executive Committee and other Benchers was productive. A report based on the feedback received will be circulated in March following the completion of the visits.

Also, the National Committee on Accreditation revealed a 15% increase in the number of Canadian law students returning from overseas education to practice in Canada. On a related note, the National Admissions Standards Program is focusing on two aspects for review: training standards and a consistent definition of “good character”.

Discussion ensued Canadian law students studying abroad, and the recruitment of Canadian students by UK and American schools. Mr. Hume agreed to provide further information at the next meeting on the Federation’s understanding of the number of international students returning to practice in Canada each year, as well as the particular provinces they select. Dean Webber also agreed to provide UVic’s survey data on articling placements amongst its students.

Mr. Hume concluded his report with a summary of key achievements and milestones, including the completion of the first review of JD and LLB degrees, the sponsorship of the March 6 Ethics

Conference, and the submission made to the Federal Court Review Committee on limited scope retainers, the model for which was largely based on BC's.

## **10. National Discipline Standards: Law Society of BC results for 2014**

Deb Armour, Chief Legal Officer, provided an overview of this Federation national initiative, recalling for the Benchers their previous adoption of 21 national discipline standards (approved in large part across the country as well).

Standard 9 requires reporting on 3 standards annually; Ms. Armour referred the Benchers to her report for details, but emphasized how well the Society is performing. As an example, she highlighted the excellent results on the timeliness of completion of investigations: the standard requires that 80% of complaints be resolved or referred for disciplinary or remedial response within 12 months and 90% be resolved within 18 months; the Society resolved or referred 95% and 98% respectively.

She also noted that the standards are aspirational, and that no Law Society is meeting them all. One standard not being met by the Society is the requirement that 75% of all discipline hearings commence within 9 months of authorization by the Discipline Committee. Many factors contribute to this, including scheduling challenges. However, she noted that the quarterly report does show an improvement in this area. Another area showing improvement but still lagging behind the standard relates to hearing decisions rendered; the current standard is 90% within 90 days from last submissions. She noted, however, that this requirement should never result in the sacrifice of quality in favour of speed.

Finally, Ms. Armour noted that a staff working group is currently working on increasing the accessibility of disciplinary history to improve transparency in order to meet standard 19.

## **FOR INFORMATION**

### **11. 2012-2014 Strategic Plan Final Update**

There was no additional discussion of this item.

The Benchers discussed other matters *in camera*.

RCG  
2015-02-24



# The Law Society's 2014 Pulse Check Survey

## Bencher Presentation

Presentation

Ryan Williams MA, ABC, MC



# Methodology

## A pulse check

- Indicator questions of employee engagement
- Mix both strengths and opportunities
- Use historical questions



## Content

1. Drive, The Surprising Truth About What Motivates Us (Daniel H. Pink)
2. Foundational questions: trust, compensation and tools

Average of all 19 items from 2013= 3.96

Average of the 10 items from 2013 selected for the pulse check = 3.86

# Highlights

Aggregate = mean 3.93 or 74% agreement

Doing an exceptional job

A high performing work environment

# Participation rate of 88%

## N = 160

### Who Responded

#### Department

Response	Frequency	Percent	0	20	40	60	80	100
Lawyers Insurance Fund	20	12.5%						
Credentials/Education	20	12.5%						
Professional Regulation	52	32.5%						
Trust Regulation/Corporate Services	37	23.1%						
Information & Planning	22	13.8%						
No Response	9	5.6%						

### Years of service

Response	Frequency	Percent	0	20	40	60	80	100
0 to 5 years	65	40.6%						
6 to 10 years	47	29.4%						
11 years and over	34	21.3%						
No Response	14	8.8%						

### Do you have management responsibilities?

Response	Frequency	Percent	0	20	40	60	80	100
Yes	25	15.6%						
No	127	79.4%						
No Response	8	5.0%						

