



The Law Society
of British Columbia



Benchers' Bulletin



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President's View

Benchers' Bulletin

The *Benchers' Bulletin* and related newsletters are published by the Law Society of British Columbia to update BC lawyers and articled students on policy and regulatory decisions of the Benchers, on committee and task force work and on Law Society programs and activities.

The views of the profession on improvements to the *Bulletin* are always welcome – please contact the editor.

Additional subscriptions to Law Society newsletters may be ordered at a cost of \$50.00 (plus GST) per year by contacting the subscriptions assistant. To review current and archived issues of the *Bulletin* online, please see "Publications & Forms" at www.lawsociety.bc.ca.

Editor

Denise Palmer
dpalmer@lsbc.org
Tel. 604 443-5706

Editorial Assistant

Denise Findlay
dfindlay@lsbc.org
Tel. 604 443-5788

Subscriptions

Donna Kokot
dkokot@lsbc.org
Tel. 604 443-5768

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Lawyer volunteers – what they do and why they do it

by Ralston S. Alexander, QC

During my years of work for the United Way, I developed an appreciation for the role of volunteers. That appreciation has deepened during my time at the Law Society. As you can see in this *Benchers' Bulletin*, we have over 500 lawyers to thank for their volunteer efforts this past year. As President, I can now personally thank all of you, including my Bencher colleagues.

Ours is a profession governed by volunteers — a remarkable fact considering the breadth and scope of the organization. The significant volunteer commitment from our profession raises questions. *Why do lawyers volunteer their services? Why volunteer within the profession? And why on earth seek to serve as a Bencher?*

One thing is certain — volunteerism is an unshakeable part of the culture of lawyers. There is much talk these days about lawyers offering pro bono legal services to low income people, and that is a truly important component of our contribution to access to justice. Just as the *Canons of Legal Ethics* remind us, our profession is not merely a money-making business. Lawyers obviously take this principle to heart because our statistics bear it out — three out of four lawyers do pro bono work for poor people. The next time someone takes a cheap shot at lawyers, just ask them: *What profession other than the legal profession finds so many ways to provide their services for free?*

The volunteer contributions of lawyers are woven into the rich tapestry of community life. Almost every charity, community organization, club, sporting organization and political party you can name benefits. It is good for the image of the legal profession to be seen providing free legal services, or making other contributions, for those who cannot afford to pay. There is no

better positive public relations.

As part of their volunteer commitment, some lawyers choose to serve within the profession. This might be as a volunteer for the Law Society or for another organization. I think it's fair to say that, within the governance hierarchy, we rely heavily on volunteer committee members, PLTC instructors and practice reviewers among other volunteers.

There are few concrete enticements — certainly not the sandwiches offered over the dinner hour (*most sensible folks would prefer a hot meal at home*) or the

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year-end token gifts of appreciation (*we know you have enough knick-knacks and electronic devices with incomprehensible instructions*). No, I think volunteering for the profession is really a chance for our members to be part of a bigger picture, to work alongside other lawyers for the greater good of the profession and the public.

Despite the personal sacrifice of volunteering, some lawyers also look to leadership positions in the profession.

When it comes to the Law Society, this is a big commitment. The Society is responsible for a multi-million dollar budget, and its leaders must fulfil governance obligations that demand vision, intelligence and an unwavering



commitment to the protection of the public interest in the administration of justice. We are blessed to have those responsibilities in the hands of the Benchers — the most committed group of volunteers I have ever met.

Benchers come to the engagement from a variety of backgrounds, and not necessarily well suited to a policy development retainer. After all, we are for the most part, lawyers. (More on lay Benchers in a minute.) The job description is intimidating. Give away three to five days of your life each month, without pay, so that every two years you can throw your hat in a ring — perhaps just a bit on edge because you might be the incumbent who fails in a bid for re-election.

Most of the candidates, new or incumbent, are sufficiently secure in their career achievements that the very real risk of running unsuccessfully is an unnecessary aggravation in an otherwise well-ordered life. (The problems of running successfully I'll get to in a moment.) Despite the uncertainty of elections, of putting ourselves on the line, the Law Society continues to attract strong and credible candidates for Bencher positions. And we are dramatically the better for it.

I recently heard one of our non-Bencher committee members observe that lawyers generally have no idea of the work commitment that the Benchers undertake. Let me take the opportunity to shed some light.

A Bencher can expect to attend day-long board meetings each month, one or two evening committee meetings each month and regular task force meetings, as well as other events, such as call ceremonies, the annual general meeting and special events throughout the year.

Preparation for meetings includes reading copious amounts of material and sometimes preparing material as well. Benchers also serve on credentials and discipline hearing panels, which can last days or occasionally

weeks, and prepare hearing reports in a timely way. Many Benchers meet with lawyers in our community, such as at local bar association meetings, to canvass current issues. Benchers frequently liaise with the Law Society staff on policy implementation and operational issues and with other legal organizations, sometimes serving as Bencher representatives on other boards. Also fundamental to the role, Benchers interview articulated students prior to call to the bar and make themselves available to lawyers to provide ethical guidance.

The “up-country” Benchers (a perjorative adjective applied by those who are unable to read an atlas and who can

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attend Bencher meetings on foot) have their own crosses to bear. While their elections are, for the most part, less difficult than the “down-country” equivalent, they have a much greater burden of travel and practice disruption. For most of them, attendance at meetings, hearings and Law Society special events involves an extra day of travel, time away from family and the office, and the additional hassle of being “on the road.” For them, the three to five day commitment becomes six to ten days, with the extra days often falling on weekends when most of us ought to have better things to do.

We are, however, an equal

opportunity Law Society and all of the Benchers have an equal opportunity to contribute according to their abilities and inclinations — and they all do. It is the stuff of legend that the Benchers are a hard-working lot.

And then we have the lay Benchers. Six hardy souls appointed by the provincial government to sit as full Benchers with all of the entitlements (sic) that the elected Benchers enjoy. Whatever could they have been thinking when they said “yes” to that apparently innocuous appointment? To begin with, no one outside the legal profession has any idea who or what a Bencher is, let alone a “lay” Bencher. At cocktail parties, the causal mention that “I serve as a lay Bencher with the Law Society” will generate blank stares or worse.

For elected Benchers, it has been suggested that some measure of cachet, at least within the membership, accompanies the election and service. There is none of that for the lay Benchers, yet they continue selflessly in their service and, by doing so, provide a valuable transparency function in the work that we do. We are all deeply indebted to the lay Benchers for their contribution.

Even for lawyer Benchers where the cachet, the prestige of the elected position is some reward, we have to be up to the extra hours, reduced billing hours and the reality that we need to live up to the expectations of the public and the lawyers who elect us. In the end, the reasons to serve in this way are the same as for other ways we volunteer. We want to give something back to our profession and the public.

The Law Society is self-governing because lawyers across the centuries have ensured it is so and have each played some small part in preserving our reputation, independence and vitality as a profession. And so for all who take the time to read this far (that number being the subject of an entirely different debate) your task is straightforward — keep up the good work! ✧



Pro Bono Law of BC offers new resources for lawyers

Pro Bono Law of BC (PBLBC) is introducing new training resources for lawyers interested in pro bono work. Other projects to support and promote pro bono are also on the horizon, thanks to a two-year funding commitment from the Law Foundation and matched funding from the

Law Society, as approved by the Benchers on February 4.

Created as a non-profit society in April, 2002 at the initiative of the Law Society and the CBA (BC Branch), Pro Bono Law of BC does not deliver pro bono services directly. Instead, it works to encourage pro bono within the profession and to support programs across the province. As Chair Kelly Doyle told the Benchers in February, the role of PBLBC has always been to complement existing local programs, raise the profile of pro bono and encourage the willingness of lawyers to serve.

