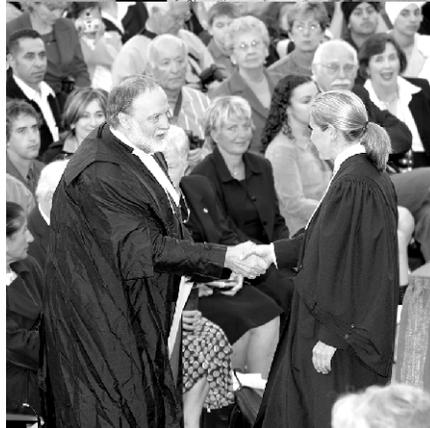
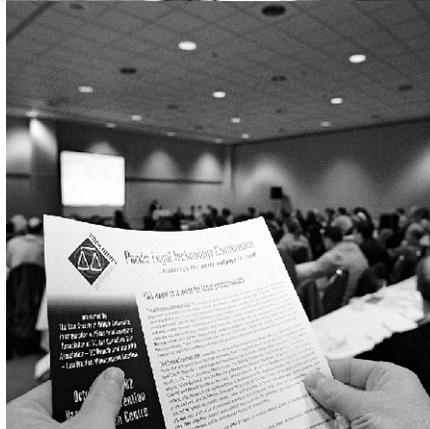


The Law Society of British Columbia



Annual Report



2002



President and Vice-Presidents

Richard C. Gibbs, QC
President
Howard R. Berge, QC
First Vice-President
William M. Everett, QC
Second Vice-President

Elected Benchers

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Robert D. Diebolt, QC
Ian Donaldson, QC
Anna K. Fung, QC
David W. Gibbons, QC
Robert W. Gourlay, QC
John J.L. Hunter, QC
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Robert W. McDiarmid, QC
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G. Ronald Toews, QC
Russell S. Tretiak, QC
Ross D. Tunnicliffe
Gordon Turriff, QC
James D. Vilvang, QC
Anne K. Wallace
David A. Zacks, QC

Lay Benchers

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Michael J. Falkins
Ann Howard
Patrick Kelly
Valerie J. MacLean
Marjorie Martin
Patrick Nagle
Anita Olsen
June Preston
Dr. Maelor Vallance

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P. Michael Bolton, QC
Robert W. Bonner, QC
Darrell T.B. Braidwood, QC
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Cecil O.D. Branson, QC
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Hon. Dr. James J. Gow, QC
Arthur M. Harper, QC
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John M. Hogg, QC
H. Allan Hope, QC

Ann Howard
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Hon. Meredith M. McFarlane, QC
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Brian W.F. McLoughlin, QC
Colin D. McQuarrie, QC
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Dennis J. Mitchell, QC
Karen F. Nordlinger, QC
Richard C.C. Peck, QC
Harry Rankin, QC
Emily M. Reid, QC
Norman Severide, QC
Jane S. Shackell, QC
Donald A. Silversides, QC
Gary L.F. Somers, QC
Hon. Madam Justice Mary F. Southin
Marvin R.V. Storrow, 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

Benchers



The Benchers, December, 2002

(Front row) Peter J. Keighley, QC, First Vice-President Howard R. Berge, QC, President Richard C. Gibbs, QC, Second Vice-President William M. Everett, QC, Margaret Ostrowski, QC

(Second row) Valerie J. MacLean, G. Glen Ridgway, QC, Gerald J. Kambeitz, QC, Anna K. Fung, QC, Anne K. Wallace, David W. Gibbons, QC, Russell S. Tretiak, QC

(Third row) David A. Zacks, QC, Ralston S. Alexander, QC, G. Ronald Toews, QC, Patricia L. Schmit, QC, June Preston, Robert W. McDiarmid, QC

(Fourth row) James D. Vilvang, QC, Ian Donaldson, QC, Dr. Maelor Vallance, Patrick Nagle

(Back row) Patrick Kelly, Grant C. Taylor, Ross D. Tunnicliffe, Michael J. Falkins, Robert W. Gourlay, QC, Gordon Turriff, QC

(Not pictured) Robert D. Diebolt, QC, John J.L. Hunter, QC, William J. Sullivan, QC