# Strength

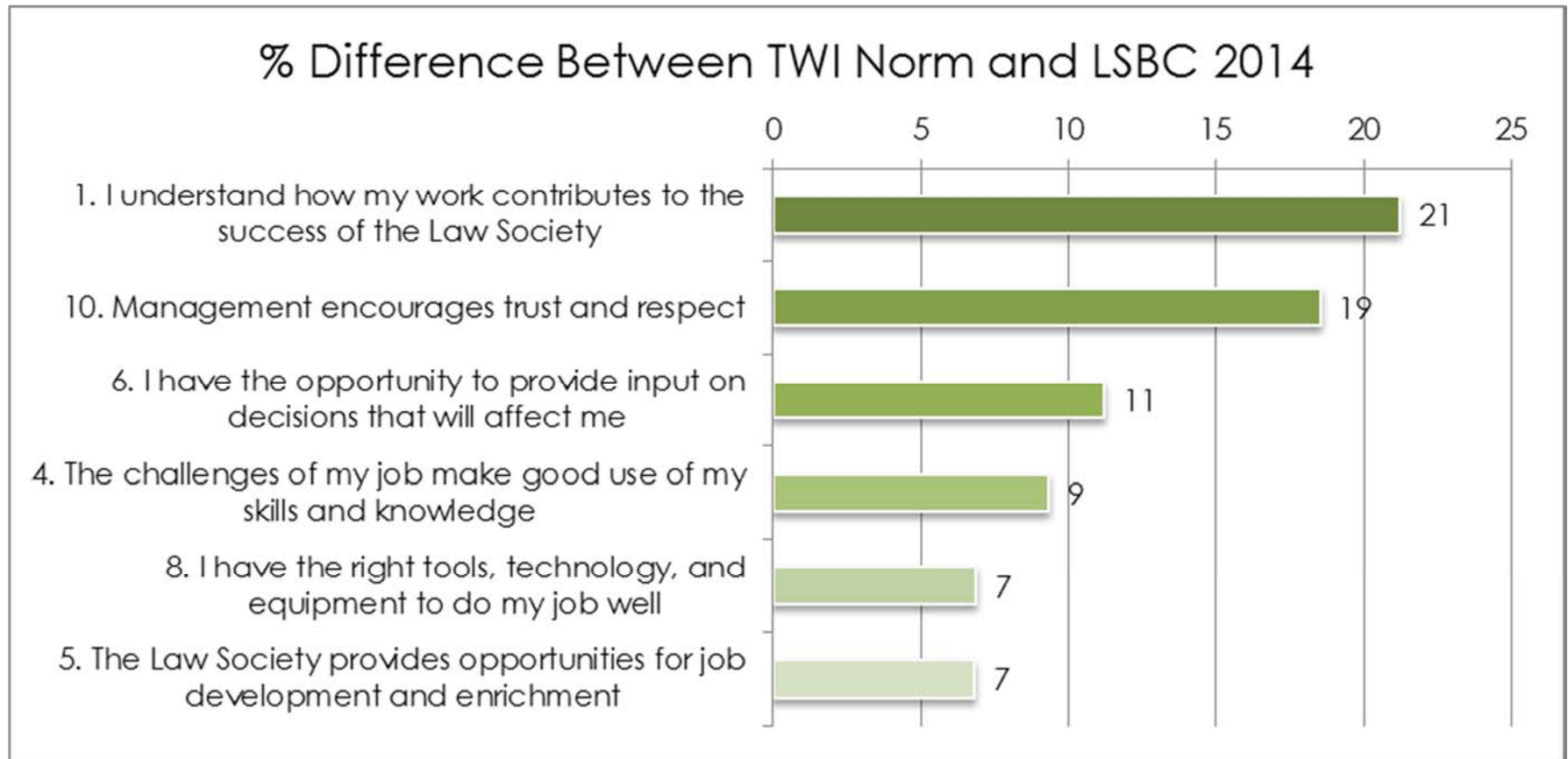


3. I am able to do meaningful work that makes a difference  
89% agreement

4. The challenges of my job make good use of my skills and knowledge  
86% agreement

1. I understand how my work contributes to the success of the Law Society  
97.5% agreement

The LSBC is **12% greater** than the TWI Surveys normative databank.



2. I am aware of our organization's progress towards its strategic goals



**18% increase in agreement from 2013**





10. Management encourages trust and respect

71% agree

12% increase from 2012

Questions	Motivation Category	2014 Mean	2013 Mean	2012 Mean
I understand how my work contributes to the success of the Law Society	Purpose	4.57	4.44	4.53
I am aware of our organizations progress towards its strategic goals	Purpose	3.90	3.60	3.57
I am able to do meaningful work that makes a difference	Purpose	4.32	4.21	4.10
The challenges of my job make good use of my skills and knowledge	Mastery	4.22	4.15	4.13
<b>The Law Society provides opportunities for job development and enrichment</b>	Mastery	<u>3.61</u>	3.73	3.45
I have the opportunity to provide input on decisions that will affect me	Autonomy	3.57	3.56	3.50
My ideas and suggestions are welcomed	Autonomy	3.99	3.98	3.83
<b>I have the right tools, technology, and equipment to do my job well</b>	Foundation	3.89	3.71	3.77
Overall, I am satisfied with my salary and benefits at the Law Society	Foundation	3.43	3.40	3.37
Management encourages trust and respect	Foundation	3.84	3.80	3.60



# Closing the gap

Do you have management responsibilities?