“Effectively, PBLBC acted as a first point of contact for the public seeking information with respect to pro bono services, as a resource for law firms, the courts, community groups and the public and as a catalyst for culture change through raising awareness of the importance of pro bono as opportunities present themselves,” Mr. Doyle said.

How has Pro Bono Law of BC helped? One recent example is a free resource guide on building pro bono partnerships between community groups and law firms. This guide is modelled on the partnership between the Multiple Sclerosis Society (BC Division) and Davis & Company. Another much-needed resource is an online poverty law training program to familiarize lawyers with welfare law. These materials will be accessible shortly on the Pro Bono Law of BC website.

In the near future, Pro Bono Law of BC will target the recruitment of lawyers and law firms for pro bono work of various kinds. “Pro bono policies have become common in national law firms in the last two years,” Mr. Doyle told the Benchers. “A growing number of lawyers are expected to become involved in pro bono service, and offering those lawyers a choice of service opportunities encourages diversity

and broad participation.”

Since 2002, Pro Bono Law of BC has worked on a number of other initiatives, including these:

- **Court of Appeal Pro Bono Program** – With the involvement of Chief Justice Finch, and in coordination with the Salvation Army BC Pro Bono Program, PBLBC has developed a pro bono program in Vancouver and Victoria to provide services to unrepresented clients appearing in the Court of Appeal. Following on this initiative, PBLBC has been approached on whether the program can be extended to sittings of the Federal Court of Appeal in Vancouver.
- **Supreme Court Self-Help Centre** – With others in the justice community, Pro Bono Law of BC participated in the development of a new self-help centre at the Vancouver Law Courts to provide information, advice and assistance to unrepresented litigants. The self-help centre will include pro bono referrals.
- **Insurance coverage** – Non-practising and retired members of the Law Society, as well as Crown Counsel and in-house counsel (who would not otherwise carry professional liability insurance), are now insured for approved services they offer through approved pro bono programs. This is thanks to the cooperative efforts of Pro Bono Law of BC and the Lawyers Insurance Fund. To become approved for this purpose, pro bono programs must agree to follow certain best practices, and PBLBC vets applications for approval.
- **Pro bono policies** – PBLBC is available as a resource to law firms that wish to develop pro bono policies or programs.
- **PLTC** – With the help of PBLBC,

New pro bono guide online

Pro Bono Law of BC has a new resource to assist law firms and lawyers in the delivery of pro bono services.



Pro Bono Law — A Solution is Community Partnership: A Guide to Developing a Community-Based Pro Bono Program outlines the steps for creating and sustaining a pro bono partnership between a community group and a law firm, modelled on the partnership between the Multiple Sclerosis Society of Canada (BC Division) and Davis & Company. Taken from the perspective of a community organization that wishes to establish a pro bono law program, the guide outlines how a successful program can be launched and administered and offers advice for law firms that would like to provide support through pro bono services.

The 44-page guide is available for download in PDF format from the PBLBC website at www.probononet.bc.ca and from the MSS-BC website at www.mssociety.ca/bc/pdf/vlap_pblbc_manual.pdf. Limited quantities are also available in print – call PBLBC at 604 893-8932 or send an email to info@probononet.bc.ca to request a copy. The guide was produced by the MS Society of Canada through funding from the Law Foundation of BC.



the Professional Legal Training Course has recently updated its practice material to include detailed information about PBLBC and about pro bono opportunities.

- **Information and referrals** – Through its small office staff and website, Pro Bono Law of BC is becoming a place for the public and profession to turn to learn more about pro bono resources and opportunities. The PBLBC website also offers the option of matching volunteer lawyers with pro bono opportunities in the community.

Pro Bono Law of BC had initially

secured three years of funding from the Law Foundation, and later received funding from a few additional sources including the Law Society (which provided \$7,500 for 2003-2004 and \$15,000 for 2004-2005). The Society has also provided office space for the program. More recently, the Law Foundation committed to two more years of funding at \$85,000 a year on the condition that Pro Bono Law of BC obtain matched funding. PBLBC applied to the Law Society for matched funds. After a vigorous debate at their meeting on February 4, the Benchers agreed to provide match funding of \$85,000 in 2005 and in 2006. While

acknowledging the importance of the work of Pro Bono Law of BC, some Benchers were not in favour of extending funding in this way and stressed the importance of Pro Bono Law of BC becoming financially independent of the Law Society.

PBLBC plans to retain a full-time executive director and undertake more extensive fundraising. The Society expects to obtain charitable status in the near future and plans to pursue various funding options — being sensitive not to compete with local pro bono programs for financial contributions from law firms. ✧



Coming soon

Online poverty law training

Some of the poorest and most vulnerable people in our communities need advice on social welfare issues. And while many lawyers in BC now volunteer their time to assist clients who cannot afford to pay for legal services, few may encounter poverty law issues often enough in private or public practice to feel comfortable volunteering those services.

The right resources can help bridge the gap.

In response to this need, PBLBC has developed online poverty law training for lawyers who would like to offer pro bono services in the area of welfare law. Funded by the Law Foundation of BC, the online training will be available soon in the lawyers' section of the PBLBC website at www.probononet.bc.ca. The training material covers an overview of welfare law, income assistance and disability assistance, effective skills for interviewing poverty law clients, reconsideration applications, tribunal proceedings and judicial review applications.

For more information on Pro Bono Law of BC's initiatives, please contact Carol Jones, Coordinator, at 604 893-8932 or by email at cjones@probononet.bc.ca.



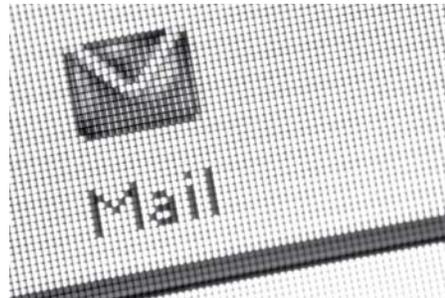
Would you like to receive Law Society publications in electronic form?

As noted in the November-December, 2004 *Benchers' Bulletin*, the Law Society will soon introduce the distribution of electronic versions of the *Benchers' Bulletin* and other newsletters, as well as amendments to the *Legal Profession Act*, Law Society Rules and *Professional Conduct Handbook*.

An alternative to print, electronic publications offer lawyers and articulated students quick access to online information that is available in advance of most mail deliveries.

For those lawyers who choose to receive them, electronic bulletins will be delivered to individual "mailboxes" that can be accessed via the Law Society website. For convenience, lawyers and students can forward their Law Society mailboxes to their own email addresses in their law firms, other legal workplace or at home.

They will be able read the news headlines and click to read the articles on the Law Society website (or as an alternative download the PDF from the site if desired).