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Reflections

by Richard C. Gibbs, QC

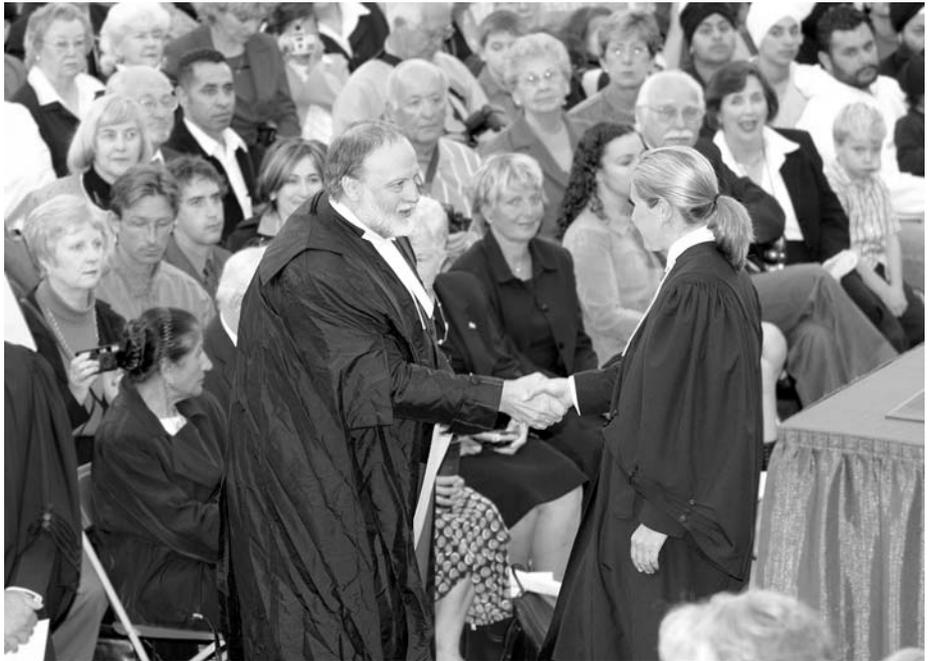
The Strategic Plan had a special provision requiring that the President in 2002 primarily spend his time addressing the problem of Canada Geese fouling the 9th floor patio at the Law Society building. I thought that kitting the Canada Geese out with Depends would satisfactorily address the issue, but it rendered them aerodynamically compromised and they plummeted to earth like stones. We'd fetch them back and get the barbie fired up: pluck 'em, de-gravel 'em, and Bob's your uncle — "Defenestrated Goose à la Law Society" — until the pedestrians down below cried fowl.

The Benchers, for their part, got on with more mainstream matters. They challenged themselves to produce reasons in discipline and credentials cases promptly — most are now available within 60 days. The Benchers revised the admission program in 2002, adopting new articling guidelines and preparing to bring the Professional Legal Training Course in-house in 2003.

The Benchers responded aggressively to the revelation of extensive breaches of undertakings by Mr. Martin Wirick by reviewing standard conveyancing practices and working out systemic deficiencies. Law Society staff made Herculean efforts to investigate Wirick breaches and to bring claims before the Special Compensation Fund Committee swiftly to ensure that Wirick's victims suffered as little as possible.

The membership censured the Attorney General over legal aid cut-backs.

And then there were the lawsuits. Early in 2002 the provincial government announced that, as a cost-cutting measure, it was closing 24 of the 68 courthouses in the province. This bypassing of the judiciary could not,



The moment that makes it all worthwhile. President Richard C. Gibbs, QC welcomes a new lawyer to the profession at a call ceremony at the Vancouver Law Courts on September 27. The Benchers tackled many challenges in 2002, some that called on the Law Society to uphold the independence of the judiciary and the profession. These were causes that Mr. Gibbs, for his part, embraced with passion, conviction and unflinching wit.

in the assessment of the Benchers, go unchallenged. We sued and pursued the litigation aggressively. Talks took place. A memorandum of understanding and a protocol between the Ministry of Attorney General and Provincial Court judiciary, both dated April 19, 2002, resulted from those talks. Agreement for the establishment of certain circuit courts was reached.

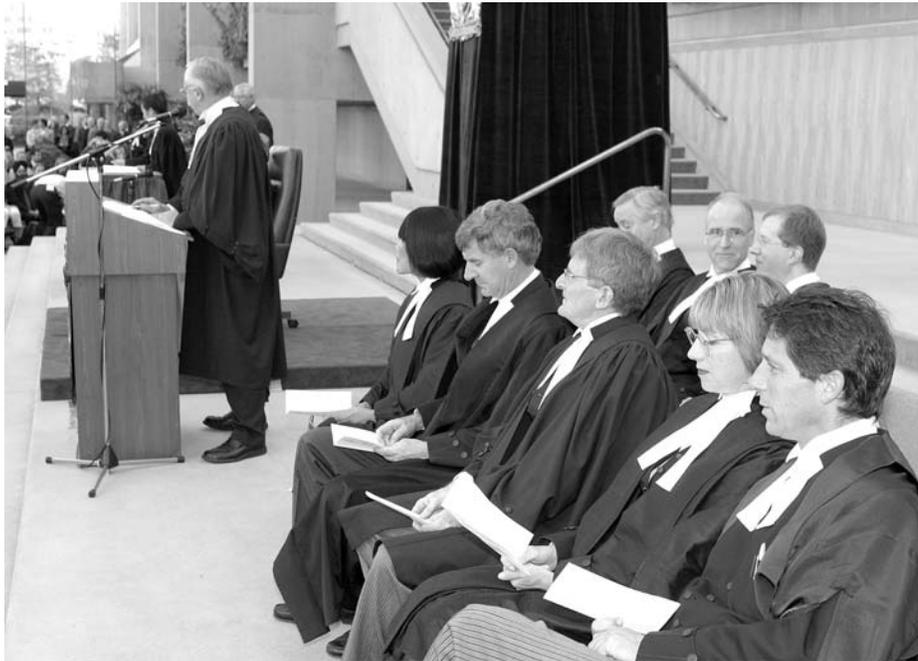
The federal government proclaimed some of the *Proceeds of Crime (Money Laundering) Act*, which imposed reporting obligations on lawyers, in late 2001 and it vexed us through 2002. Originally conceived to deal with bikers making millions from the drug trade, in a fit of opportunism shortly after the September 11