Questions	Data Filter	Mean	Category Percentages		Filter Gap (Strongly agree/Agree)
			0	20 40 60 80 100	
2. I am aware of our organization's progress towards its strategic goals	Yes	4.32		92.0%	-
	No	3.83	* 16.5%	74.0%	-17.98
5. The Law Society provides opportunities for job development and enrichment	Yes	4.04		80.0%	-
	No	3.54	* 19.1%	20.6%	60.3%
6. I have the opportunity to provide input on decisions that will affect me	Yes	4.32		84.0%	-
	No	3.46	* 18.1%	26.8%	55.1%

6 – 10 years less likely to agree



## *What is the best thing about working at the Law Society?*

- The people
- The work (interesting, meaningful, diversity)
- Teamwork
- Flexibility
- Respect
- Work/Life balance
- Environment (supportive/caring)
- Relationship with manager

## *What should be the priority for organizational improvement at the Law Society over the next few years?*

- Accountability
- Knowledge management
- Skill building/ training (i.e. technical)
- Streamlining
- Adequate resources
- Workload
- Retention
- Compensation
- Recognition
- Involvement/ Collaboration
- Morale





# Law Society of British Columbia

## Enterprise Risk Management Plan

Presentation: Bencher meeting - January 30, 2015  
By: Jeanette McPhee, CFO/Director of Trust Regulation

# Agenda

- What is ERM
- Law Society progress
- Law Society ERM process and tools
- Law Society residual risks and mitigation strategies



# What is enterprise risk management?

“Enterprise risk management is a process, effected by an entity’s board of directors, management and other personnel, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risks to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives.”

Source: COSO Enterprise Risk Management – Integrated Framework, 2004



## What it really means...

- Risk exists in all organizations
- Successful organizations take prudent risks
- Some degree of risk is acceptable
- If risks are not identified and managed, the risks can threaten, and may prevent the achievement of goals and objectives

# Law Society ERM Plan - Progress

## To Date

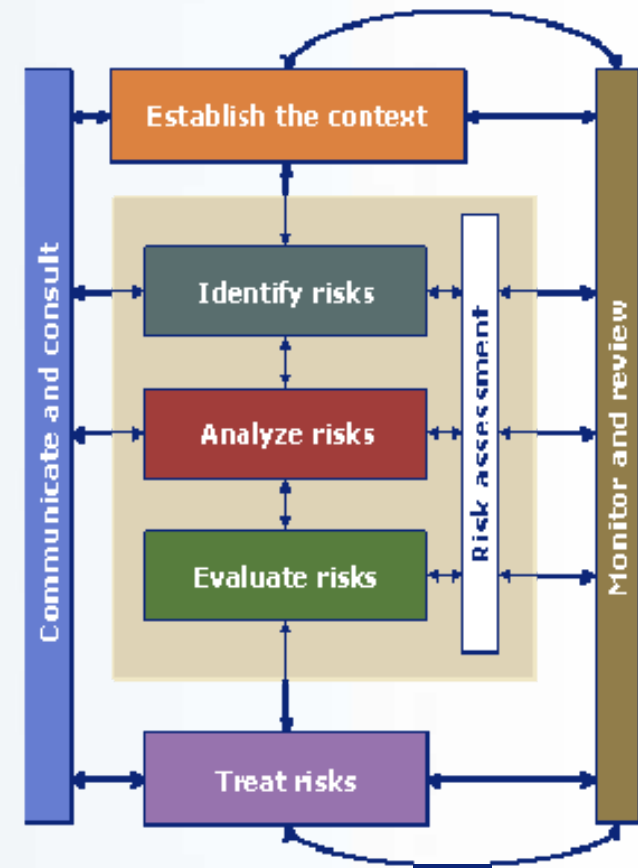
- 2011 - Initial ERM plan created, Audit Committee review, presented to Benchers
- 2013 – Update to ERM plan, Audit Committee review, presented to Benchers
- **2014 Update** – Update to ERM plan, Finance and Audit Committee detailed review Oct/Dec 2014, **present to Benchers January 2015**

## Going Forward

- **Annual discussions** by the Leadership Council and related departments to refresh risk schedule and risk management efforts
- **Annual review with Finance and Audit Committee**, present to Benchers
- **Full ERM detailed review**, with re-prioritization of risks, every three years

# Main components of ERM Process

- **Enterprise risk management provides for the:**
  - Identification of enterprise risks (risk universe)
  - Determination of relative priority of risks
  - Likelihood (probability) and consequences (impact)
  - Mitigation strategies
  - Retaining, reducing, avoiding or transferring
  - Monitor and review
  
- **Consideration is given to both:**
  - Inherent risk – prior to mitigation strategies
  - Residual risk – after mitigation strategies



# Types of enterprise risk

- To aid in identifying the range of enterprise risks to be considered by the Law Society, the following risk categories were created:
  - Regulatory
  - Financial
  - Operational
  - Staff and Working Environment
  - Insurance Fund
- Within each category, specific enterprise risks were identified, likelihood and consequences were identified, to determine the inherent risk
- Next, there was the identification of existing mitigation strategies, and the risks were again rated to determine the residual risk, and identifying any planned or in progress mitigation strategies