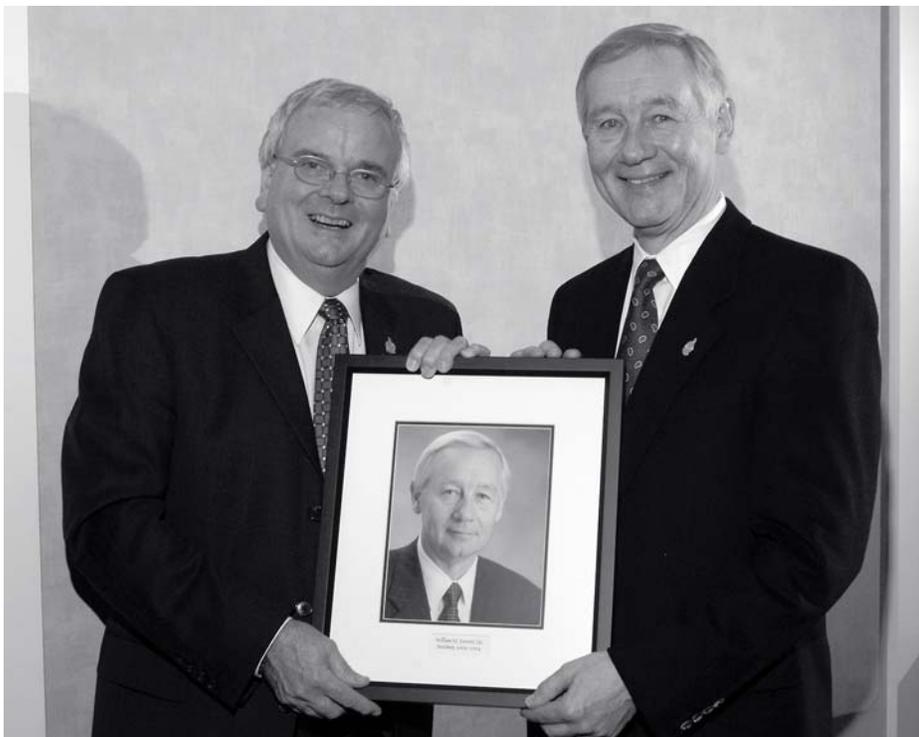


Lawyers who opt to receive publications in electronic form, but nevertheless wish to maintain their *Member's Manual* in print form, will be able to download in PDF each *Member's Manual* amendment package for print out

and filing. It's useful to note that the Law Society also maintains a consolidated version of the *Legal Profession Act*, Law Society Rules and *Professional Conduct Handbook* online for consultation.

Electronic publications are an *alternative* to print mailings. Other than sample or reminder emails, the Law Society will not duplicate communications by sending out both electronic and print publications to the same lawyer.

Please watch for your invitation to subscribe in an upcoming email / fax broadcast. If you would like to receive Law Society publications in electronic form, you will be asked to fill out an online form stating this preference. If you do not elect this option, the Law Society will maintain your name on the list for print mailings. ♦



A fond farewell

2005 President Ralston S. Alexander, QC (left) thanks outgoing President William M. Everett, QC for his service to the profession and the public at a dinner on February 4, 2005. Mr. Alexander presented Mr. Everett with a portrait photograph to commemorate his term as President. The portrait will hang in the Law Society building alongside those of all former Presidents and Treasurers, beginning with the Society's first President, David Babington Ring (1869-1874).



BC Supreme Court decision raises questions for lawyers

PST struck down on legal bills for low-income people

On February 8 Madam Justice Koenigsberg of the BC Supreme Court declared that the *Social Services Tax Amendment Act, 1993* is unconstitutional and *ultra vires* the Province of BC to the extent that it applies to legal services for low-income people since it violates the right of those people to access justice: see *Christie v. AG et al.* 2005 BCSC 122 (available online at www.courts.gov.bc.ca/jdb-txt/SC/05/01/2005BCSC0122.htm).

Following the decision, the Ministry of Provincial Revenue posted a notice on its website saying that, as a result of the BC Supreme Court decision, the 7% provincial social services tax should not be charged on bills for legal services for people whose net income falls below the Legal Services Society eligibility guidelines for its family duty counsel program (as those guidelines existed on February 8): see www.rev.gov.bc.ca/ctb/LegalServices.htm. The notice also stated that the Revenue Ministry was reviewing the case and that any further information will be posted on the website.

Lawyers who represent low-income

clients should note that the Ministry of Attorney General has not yet determined whether it will appeal the ruling, and it is still unclear what position it will take on recovery of any uncollected tax should such an appeal be successful.

The Law Society has written to the Ministry of Provincial Revenue and the Ministry of Attorney General seeking clarification of this issue as well as a number of other issues that arise from the judgment. These include:

- the time at which a lawyer should assess a client's income;
- how to assess a client's eligibility for tax relief if the client's income fluctuates;
- whether any portion of an award for lost income should be included in the assessment;
- what enquiries a lawyer must make to determine a client's eligibility for tax relief;
- what documentation a lawyer requires to prove to provincial auditors that he or she has properly

determined a client is exempt from the tax.

As of the time of publication, the Society was awaiting answers to these questions. In the interim, lawyers should familiarize themselves with the decision in *Christie* and advise clients of its implications. Lawyers who are acting for low-income clients may wish to consider a number of options (and the legal and ethical ramifications of those options). These may include, but are not limited to:

- delay rendering a bill until the government's position is clarified;
- not bill the client for PST;
- not bill the client for PST and have the client swear a statutory declaration that his or her income falls within the exemption. (A sample statutory declaration is available on the Law Society website);
- bill the client for PST but hold the money in trust until these issues are clarified.

Please watch the Law Society website for the most recent updates. ✧

Committee news

2005 committees and task forces

Much of the Law Society's most important work is carried out by its 16 committees and 11 task forces, as well as the subcommittees and working groups that provide support on specific issues or areas of research.

For a complete listing of 2005 committees, including contact information for committee chairs, see "About the Law Society" at www.lawsociety.bc.ca.

New Independence and Governance Committee

The Benchers have created a new Independence and Governance Committee, chaired by Vancouver Bencher Gordon Turriff, QC. The committee began as a subcommittee of the Futures Committee in 2002, under the chairmanship of the late David Gibbons, QC, and in response to provisions in federal anti-money-laundering legislation. The

subcommittee oversaw a constitutional challenge of that legislation on the basis that it contravened solicitor-client privilege. That issue moved to the national stage under the umbrella of the Federation of Law Societies of Canada.

The new committee will continue to examine issues concerning the independence and governance of the legal

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Thanks for your help in 2004

The Benchers would like to thank and congratulate all those in the profession and the legal community who volunteered their time and energy to the Law Society in 2004. Whether serving as members of committees, task forces or working groups, as PLTC guest instructors or authors, as practice reviewers, practice supervisors, conduct reviewers, fee mediators, event panelists or advisors on special projects, volunteers are critical to the success of the Law Society and its work.

Over the past year, the Society has enjoyed the support and contributions of over 500 Life Bencher and non-Bencher volunteers, all of whom deserve acknowledgement.

Patrice Abrioux	Geoffrey Bird	Roger Cardinal	Paul Daykin	J. M. Peter Firestone
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| | Alessandro Laudadio |



Remembering Natasha Edgar (1970-2004)

*The Law Society's Disability Research Working Group notes with sadness the passing of one of its members, Natasha Edgar, on December 31, 2004. A passionate advocate for people with disabilities throughout her university days, Ms. Edgar articulated with the British Columbia Public Interest Advocacy Centre and was called to the bar in 2003. In the two years that she served on the Working Group, she helped steer the project that resulted in the *Lawyers with Disabilities: Overcoming Barriers to Equality* report, published in 2004. In addition to her work with the Law Society, Ms. Edgar was a member of the CBA Equality Committee and president of the Tetra Development Society of North America, a non-profit society dedicated to the development of special adaptive devices for people with disabilities.*

Her colleagues, including those on the Disability Research Working Group, will miss Natasha and offer sincere condolences to her family and friends.