# ERM Tools





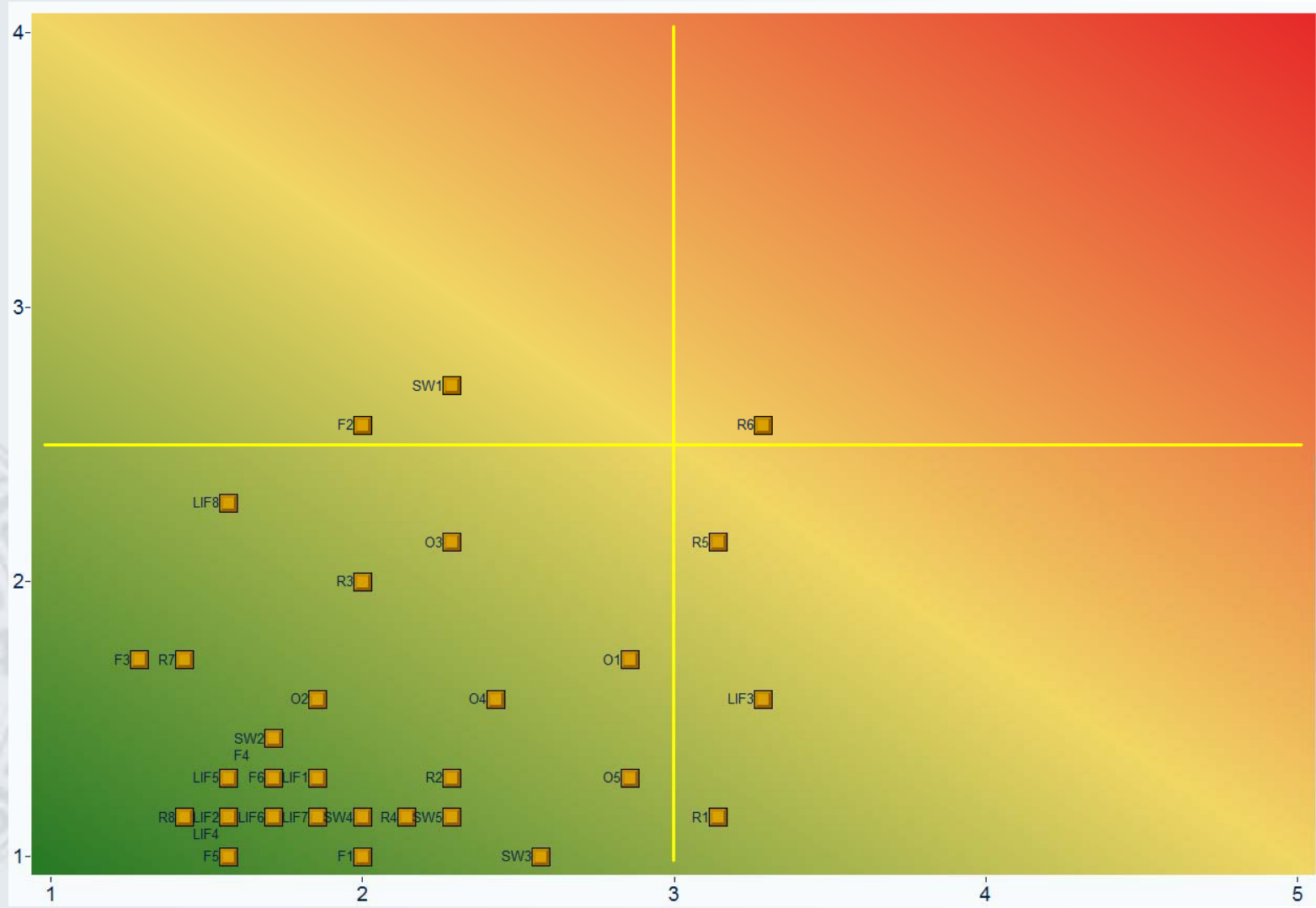
# ERM Tools – Heat Map

		Consequences				
		Low	Low-Medium	Medium	Medium-High	High
Likelihood		1	2	3	4	5
High	4	Green	Yellow	Red	Red	Red
	3	Green	Yellow	Yellow	Red	Red
	2	Green	Green	Yellow	Yellow	Red
	1	Green	Green	Green	Yellow	Yellow



# The 2014 Updated Heat Map – Residual Risks

Likelihood



Consequences

## LIF3: Significant theft under Part B of the LPL Policy

### Strategies

- Proactive claims and risk management practices
- Policy wording and limits
- AIG insurance policy for Part B
- Member Manual, including trust rules
- Proactive support and advice
- Trust assurance audit program
- Education and risk management advice to lawyers
- Effective regulatory response, such as custodianship and suspensions
- Crisis communication plan (applies to all risks)
- Appropriate reserve levels and **Minimum Capital Test Ratio**







## R5: Actual or alleged failure to appropriately sanction, or deal with a lawyer in a timely way

### Mitigation Strategies

- Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law
- Bencher governance policies and training
- Government relations
- S.86 Legal Profession Act (statutory protection against lawsuits and liability)
- Ability to seek review and/or appeal to the BC Court of Appeal
- D & O policy underwritten by AIG
- Hearing panel composition and training
- Enhanced role of Tribunal Counsel
- National Discipline Standards





### O3: Significant breach of confidential and/or FOIPPA information to members, employees and/or the public

#### Mitigation Strategies

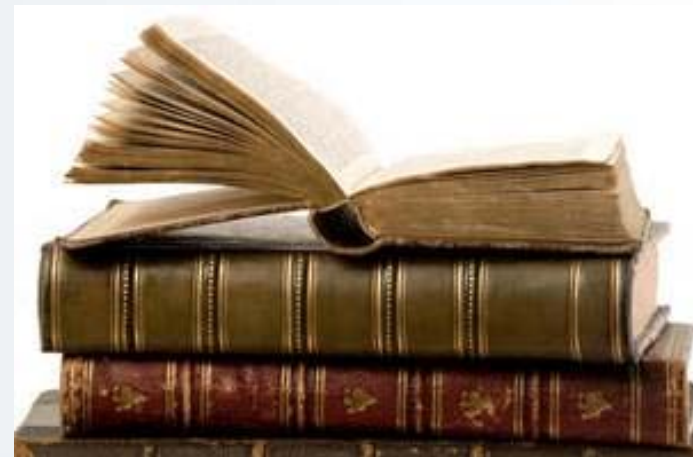
- Information technology security policy, process and procedures
- Member file and case file management procedures
- Building security system and procedures
- Established new Privacy Policies
- Enhanced FOIPPA training completed May 2014, and annual training
- Privacy report recommendations implemented, including file security



## R6: Actual or alleged failure to fulfill the statutory duties under the *Legal Profession Act*

### Mitigation Strategies

- Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law
- Government relations
- Bencher governance policies and training
- **Hearing panel composition and training**





## F2: Significant economic and/or financial market downturn

### Mitigation Strategies

- Statement of Investment Policies and Procedures (SIPP)
- Quarterly reviews of investment performance and benchmarking
- Investment managers pooled funds
- Annual operating and capital budgeting process
- Monthly and quarterly review of financial results
- Long-term leases
- Real estate expert advice and monitoring
- Adequate reserve levels and **Minimum Capital Test Ratio**





## O1: Natural disaster

### Mitigation Strategies

- Fire and earthquake safety plan and training
- Information technology backup plan
- Insurance coverage
- Building due diligence and capital plan
- Off-site file storage
- Off-site server location
- Annual safety training for management (backup floor wardens)



## R3: Conflict of interest event by Benchers or staff

### Mitigation Strategies

- Bencher governance policies and procedures
- Appropriate procedures for investigation and prosecution of legal matters commensurate with administrative law
- **Hearing panel composition and training**
- **Enhanced role of Tribunal counsel**



## SW1: Loss of key personnel

### Mitigation Strategies

- Succession planning and cross training
- Compensation and benefit philosophy
- Professional, leadership and skills development program
- **Employee Recognition Program (RREX)**
- **Review and renewal of management structure and working groups to provide leadership experience**



## O4: Unauthorized access to data and information

### Mitigation Strategies

- Information technology security policy, process and procedures
- Records management policies
- Confidential off-site storage and shredding contract
- External website security review
- LEO document management security profiles
- Established new Privacy Policies
- Enhanced FOIPPA training completed May 2014, and annual training
- Privacy report recommendations implemented, including file security





## O5: Loss of data and information

### Mitigation Strategies

- Information technology security policy, process and procedures
- Information technology backup plan
- Records management policies
- Off-site storage for closed files
- Insurance coverage
- External website security review
- Off-site server location



## **COMMENTS OR QUESTIONS?**





## **CEO's Report to the Benchers**

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January 22, 2015

Prepared for: Benchers

Prepared by: Timothy E. McGee

## **Introduction**

This is my first CEO's report to the Benchers for 2015 and I would like to wish you all the very best for the New Year. I would also like to extend a warm welcome on behalf of all the staff to our new President Ken Walker, QC and to both our new and returning Benchers. We look forward to working with all of you in the coming year.

## **Operational Priorities for 2015**

In my first report each year I present management's top five operational priorities for the ensuing year. These priorities, which for 2015 are set out below, have been developed in consultation with the Leadership Council and have been discussed with President Walker and presented to the Executive Committee.

I always emphasize that these priorities do not derogate from our day-to-day responsibility to perform all of our core regulatory functions to the highest standards. However, in each year there are certain items that require extra attention and focus to ensure success. The top five operational priorities (in no particular order) for management in 2015 are as follows:

### **Knowledge Management Project – Next Phase**

In 2013, the Lawyer Support and Advice Working Group (LSAWG) evaluated current practices in lawyer support and advice at the Law Society and brought forward four recommendations as part of their final report. Building on the work done by the LSAWG, the Knowledge Management Working Group is charged with implementing those recommendations, as part of the development and implementation of an organization-wide knowledge management system.

Knowledge management involves capturing and sharing knowledge with the goal of making that knowledge easily accessible through a range of distribution methods. Knowledge includes facts, information, expertise and skills, as well as the theoretical or practical understanding of a subject, acquired by a person through experience or education.