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|--------------------|-------------------|---------------------------|
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| Carla Lewis | | |
| Janneke Lewis | | |
| Jonathan Lewis | | |

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Volunteers ... from page 9

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Craig McTavish	Crichton Pike	Stanley Schwartz	Erin Tait	Judy Williams
Ruth McWilliams Hewitt	Carl Pines	Allan Seckel, QC	Lawrence Talbot	Patrick Williams
Brian Mickelson	J. Richard Pipes	Anthony Serka, QC	Michael Tammen	F. Timothy Williamson
Dan Milden	Robert Pirooz	Jane Shackell, QC	Deborah Taylor	Susan Willis
Robert Milne	Gordon Plottel	Ian Shaw	Genevieve Taylor	Donald Wilson
David Mitchell	Michael Pohorecky	Jeremy Sheppard	Martin Taylor, QC	Gary Wilson
Teresa Mitchell-Banks	Sandra Polinsky	Kerry Sheppard	Garry Thomas	Warren Wilson, QC
James Mooney	Sarah Pollard	Douglas Shields	Michael Thomas	Baldwin Wong
Charlotte Morganti	Dale Pope, QC	Kerry Short	Donald Thompson	Florence Wong
Amy Mortimore	Graham Porteous	Jonathan Simon	Cheryl Tobias	Joseph Wong
John Moshonas	Krista Prockiw	Michelle Simpson	Michael Todd	Linda Wong
Nicholas Mosky	Geordie Proulx	Glenn Sinclair	G. Ronald Toews, QC	Josiah Wood, QC
David Mossop, QC	William Prowse	Lorne Sinclair	Franco Trasolini	M. Kevin Woodall
Mary Mouat	Paul Pulver	Ian Sisset	Patrick Trelawny	Darrel Woods
Leslie Muir	Lila Quastel	Ronald Skolrood	Vicki Trerise	David Wotherspoon
Daniel Mulligan	Frank Quo Vadis	Mark Skwarok	C. Michelle Tribe	Darcy Wray
Michael Mulligan	Susanne Raab	Gordon Sloan	William Trotter, QC	John Wright
D. Lawrence Munn	John Rachert	Donald Smetheram	Clara Tsang	R.L. Kevin Wright
M. Melinda Munro	Leo Raffin	Catherine Smith	Leslie Tucker	George Xuereb
		Brock Smith	Abigail Turner	Linda Yardley
		John Smith	Diane Turner	Dennis Zachernuk
			Gordon Turriff, QC	Louis Zivot
			Catherine Tyhurst	Deborah Zutter ♦
			Peter Unruh	



Changes to First-Time Home Buyers' Program

The provincial government has announced changes to the First-Time Home Buyers' Program — to increase the fair market value threshold of property that qualifies for a property transfer tax exemption and to increase mortgage pay-down limits

Effective for applications for registration of transfers received by the Land Title and Survey Authority **on or after February 16, 2005**, the fair market value threshold for properties in the Capital Regional District, Greater Vancouver Regional District, and Fraser Valley Regional District is increased to \$325,000 from \$275,000. The fair market threshold for properties located outside these regional districts is increased to \$265,000 from \$225,000.

The mortgage pay-down limits are also increased for applications for registration of transfers received **on or after February 16, 2005**. In the Capital Regional District, Greater Vancouver Regional District and Fraser Valley Regional District the pay down limit is increased to the greater of \$13,000 and the amount that would reduce the mortgage to 70% of the fair market value of the property. For properties located outside these regional districts, the pay-down limit is increased to the greater of \$10,600 and the amount that would reduce the mortgage to 70% of the fair market value of the property.

Mortgage pay-down limits for applications for registration of transfers received by the Land Title and Survey

Authority **prior to February 16, 2005** are unchanged at the greater of 70% of the fair market value of the property and \$11,000 or \$9,000 depending on the area of the province in which the property is located.

The electronic First Time Home Buyers' Property Transfer Tax Return, which is used by those electronically filing transfers through the Land Title and Survey Authority, has been revised to calculate the tax payable based on the new threshold and mortgage pay down requirements. This is the only version of the return that can now be selected from the Land Title and Survey Authority menu.

The previous version of the electronic return will continue to be accepted for applications for registration of transfers by the Land Title and Survey Authority. Calculation of the tax due on an application for registration of a transfer submitted using this version of the return will not be affected unless the property is in the Capital Regional District, Greater Vancouver Regional District, or Fraser Valley Regional District, and has a fair market value between \$275,000 and \$325,000, or is outside these regional districts, and has a fair market value between \$225,000 and \$265,000.

In these instances, use of the previous version of the return will result in an incorrect amount of tax being paid. A request for a refund of the difference in tax paid should be made in writing to the Administrator, Property Transfer Tax. Requests for refunds may be faxed to 250 953-3094 in Victoria or mailed to PO Box 9427 STN PROV GOVT Victoria BC V8W 9V1.

Further information on the First Time Home Buyers Program is available on the Property Taxation Branch website (www.rev.gov.bc.ca/rpt/ptt/ptt.htm) or by calling 250 387-0604 in Victoria. ♦



Practice Watch, by Felicia S. Folk, Practice Advisor

Potential liability for GST for vendors of commercial real estate

Lawyers will wish to note a 2004 decision of the Tax Court of Canada on liability for GST. A BC partnership sold a commercial building. The purchaser's agent advised the vendor's lawyer in writing that the purchaser was a GST registrant, gave its purported GST number and stated that it would self-assess the applicable GST, as contemplated by s. 221 of the *Excise Tax Act*. Accordingly, the vendor did not collect tax on the sale. It was subsequently determined that the purchaser was not a GST registrant, and the Tax Court of Canada upheld the assessment against the vendor for having failed to collect GST on the sale: *Lee Hutton Kaye Maloff v. the Queen*, 2004 GTC 439.

Section 221 requires a vendor to collect GST on the sale of commercial property unless the purchaser is a GST registrant. When acting on non-residential real property sales, the solicitor for the vendor should at the least obtain the purchaser's GST number and contact the Canada Revenue Agency (CRA) at 1-800-959-5525 for confirmation that the purchaser is registered under the number.

It would be even more prudent to require that the purchaser execute an affidavit confirming that it is a current GST registrant and setting out its registration number, and then to confirm that information with the CRA office.

New First Nations land registries

Some First Nations Bands now have the right to create and run their own land registry systems. The Lawyers Insurance Fund has received a report from a lawyer who acted for the purchaser and lender with respect to the assignment and mortgage of a

sub-lease on Indian lands. The transaction had completed, the Indian Land Registry had provided registration numbers, and money had been paid out. Over a month later, Indian and Northern Affairs Canada advised the registry agent that the registration was cancelled as the registrations would now be under the First Nations Registry System and that the documents would have to be submitted for re-registration.

As of the date the lawyer was notified, the First Nations Registry System for the Band was not in place.

If dealing with First Nations land, you should make enquiries to determine whether the land falls under the *First Nation Land Management Act*. Make such enquiries before filing documents for registration. If the Act applies, be sure to read the Band's "land code."

If there is a Band Land Registry, you may be able to obtain necessary information from the Band and from the Band's land code. You may go to the website of the First Nations Land Management Resource Centre, which has information about the Framework Agreement on First Nation Land Management: www.fafnlm.com.

You may also wish to discuss your questions with Susan Burgess, Counsel at Indian and Northern Affairs, Operations and Programs Section, 10 Wellington Street, Gatineau, Quebec K1A 0H4, tel: 819 953-0153 or fax: 819 994-4641.

Law firm website links

Chapter 14, Rule 6 of the *Professional Conduct Handbook* prohibits lawyers from endorsing products or services for sale to the public except the lawyer's own law practice or publication, or a product designed to assist in the practice of law.

If a law firm's website provides a link

to another commercial site, such as that of a mortgage broker, is this an endorsement of the product advertised on the other site? The Ethics Committee said in 2001 that such a link is an endorsement of the products on that other site. The Committee also said that a disclaimer on the lawyer's website stating that the links are provided for convenience only and that the lawyer does not endorse the products of any of the links would be adequate to keep the lawyer from violating the rule.