The mandate of the Knowledge Management Working Group is to develop and implement a knowledge management system that supports the mandate of the Law Society by:

- facilitating the aggregation and dissemination of practice support and advice information for lawyers;
- ensuring knowledge and information shared internally and externally is easy to find, reliable, consistent and up-to-date;
- using various means to share knowledge, including technology and interpersonal communication;
- providing efficiency in accessing and delivering knowledge both within and outside the organization;
- supporting continuous learning and growth by sharing knowledge and experience;
- fostering and maintaining a culture of sharing knowledge that crosses departmental boundaries;
- promoting innovation across the organization by sharing knowledge and encouraging dialogue and collaboration;
- evaluating, maintaining and measuring outcomes to ensure ongoing benefits to the Law Society.

One of the innovative ideas being considered is the establishment of an internal LSBC “Google” style search capability to provide a portal to a wide range of information and knowledge which we possess.

## **Skills Enrichment Project**

We are committed to a process of continuous improvement for our staff in respect of everything we do at the Law Society. As I have said to the Benchers on many occasions the staff are our single biggest asset and ensuring that we support them in being able to perform their roles at a high level means investing in skills development that is proactive, relevant and universal.

In this regard, it is no mystery that computer literacy and being able to fully exploit the benefits of technology in everything we do will enhance performance. For this reason, we are going to put a special focus on establishing and supporting attainment of a new, high minimum standard of computer/ technical literacy for all our staff. We recognize that this may be a daunting direction for some staff. However, the time is now to help set everyone on the path to attaining a universally

high standard of skills in these areas. To do this we will establish a working group and develop a plan which will set as one of its goals a cooperative, supportive approach so that, no matter what an individual's current skill level may be, they will be supported in achieving a new higher competency level within an achievable timeframe.

## **Public Issues Voice Working Group**

One of the goals in our new 3 Year Strategic Plan is to be a more effective voice in the public domain on issues and topics relating to our mandate and to our regulatory activities in the public interest. In 2015 the Bencher retreat will focus on the scope of section 3 (a) of the Legal Profession Act and we are also looking at how we can reshape our public outreach and media relations to better address this goal.

One thing we learned from engaging our staff during interactive briefing sessions last year to ensure that they were kept informed about the issues surrounding the TWU matter was the depth of knowledge and interest of our staff on a wide range of public interest issues. When this topic was canvassed more recently among managers and through informal surveys we received a very strong willingness to help identify and assess issues which could help inform and support our strategic initiatives. To tap into this and to take advantage of the strong connection to our strategic plan we will form a staff working group of those most interested and provide a mechanism to share their insights and suggestions.

## **Values and Code of Conduct**

Upon joining the Law Society, all employees agree to adhere to certain standards of conduct. But we are aware that since those standards were established we have seen shifts in our demographic profile and changing workplace habits and expectations. With those changes we believe there is a need to refresh and restate the values and standards under which agree to serve as Law Society staff and to ensure that this common bond is understood and enshrined in our mission statement and a code of conduct. The interest level and engagement in this work will be very broad and we will need to ensure we stay focused so that we are all prepared to be accountable for what we produce.

## **E- Voting and Webcasting**

The recommendations of the Governance Committee and our recent experience with the Special General Meeting and the Referendum have underscored the importance of ensuring that implementing the e-voting and webcasting capabilities is done smoothly and with a high degree of reliability and resiliency. The concepts are simple and the underlying technology is well tested. What is not simple nor well tested is the roll out to our more than 13,000 members, a portion of whom we know are not regularly connected online or, in fact, connected at all. Issues such as voting security, verification and audio/visual quality across receiving devices will need to be addressed. We will make it a special focus in 2015 to anticipate all the implementation issues and minimize any risk factors to the maximum extent possible.

## **2014 Employee Survey**

Our ninth consecutive employee survey was conducted in November of 2014. We had a record high response rate of 88% for the survey and I think you will find the results both interesting and encouraging on several fronts. Ryan Williams, President of TWI Surveys Inc., the survey administrators, will be at the meeting to provide an overview of the results and to respond to any questions.

The results of our annual employee survey are used to help us measure how we are doing as an organization and to help management develop action plans to better engage employees in the work and life of the Law Society.

## **Communications Strategy – Legal Services Regulatory Framework Task Force**

A communications strategy has been developed to advise members that we are seeking a legislative amendment in order to credential new categories of legal service providers. Some of the items we are working on include:

- A presentation that includes key messages from the report for presentation at local Bar Association meetings;
- A series of posts on the President's Blog; each blog post will be tweeted;
- A feature article and CEO's Perspective column in the March 2015 Benchers' Bulletin; and
- Media will be approached for opportunities for stories or op-ed pieces.