Practice in the United States

The states of Georgia and Pennsylvania now allow foreign lawyers to practise temporarily in the United States. The ethics codes in those states allow a foreign lawyer to practise temporarily in a US jurisdiction for matters that:

- are done in affiliation with a lawyer licensed in the jurisdiction who actively participates in the matter;
- are related to a proceeding heard by a foreign tribunal before which they are authorized to practise;
- are related to an alternative dispute resolution proceeding that is reasonably related to the foreign lawyer's practice in a jurisdiction where he or she is licensed;
- are for a client with offices in the jurisdiction where the foreign lawyer is licensed;
- have a substantial connection with the jurisdiction where the foreign lawyer is licensed; or
- are governed primarily by international law or the law of a foreign jurisdiction.

For more information, see www.abanet.org/journal/redesign/01fradar.html. ♦



Show leadership in your firm by making equity a key to productivity

by Anne Bhanu Chopra

Equity Ombudsperson

If you are a leader in your law firm, it's your role to establish and review your formal and informal policies to ensure they are free of discrimination and harassment. This is not only your legal obligation, it's a sound business practice that helps promote productivity of all your lawyers and staff.

Consider these potential problems:

Overt forms of discrimination

- Is there someone in your firm who makes jokes that are rude and in poor taste, often relating to race or gender? Is there an individual who does not exercise proper judgement and/or discretion who could make the work environment uncomfortable for junior lawyers or staff? Remember, the intent of the person making these comments does not matter if the words or actions amount to discrimination. If you have this problem, recognize it as a form of harassment and eliminate it from your firm so that you can attract the best employees and reduce risk of liability.
- Is there someone in the firm who has a bad temper and does not know how to give appropriate feedback to lawyers? Does he or she make personal attacks on other lawyers or staff members, rather than provide constructive feedback? Studies indicate that when people are subjected to ongoing attacks, they often spend more time attempting to overcome the incident, instead of focusing on how to do better work. By learning more

about the harmful effects of personal harassment, you can find ways to stop it and increase your firm's productivity.

Covert or systemic discrimination

- Are there members in your firm who *unconsciously* adhere to outdated stereotypes? How does their thinking impact the firm's productivity?

For example, do some members of your firm believe that women are not as committed to the firm as men? Or that women are there to support senior lawyers and, accordingly, are not delegated full responsibility when carrying a file?

These may be unconscious beliefs, without any ill intent, but they result in under-utilization of your

lawyers and lower productivity. Learn about the norms and unwritten policies in your firm and confirm that all firm members are exposed to various types of work and are responsible for running a complete file and or case.

- Are there members of your firm (a selected gender or group) who are excluded from networking opportunities? Networking and client promotion can be publicized and open to all lawyers. However, there are other situations in which senior partners have discretion to invite members of the firm (e.g., golfing, clubs, dinners and social occasions). Take the time to reflect on your firm's formal and informal practices to ensure that all members of the firm have the same opportunities to network and to develop strong relationships and more business. ✧

The Equity Ombudsperson ... here to help

To help stop workplace discrimination and encourage equitable workplace practices, the Law Society offers BC law firms the services of an Equity Ombudsperson. The Ombudsperson, **Anne Bhanu Chopra**, confidentially assists anyone who works in a firm in resolving concerns over possible discrimination, and assists law firms in preventing discrimination and promoting a healthy work environment.

The Equity Ombudsperson is

independent of the Law Society and reports only anonymous statistical data to the Society. Law firm staff, law students, articulated students, lawyers, human resource administrators and managing partners in law firms are all welcome to contact the Equity Ombudsperson.

Ms. Chopra can be reached on her confidential, dedicated telephone line at **604 687-2344** or by email to achopra@novuscom.net.

Benchers to ask Federation to study SCC appointment process

The Benchers will ask the Federation of Law Societies of Canada, at the earliest opportunity, to re-examine the process for appointments to the Supreme Court of Canada, with a view to establishing a common position on behalf of the law societies.

The Law Society's Independence and Governance Committee, chaired by Vancouver Bencher Gordon Turriff, QC, reminded the Benchers in February of the Prime Minister's stated position that there should be a new process for appointments to the court. A parliamentary committee studied the issue last year, considered submissions and issued a report with both long-term recommendations and short-term recommendations (relating to two vacancies).

The names of the nominees for those two appointments came before an ad hoc committee, which was briefed by the Minister of Justice on the

candidates and how they were selected.

In the view of the Independence and Governance Committee, the legal profession should take the time now to prepare a considered position on the Supreme Court of Canada appointments process, in advance of any new appointments.

The Committee framed two questions that the Benchers agreed to put forward to the Federation:

- Should the system for reviewing and/or advising on appointments to the Supreme Court of Canada involve a pre- or post-nomination review process?
- Should parliamentarians be included in any committee tasked with advising on or reviewing appointments to the Supreme Court of Canada?

In its own review to date, the

Independence and Governance Committee has concluded that a public review should not occur prior to appointments to the Supreme Court of Canada as this might greatly reduce the number of qualified candidates willing to be considered. The Committee contemplated a limited post-selection review by a body composed of lay people, judges, leading members of the bar and possibly parliamentarians that could provide the Prime Minister with comment before an appointment is finalized.

The involvement of Members of Parliament in any review or advisory committee is a critical issue that needs careful consideration — and the Committee did not recommend a specific approach to the Benchers. In its interim submission to the parliamentary committee last year, the Federation stressed the importance of not politicizing the appointments process. ✧

Services to members

Practice and ethics advice

Contact **David J. (Dave) Bilinsky**, Practice Management Advisor, to discuss practice management issues, with an emphasis on technology, strategic planning, finance, productivity and career satisfaction. **Email:** daveb@lsbc.org **Tel:** 604 605-5331 or 1-800-903-5300.

Contact **Felicia S. Folk**, Practice Advisor, to discuss professional conduct issues in practice, including questions on undertakings, confidentiality and privilege, conflicts, courtroom and tribunal conduct and responsibility, withdrawal, solicitors' liens, client relationships and lawyer-lawyer relationships. All communications are strictly confidential, except in cases of trust fund shortages. **Tel:** 604 669-2533 or 1-800-903-5300 **Email:** advisor@lsbc.org.

Contact **Jack Olsen**, staff lawyer for the Ethics Committee, on ethical issues, interpretation of the *Professional Conduct Handbook* or matters for referral to the Committee. **Tel:** 604 443-5711 or 1-800-903-5300 **Email:** jolsen@lsbc.org.

Interlock Member Assistance Program – Confidential counselling and referral services by professional counsellors on a wide range of personal, family and work-related concerns. Services are funded by, but completely independent of, the Law Society, and provided at no cost to individual BC lawyers and articulated students and their immediate families: **Tel:** 604 431-8200 or 1-800-663-9099.

Lawyers Assistance Program (LAP) – Confidential peer support, counselling, referrals and interventions for lawyers, their families, support staff and articulated students suffering from alcohol or chemical dependencies, stress, depression or other personal problems. Based on the concept of "lawyers helping lawyers," LAP's services are funded by, but completely independent of, the Law Society and provided at no cost to individual lawyers: **Tel:** 604 685-2171 or 1-888-685-2171.

Equity Ombudsperson – Confidential assistance with the resolution of harassment and discrimination concerns of lawyers, articulated students, articling applicants and staff in law firms or legal workplaces. Contact Equity Ombudsperson, **Anne Bhanu Chopra:** **Tel:** 604 687-2344 **Email:** achopra@novus-tele.net.



Consider taking an articling student this year



Have you ever considered bringing an articulated student into your firm? If so, now might be the time. The UBC and UVic Faculties of Law would like BC lawyers to know that a number of high calibre third-year law students are still seeking 2005-2006 articling positions.