## **Paralegal Certification Project Update**

Lesley Small and Alan Treleaven continue to work with Carmen Marolla and Rose Singh of the BC Paralegal Association on the Certification of Paralegals project. The focus of the last meeting included these topics:

- Qualification issues
  - Education standards
  - Practical experience requirements
  - Grand parenting of current paralegals
- CPD requirement
- Renewal requirement
- Project consultation and communication
- Project timeline (to be set at the next meeting on February 17)

## **Events and Conferences**

### ***2014 International Institute of Law Association Chief Executives (IILACE) - Annual Conference***

Attached to this report as Appendix "A" is my report on the highlights of the 2014 IILACE Annual Conference. I would be pleased to provide additional information or answer any questions you might have about the conference at any time.

### ***Federation Governance Review Committee - Provincial Law Society Visits***

As I noted in a recent email to Benchers, the Federation of Law Societies of Canada has created a Governance Review Committee (of which I am a member) to look at all aspects of the governance of the Federation including its relationship to member Law Societies. This is a big project which is being tackled in phases. Phase 1 is a series of field visits to each of the Law Societies in the January to March timeframe



to better introduce the governance review process and to seek the input and views of member Law Societies on some of the preliminary issues under review. The process being followed across the country is for the Federation delegation to meet with the equivalent of our Executive Committee i.e. some sub-group of the larger Benchers group, to get the process underway.

The Federation delegation will be meeting with our Executive Committee (and to provide additional representation, while being mindful of the need to keep the size of the meeting manageable for this purpose, four additional Benchers namely, Lee Ongman, Pinder Cheema, QC, Lynam Doerksen and Craig Ferris, QC) on Thursday, January 29 from 10:00 am – 1:00 p.m. Included in my recent email is an information package for the meeting. Please take a moment to review the package and pass along any questions or comments you may have at this time.

I should add that while this is the first step in consulting with Law Societies across the country it definitely will not be the last. A survey of all Benchers across the country is being planned and additional milestone briefings and progress reports are being scheduled to ensure additional meaningful opportunities for input and feedback.

### ***Federation CEO's Strategic Issues Roundtable***

This last week I organized and hosted a meeting of all Federation CEO's at the Law Society, with the purpose of reviewing key initiatives under our respective strategic plans, including the timing and prospects for implementation in 2015.

In addition to identifying the key themes that have an impact on our work, we also examined the key issues in regulation, and the impact these could have if they develop in law societies without coordination or consistency. The key issues include:

- Entity regulation;
- ABS's;
- Risk factor analysis as the basis for regulation;
- Access to justice;
- Practice audits, and
- The broad topic of proactive regulation.

We concluded that development of these issues, which in many ways amount to a redesign of our regulatory model, can have a significant impact on the public

interest, the profession, and the regulators in each jurisdiction. All of us felt that it is important to be aware of how these are developing in each jurisdiction, and to consider whether and where collaboration among interested organizations would be a preferable way to proceed.

There is considerable scope for the CEO's to work as a group to coordinate work in these areas (and possibly others), and all participants recognized the need to develop a continuing forum to work together.

Timothy E. McGee  
Chief Executive Officer

# **International Institute of Law Association Chief Executives - 2014 Annual Conference – Cape Town**

## **Conference Highlights**

### **Delegates and Program**

This year's conference held in Cape Town from November 19 - 22, 2014 brought together the Chief Executive Officers of law regulatory and representative bodies from over 30 countries including Canada, USA, England, Ireland, Scotland, Australia, New Zealand, Germany, Norway, Sweden, Denmark, Africa, Hong Kong, Korea and Japan. In all there were over 30 delegates to the conference who collectively regulate and/or represent approximately 1.6 million lawyers around the world.

The stated purpose of ILLACE is to create a forum for a small group of executives to discuss important topics for the regulation and advocacy of the profession and to compare notes on operational and governance matters. Once again the conference program delivered on this goal. I have set out below highlights from four of the topics covered in the program. I would be pleased to expand on these topics or discuss the remainder of the program at your convenience.

### **The Successful Organization**

The first day of the conference was dedicated to management topics and was split between presentations and discussion on building resilience and effectiveness both on a personal level as CEO and for our organizations as a whole. The best insights from my perspective centered on a model of leadership which was presented by an international expert in organizational behavior.

The discussion began with a true story about a new CEO in an organization who in the first few weeks on the job convened a meeting to get to know some of the staff. As she settled into a chair she commented casually to the group that the room seemed a little dark. Later in the week she returned to that room for another meeting to find it was unavailable as it was in the process of being torn up so a whole new lighting system could be installed followed by a new white paint job. When she asked what was going on she was told by the workers “The new CEO said this all had to be changed “ Not thinking this was the new CEO, the workers confided “What a waste of time and money, whoever that new person is sure isn't very smart”. The story illustrated the starting premise for the discussion, which was, as a leader you have power and

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influence which must be understood on the right terms by others and managed effectively by you.