For a law student, articling is a critical stage of legal training, and a mandatory step on the path to call and admission. Students are eager to put their skills to work and to experience the practice of law under expert guidance. Articles offer that opportunity.

Students can perform useful and billable work that benefits a firm or legal department. For a lawyer who serves as principal to a student, that

assistance is valuable. But principals can also draw satisfaction from the important contribution they make. Principals help their students develop into good lawyers through guidance, training and mentorship. This benefits not only those students, but the profession as a whole.

To become a principal, you must be a practising lawyer in good standing with the Law Society with seven years of practice experience. For more on the qualifications of principals and the articling relationship, please see Law Society Rules 2-27 through 2-46. See also background information — including the current articling agreement and checklist — in the “Licensing & Membership” section of the Society’s website at www.lawsociety.bc.ca. If you are not certain if you qualify as a principal, please contact Lesley Small, Manager, Credentials & Licensing at the Law Society of BC at 604 669-2533 or lsmall@lsbc.org.

The UBC and UVic career services offices are ready to assist lawyers who can offer articling positions by answering questions, posting positions and advertising to students.

Please contact:

University of Victoria

Jennifer Moroskat, *Career Development Officer*

University of Victoria, Faculty of Law

PO Box 2400 STN CSC

Victoria, BC V8W 3H7

Email: moroskat@uvic.ca

Tel.: 250 472-4719

Fax: 250 721-6390

Website: <http://cdo.law.uvic.ca>

(Employers can post positions directly on this site.)

University of British Columbia

Judy Pozsgay, *Co-Director, Career Services and Alumni Relations*

Nadia Myerthall, *Co-Director Career Services and Alumni Relations*

University of British Columbia, Faculty of Law

1822 East Mall

Vancouver, BC V6T 1Z1

Email: pozsgay@law.ubc.ca or

myerthall@law.ubc.ca

Tel.: 604 822-6350 (Judy) or

604 827-5052 (Nadia)

Fax: 604 822-9486. ✧

Transitions under the Business Corporations Act: one year to go

BC companies have just over a year to file a transition application on Corporate Online under the new *Business Corporations Act* if they have not already done so.

Under that legislation, BC companies incorporated prior to March 29, 2004 have two years from that date to file a transition application. This is a mandatory electronic filing that involves a review of company records. There is no fee for the filing.

The Corporate Registry advised that a

company that fails to file a transition application will receive a notice from the Registrar indicating that the company is in default of its obligations under the *Business Corporations Act*. If the company does not respond within the timeframe indicated in the notice, the Registrar may take action to dissolve the company.

For more information, see the Corporate Registry website at www.fin.gov.bc.ca/registries/transition.htm.

BC Online has advised its customers to

complete company transitions as early as possible. It expects an increase in the volume of calls as the filing deadline approaches, which may result in a delay in obtaining telephone support from BC Online or the Corporate Registry.

Can you check on whether a company has made a transition? BC Online reminds users that they can see a company's transition application filing date and time by scrolling down the screen of a search results page. ✧



Special Compensation Fund claims

The Special Compensation Fund, funded by all practising lawyers in BC, is available to compensate persons who suffer loss through the misappropriation or wrongful conversion of money or property by a BC lawyer acting in that capacity. (Note: The primary source of compensation for claims after May 1, 2004 is the trust protection coverage under Part B of the Compulsory Professional Liability Insurance Policy.)

The Special Compensation Fund Committee makes decisions on claims for payment from the Fund in accordance with section 31 of the *Legal Profession Act* and Law Society Rules 3-28 to 3-42. Rule 3-39 (1)(b) allows for publication to the profession of summaries of the written reasons of the Committee. These summaries are published with respect to paid claims in 2004, and without identifying the claimants.

Martin Wirick

Vancouver, BC

Called to the Bar: May 14, 1979

Resigned from membership: May 23, 2002

Custodian appointed: May 24, 2002

Disbarred: December 16, 2002 (see *Discipline Case Digest 03/05*)

Special Compensation Fund Committee decision involving claims 20020168, 20020255, 20020397, 20020405 and 20020195

Decision date: November 12, 2003

Report issued: December 23, 2003

Claimant: A Bank (first mortgagee)
Payment approved: **\$167,546.84**
(\$154,554.56 and \$12,992.28 interest)

Claimant: B Mortgages Inc. (second mortgagee)
Payment approved: **\$179,036.04**
(\$167,297.70 and \$11,738.34 interest)

Claimant: C Credit Union (third mortgagee)

Payment approved: **\$198,905.47**
(\$185,764.87 and \$13,140.60 interest)

The G Street property

In December, 2000 Mr. Wirick represented Mr. J in the purchase of a property on G Street in Vancouver.

Mr. J was a nominee of another of Mr. Wirick's clients (Mr. G), and he held the G Street property in trust for Mr. G's construction company. Mr. J obtained \$158,000 in mortgage financing from A Bank. Mr. Wirick represented both Mr. J and A Bank in this transaction.

Mr. J then obtained a \$175,500 mortgage on the property in favour of B Mortgages Inc. Mr. Wirick acted only for B Mortgages Inc. in this transaction. He undertook to pay out and discharge the A Bank mortgage from title from the mortgage funds received from B Mortgages Inc., but he failed to do so. Instead, he diverted the funds to other purposes.

In 2001 Mr. J obtained a \$189,750 mortgage in favour of C Credit Union. Mr. Wirick acted for both Mr. J and the credit union in this transaction. He undertook to pay out and discharge from title the A Bank and B Mortgages Inc. mortgages from the mortgage proceeds received from C Credit Union, but he failed to do so, instead diverting the funds to other purposes.

In July, 2001 Mr. G, under a power of attorney for Mr. J, sold the property to H and L. The lawyer representing the new purchasers forwarded the sale proceeds to Mr. Wirick on his undertaking to pay out and discharge the A Bank, B Mortgages Inc. and C Credit Union mortgages. Mr. Wirick did not discharge these mortgages but instead transferred funds to other properties, paid his account and forwarded the remaining funds to Mr. G's construction company.

The Special Compensation Fund Committee found that, while not every

breach of undertaking is dishonest, the circumstances of these claims suggested, not negligence or error by Mr. Wirick, but an intention to deceive.

The Committee decided that it would not require the claimants to exhaust their civil remedies in this case by obtaining judgments against Mr. Wirick, noting that he had made an assignment in bankruptcy claiming liabilities far in excess of assets, and there was little hope of recovery from him.

The Committee allowed the claim of A Bank, B Mortgages Inc. and C Credit Union in the principal amount of their respective mortgages, with interest at the mortgage rate to May 24, 2002 and to a ceiling of 6% per annum thereafter. The payment was subject to certain releases, assignments and conditions, including the requirement that these financial institutions provide to the Law Society registrable discharges of their mortgages on title.

As a result of the payment of these claims and discharges of mortgages, the new purchasers (H and L) and their own financial institution would be placed in the position that they ought to have been in and would suffer no loss. Accordingly, their separate claims for compensation were denied.

Special Compensation Fund Committee decision involving claims 20020123, 20020194, 20020403 and 20020394

Decision date: December 10, 2003

Report issued: March 9, 2004

Claimant: A Bank (First mortgagee)
Payment approved: **\$149,256.27**
(\$138,254.26 and \$11,002.01 interest)

Claimant: B Mortgages Inc. (Second mortgagee)
Payment approved: **\$158,039.29**
(\$148,949.30 and \$9,089.99 interest)

The W Avenue property

In August, 2000 BJ obtained \$142,000



in mortgage financing from A Bank respecting a property on W Street in Vancouver. BJ was a nominee of Mr. G, one of Mr. Wirick's clients. Mr. Wirick represented both BJ and A Bank in this transaction and used the mortgage proceeds to discharge two existing mortgages from title. Accordingly, the A Bank mortgage became the first charge on title.

BJ further encumbered the property with a \$159,250 mortgage in favour of B Mortgages Inc. Mr. Wirick acted for BJ and B Mortgages Inc. in this transaction. He misdirected the funds from this mortgage and did not discharge the A Bank mortgage.

BJ further encumbered the property by signing a mortgage and assignment of rents for \$120,000 in favour of PN.

In April, 2001 BJ sold the W Street property to Mr. and Ms. N for \$402,800. Mr. Wirick acted for BJ. He received in trust from the purchasers' lawyer \$393,010.26 as the net proceeds of sale on his undertaking, among other things, to discharge the A Bank, B Mortgages Inc. and PN mortgages. In breach of his undertaking, Mr. Wirick misdirected the funds and failed to discharge the A Bank or B Mortgages Inc. mortgages. The PN mortgage was eventually discharged from other funds.

Mr. and Ms. N had obtained mortgage financing of \$285,000 from another financial institution for their purchase of the property.

As a result of Mr. Wirick's actions, the new mortgage arranged by Mr. and Ms. N was a third mortgage on title and not a first mortgage as it ought to have been.

The Special Compensation Fund Committee found that, while not every breach of undertaking is dishonest, the circumstances of these claims suggested, not negligence or error by Mr. Wirick, but an intention to deceive. He had declined to provide any explanation or comment, other than a general statement in his bankruptcy

documentation indicating that he knowingly paid out monies in breach of his undertakings. In these circumstances, the Committee was satisfied that he had misappropriated or wrongfully converted funds.

The Committee allowed the claim of A Bank and B Mortgages Inc. in the principal amount of the mortgages, including interest at the mortgage rate to May 24, 2002 and to a ceiling of 6% per annum thereafter. The payment was subject to certain releases, assignments and conditions, including the requirement of providing to the Law Society registrable discharges of their mortgages.

As a result of the payment of these claims and discharges of mortgages, Mr. and Ms. N and their own financial institution would suffer no loss. Accordingly, their separate claims for compensation were denied.

Special Compensation Fund Committee decision involving claim 20020582

Decision date: December 10, 2003
Report issued: February 23, 2004

Claimant: C Trust Company
Payment approved: \$162,428.17

The U Drive property

Mr. D was a nominee of Mr. G, a developer client of Mr. Wirick. As nominee of Mr. G, Mr. D purchased a property on U Drive in Vancouver and obtained a \$215,000 mortgage loan from B Credit Union.

He subsequently obtained a further \$95,000 mortgage loan from C Trust Company.

In August 2001, Mr. D sold the property to Mr. and Ms. C. While representing Mr. D and Mr. G in the transaction, Mr. Wirick gave his undertaking to the lawyer for the purchasers that he would discharge the mortgages and assignment of rents from the proceeds of sale. He failed to do so, in breach of that undertaking.

In August, 2002 C Trust Company registered a certificate of pending litigation against the property and brought a petition for foreclosure in Supreme Court. An order nisi for foreclosure was entered. The last date for redemption of the mortgage was fixed at September 8, 2003, later extended to October 3, 2003.

The Special Compensation Fund Committee found that Mr. Wirick had engaged in culpable conduct to facilitate the wrongful misappropriation of funds otherwise payable to B Credit Union and C Trust Company.

The Committee allowed the claim of Mr. and Ms. C in a sum sufficient to satisfy the order nisi of foreclosure obtained by C Trust Company, plus taxable costs and disbursements. This payment was subject to certain releases, assignments and conditions, including the condition that C Trust Company provide a registrable discharge of its mortgage and assignment of rents to the Law Society and remove its certificate of pending litigation.

Special Compensation Fund Committee decision involving claims 20020030, 20020189 and 20020454

Decision date: February 4, 2004
Report issued: April 5, 2004

Claimant: A Bank
Payment approved: \$196,039.57 (\$178,783.40 and \$17,256.17 interest)

The E. 56th Avenue property

In August, 2001 Ms. G (wife of Mr. G, one of Mr. Wirick's clients) became the registered owner of property on E. 56th Avenue in Vancouver. Ms. G obtained mortgage financing of \$182,000 from A Bank and a mortgage was registered against the property.

Ms. G and SD borrowed \$200,000 from Mr. and Ms. N as mortgagees, and a mortgage and assignment of rents in their favour was registered against the E. 56th Avenue property and another

continued on page 18



Special Fund claims ... from page 17

property (the R Street property).

Mr. G signed the mortgage on behalf of his wife and SD as co-covenanter.

In August, 2001 Ms. G agreed to sell the E. 56th Avenue property to Mr. C. The contract was signed on her behalf by Mr. G.

Mr. C and another person (H) obtained mortgage financing for the purchase from B Bank. The transfer was registered in November. Mr. Wirick acted for Mr. and Ms. G as vendors. He undertook to the purchaser's lawyer to pay out and discharge the A Bank mortgage on receipt of the sale proceeds, but then failed to do so, in breach of his undertaking.

The Special Compensation Fund Committee found that, although not every breach of undertaking is dishonest, these claims suggested, not negligence or error, but an intention to deceive on the part of Mr. Wirick. His conduct facilitated the wrongful misappropriation of funds otherwise payable to A Bank.

The Committee allowed the claim of A Bank, with payment subject to certain releases, assignments and conditions. If the A Bank mortgage were paid out, Mr. C and H and B Bank would be restored to the same position they would have been in had Mr. Wirick fulfilled his undertaking. Accordingly, their separate claims were denied.

Committee news ... from page 7

profession. As Mr. Turriff noted for the Benchers, "Analyzing potential threats to the independence of the bar and developing responses to them, as well as developing proactive initiatives to maintain the independence of the bar, will be ongoing tasks for the foreseeable future."

The Committee will present a formal

Special Compensation Fund Committee decision involving claims 2002027, 20020398 and 20020415

Decision date: February 4, 2004

Report issued: April 6, 2004

Claimant: A Bank

Payment approved: \$170,723.38

(\$158,016.07 and \$12,707.31 interest)

The R Street property

In June, 2001 SD became the owner of a property on R Street in Vancouver. He signed a declaration that he held the property in trust for V Ltd., a construction company owned by Mr. G, a client of Mr. Wirick.

SD obtained a \$162,500 loan from A Bank. Mr. Wirick acted for both SD and A Bank in this transaction. SD and Ms. G (wife of Mr. G) further encumbered the R Street property and another property on E. 56th Avenue with an inter alia mortgage and assignment of rents for \$200,000 in favour of Mr. and Ms. N.

SD and two other nominees of Mr. G next obtained a \$266,000 loan from CM, secured by a mortgage against the R Street property and two other properties.

Mr. G, acting under a power of attorney granted by SD, sold the property to Mr. and Ms. L for \$430,000. An addendum to the contract stated that Mr. G's company, V Ltd., would build a new house on the property for \$200,000. The new purchasers obtained \$100,000 in financing from B

written mandate for the Benchers' consideration shortly.

Futures Committee

The Benchers have streamlined the mandate of the Futures Committee as the following:

- To identify and develop strategic planning initiatives for the Law Society;
- To make recommendations to the

Bank, secured by a mortgage on title.

The purchasers' lawyer sent completion funds of \$382,962.39 to Mr. Wirick on his undertaking to pay out and release the prior charges on title. Contrary to his undertakings, Mr. Wirick did not use the funds to retire the encumbrances, but instead, after paying his account, transferred the balance to V Ltd. and to other unauthorized recipients.

Subsequently, the mortgage in favour of Mr. and Ms. N and the mortgage in favour of CM were discharged, but the A Bank mortgage remained on title in priority to the mortgage in favour of B Bank, which ought to have been the first charge.