In identifying some of the key characteristics of highly functioning organizations we heard that it is imperative to look at the nature of the relationships among staff within the organization. In doing so we were shown data which showed that the way people interact in the workplace can be described in 4 basic ways moving from dysfunctional to highly effective that is, in conflict with, dependent upon, independent of ,and working in partnership with, your colleagues. Good leaders and particularly CEOs need to be moving people to the right, that is, towards partnering. It should not be left to chance and therefore requires a great performance management system and there must be accountability at the top to make it happen. The best take away for me from the session was the following advice for CEOs regarding staff: “Give your full attention when you are present. Be visually and 100% connected. The biggest gift you can give your organization and staff is your full attention and because you have the power to do so, don’t squander the opportunity.”

### **Legal Education at a Crossroads – New Models for a New Era**

This was a fascinating wide ranging discussion. We heard from CEOs from large jurisdictions such as the Solicitors Regulatory Authority in London where there are more solicitors practicing than there are lawyers in all of Canada and from smaller jurisdictions such as Cape Province, South Africa where a whole new cohort of black South Africans are seeking legal education. Among a long list of highlights for me some information stood out:

- The cost of legal education in the US has reached a tipping point. The average debt of students entering the profession is between US\$100K - \$150K and law school applications are down 30% over the past 3 years. Deans are having to decide whether to keep entry standards or drop them to increase numbers due to pressure from University administrations;
- In the UK big firms are engaged in a highly competitive search for global talent of a specific nature. They are not waiting for the “system” to help them. More than 60 firms now educate and train over 1000 “law students” a year and provide them with skills that are immediately in demand;
- In the UK law schools are now increasingly asking law firms to describe the types of skills the firms need and what sort of education they will look for in their new hires. Previously, it was the other way around, that is, the law firms were asking the law schools if they would accommodate their needs;

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- Some jurisdictions are looking at new models which offer one type of law degree for those who intend to practice and another for those who do not;
- Some jurisdictions are marketing law programs on the basis of producing a well balanced professional who can enter into any position where knowledge of law and other skills such as accounting would be a strong asset rather than just practicing law.

One remark that I thought captured the common tension in jurisdictions around the world regarding the nature of legal education and its relation to practice was this: “There have been repeated calls for academia to produce practice ready graduates. However, law schools cannot do this; instead they need to produce graduates who are ready to learn to practice”.

### **Legal Services at a Crossroads – What is the Practice of Law?**

This discussion was led off by a panel discussion of CEOs from the UK, the US and Canada. There were 3 common trends in those jurisdictions ; non-lawyers are increasingly filling not just un-met demand for legal services but core demand as well; regulators are trying to determine whether they should “lead, follow, or get out of the way” relative to this changing landscape (the response seems to be “all of the above” but there isn’t consistency across jurisdictions); and the cost of legal services is increasingly becoming the main determinant of why clients are seeking alternatives to lawyers.

The use of the term “non-lawyer” is rapidly falling out of use in the US and the UK because recognized and accredited legal services providers with their own monikers are becoming well known such as Limited License Technicians and Paralegals. In effect these providers are not even considered non-lawyers; instead they are an extension of the legal profession and increasingly an integral part of the legal services market.

In focusing on the future prospects for the practice of law there was a consensus that due to the extensive commoditization of both legal content and process the growing opportunity for lawyers is to differentiate on the basis of advice, counsel and advocacy on more complex matters. This specific value added approach for lawyers would be further complemented by the high ethical standards and professionalism which all lawyers swear to uphold.

Interestingly, at the end of the discussion and debate around new entrants and the changing market for legal services no one could recall if the phrase “access to justice” had been used. We agreed that this was indicative of a subtle shift occurring towards

seeing the value of new entrants and changing delivery mechanisms for legal services as being good for all consumers and not just those who have unmet demands.

### **Ethics and Professional Responsibility - Contemporary Perspectives on Core Values**

This is a standing topic for all ILLACE conferences. To provide some continuity in our annual discussion we survey ILLACE members and others outside the legal profession. This year the survey showed that most believe the core values of the legal profession are under greater pressure now than in previous years because of shifting roles for lawyers in a changing marketplace for legal services.

We reviewed a number of specific cases drawn from a variety of countries which illustrated difficult moral and/or conflict of interest issues for lawyers. The cases were chosen to illustrate where lawyers made good choices when faced with difficult issues and where they made bad choices. As a group we tried to “unpack” the decisions and look at all aspects of what had gone into the making of those decisions e.g.; age, size of firm, nature of work, access to advice, legal education, personal circumstances, etc.

As expected, there was no magic formula for how to always make the right or better choice when faced with a moral/conflict of interest dilemma. However, the sense was, at least from the actual cases we examined, that some lawyers viewed the mere existence of the dilemma as a personal failing or a problem which they were uncomfortable or embarrassed to share. This led to a discussion around the benefit of programs in other fields which are designed to remove the stigma of talking about issues and perhaps revealing some personal doubts, in the interest of dealing more effectively with the underlying problem.

All of this discussion took place on Robben Island where Nelson Mandela had been imprisoned for a quarter century. In fact, we had been given special permission to hold this discussion in the very room on Robben Island where F.W. de Klerk met in secret discussions with the ANC and agreed to the final terms of Mandela’s release. And the rest, as we all know, is history.