The Special Compensation Fund Committee found that these circumstances suggested, not negligence or error, but an intention to deceive by Mr. Wirick. The Committee noted it was satisfied that Mr. Wirick had misappropriated or wrongfully converted funds. The Committee approved the A Bank claim in the principal amount owing, together with interest at the mortgage rate to May 24, 2002 and to a ceiling of 6% per annum thereafter.

Payment was subject to certain releases, assignments and conditions. If the A Bank mortgage were paid out, Mr. and Ms. L and the financial institution that provided them with mortgage financing would be placed in the position they ought to have been in. As a result, their separate claims for compensation were denied. ♦

Benchers about long-term and strategic issues.

The Executive Committee, rather than the Futures Committee, is now responsible for coordinating and monitoring the work of Law Society task forces and reporting to the Benchers as required. This change in responsibility will allow the Futures Committee to stay focused on future strategic planning initiatives. ♦

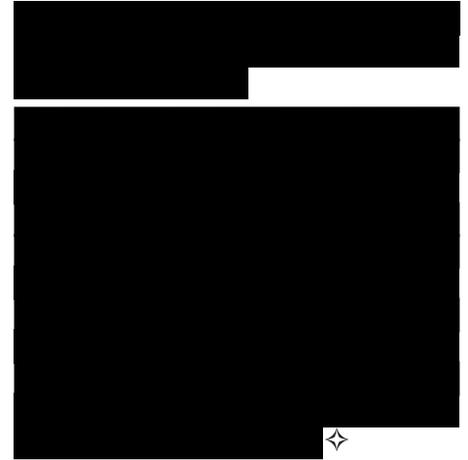


Unauthorized practice

Consent order

On application by the Law Society and by consent, the BC Supreme Court has ordered that **Balwinder S. Brar** of Surrey and his business **Canada Wide Immigration Services Inc.** be prohibited from the following, except as permitted by the *Immigration Act*: appearing as counsel or advocate, drawing corporate documents, drawing documents for use in a judicial or extrajudicial proceeding or documents relating to proceedings under a statute, negotiating to settle a claim or demand for damages, giving legal advice or offering or representing that they are qualified or entitled to provide any of these services for a fee. The Court awarded the Law Society costs of \$1,000 against the respondents: January 13, 2005.

Undertakings



Unauthorized practice

Under the *Legal Profession Act*, the Law Society is responsible for ensuring that unqualified people do not illegally offer legal services or misrepresent themselves as lawyers. This responsibility exists to protect the public from a loss of rights, money or both, which are often at stake in legal matters.

The Society investigates complaints of unauthorized practice and takes the steps necessary to stop it. If the facts bear out a complaint, the Society will explain the restrictions that apply to law practice and will ask

the non-lawyer to refrain from the activity. Usually this step is sufficient. When it is not, the Society has statutory authority to seek a court injunction, which may proceed by consent.

The Law Society publicizes undertakings and court actions to ensure the community understands this aspect of the Society's mandate, and also to gain the assistance of lawyers and members of the public in recognizing new or recurring unauthorized practice.

Annual General Meeting: September 23

Mark your calendars now for the Law Society Annual General Meeting.

The meeting will take place on **Friday**,

September 23, 2005 in Vancouver, with audioconference locations to be announced. Call to order is scheduled

for 12:30 pm.

Watch for a formal notice and details of the meeting in the months ahead. ✧

Outside appointment

Hamber Foundation

The Benchers have reappointed **John**

Leatheley, QC to the board of the Hamber Foundation for a second

three-year term ending February 28, 2008. ✧

ELECTED BENCHERS

President

Ralston S. Alexander, QC*

First Vice-President

Robert W. McDiarmid, QC*

Second Vice-President

Anna K. Fung, QC*

* * *

Joost Blom, QC
Robert C. Brun, QC
Ian Donaldson, QC
Carol W. Hickman
Gavin H.G. Hume, QC
John J.L. Hunter, QC*
William Jackson
Terence E. La Liberté, QC
Bruce A. LeRose
Darrell J. O'Byrne, QC
Margaret Ostrowski, QC
Gregory M. Rideout
G. Glen Ridgway, QC
Patricia L. Schmit, QC
Dirk J. Sigalet, QC
Grant C. Taylor, QC
Ross D. Tunnicliffe
Gordon Turriff, QC*
Arthur E. Vertlieb, QC
James D. Vilvang, QC
Anne K. Wallace, QC*
David A. Zacks, QC

LAY BENCHERS

Michael J. Falkins*
Patrick Kelly
Patrick Nagle
June Preston
Lilian To
Dr. Maelor Vallance

EX OFFICIO BENCHER

Attorney General
Geoff Plant, QC

* Executive Committee

LIFE BENCHERS

R. Paul Beckmann, QC
Howard R. Berge, QC
P. Michael Bolton, QC
Robert W. Bonner, QC
Darrell T.B. Braidwood, QC
Mr. Justice Thomas R. Braidwood
Cecil O.D. Branson, QC
Trudi L. Brown, QC
Mr. Justice Grant D. Burnyeat
A. Brian B. Carrothers, QC
Mr. Justice Bruce I. Cohen
Robert M. Dick, QC
Robert D. Diebolt, QC
Ujjal Dosanjh, QC
Leonard T. Doust, QC
Jack L.T. Edwards, QC
William M. Everett, QC
Richard C. Gibbs, QC
Robert W. Gourlay, QC
Dr. James J. Gow, QC
Arthur M. Harper, QC
John M. Hogg, QC
H. Allan Hope, QC
Ann Howard
Mr. Justice Robert T.C. Johnston
Gerald J. Kambeitz, QC
Master Peter J. Keighley
Peter Leask, QC
Gerald J. Lecovin, QC
Hugh P. Legg, QC
Charles C. Locke, QC
James M. MacIntyre, QC
Richard S. Margetts, QC
Marjorie Martin
Allan D. McEachern
Meredith M. McFarlane, QC
Lloyd G. McKenzie, QC
Brian W.F. McLoughlin, QC
Colin D. McQuarrie, QC
Kenneth E. Meredith
Peter J. Millward, QC
Dennis J. Mitchell, QC
Karen F. Nordlinger, QC
Richard C.C. Peck, QC

Emily M. Reid, QC
Norman Severide, QC
Jane S. Shackell, QC
Donald A. Silversides, QC
Gary L.F. Somers, QC
Madam Justice Mary F. Southin
Marvin R.V. Storrow, QC
William J. Sullivan, QC
G. Ronald Toews, QC
Russell S. Tretiak, QC
Benjamin B. Trevino, QC
William M. Trotter, QC
Alan E. Vanderburgh, QC
Brian J. Wallace, QC
Karl F. Warner, QC
Warren T. Wilson, QC

EXECUTIVE DIRECTOR'S COMMITTEE

Acting Executive Director

Sholto Heberton, QC

* * *

Stuart Cameron
Director, Professional Regulation
Susan Forbes, QC
Director, Lawyers Insurance Fund
Jeffrey Hoskins
Director, Policy and Legal Services / General Counsel
Neil Stajkowski
Chief Financial Officer
Alan Treleaven
Director, Education and Practice
Adam Whitcombe
Chief Information Officer

Contact

The Law Society
of British Columbia



845 Cambie Street
Vancouver, BC
Canada V6B 4Z9

Telephone: 604 669-2533
Toll-free within BC: 1-800-903-5300
Telefax: 604 669-5232
TTY: 604 443-5700
Website: www.lawsociety.bc.ca

Lawyers Insurance Fund
Telephone: 604 682-8911
Telefax: 604 682-5842