outrages, the federal government re-labelled it as anti-terrorism legislation. The government envisioned lawyers peeping at client keyholes and reporting their observations to Ottawa. What could the Benchers do but sue?

The injunction obtained by the Law Society of British Columbia and by the Federation of Law Societies of Canada was, I believe, the first of its kind — it entailed an interim exemption for BC lawyers from the application of the proceeds of crime legislation. The British Columbia template was replicated across Canada. With a hearing of a litigation on the merits fast approaching, the

continued on page 21

Year in review



Benchers look on as candidates for call and admission are presented to the court. The responsibilities of the Benchers in setting and upholding standards for the admission, practice and conduct of lawyers are fundamental to our system of justice. The legal profession is independent from the state, not for the benefit of lawyers, but for the benefit of their clients whose rights may come in conflict with the state. When lawyers speak out for the independence of the profession, they do so in defence of the right of all people to obtain independent legal advice and representation.

2002 highlights

Lawyers exempt from reporting clients under proceeds of crime law

Protecting the independence of lawyers and the privilege and confidentiality of their clients were priorities for the Law Society in 2002, on several fronts.

Following the Society's launch of a constitutional challenge of federal proceeds of crime legislation in 2001, the BC Supreme Court granted BC lawyers interim relief from the requirement to report suspicious transactions and large cash transactions to the federal agency FINTRAC. In granting this order, Madam Justice Allen described the legislation as "an

unprecedented intrusion into the traditional solicitor-client relationship": *Federation of Law Societies of Canada v. Attorney General of Canada*; *The Law Society of British Columbia v. Attorney General of Canada*, 2001 BCSC 1593.

For the profession, an important principle was at stake. Forcing lawyers to report a client to the state violates the client's fundamental right to solicitor-client privilege and confidentiality, which the Law Society has resisted as unconstitutional.

When court after court across Canada followed BC's lead in granting interim relief, the federal government stepped back. By mid-May, 2002 the Attorney General of Canada reached an agreement with the Federation of Law Societies of Canada (on behalf of

provincial and territorial law societies) to exempt all lawyers across Canada from Part I of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, including the recording and reporting provisions, until the Federation's constitutional challenge is heard in BC Supreme Court and the Court makes a decision on the merits. Consent orders reflecting this exemption from the legislation were entered in courts across Canada in June. The case is set to proceed in 2004.

Supreme Court of Canada upholds protection of privilege in law office searches

In September the Supreme Court of Canada struck down section 488.1 of the *Criminal Code* as unconstitutional on the basis that the section inadequately protected solicitor-client privilege in police searches of law offices, resulting in unreasonable search and seizure that infringed section 8 of the *Charter of Rights* and cannot be justified under section 1 of the *Charter*: *Lavallee, Rackel & Heintz v. Canada (Attorney General)*; *White, Ottenheimer & Baker v. Canada (Attorney General)*; *R. v. Fink* 2002 SCC 61.

The Federation of Law Societies of Canada was an intervener on behalf of Canadian law societies.

The issue before the Supreme Court of Canada in *Lavallee* was whether section 488.1 of the *Criminal Code*, which set out a procedure determining a claim of solicitor-client privilege in relation to documents seized from a law office under a warrant, infringed section 8 of the *Charter*. Section 488.1 required that material be sealed at the time of the search, that the lawyer make application within strict timelines for a determination of whether the material is intended to be protected by privilege and that the Crown be permitted to examine the material in order to assist in a

determination of the existence of privilege, with the permission of the court.

The Court found that section 488.1 more than minimally impaired solicitor-client privilege and amounted to an unreasonable search and seizure, contrary to section 8 of the *Charter*. Its constitutional failings could result from a number of factors: a lawyer's absence or inaction in claiming privilege; the naming of clients; the fact that notice is not given directly to the client; the fact that privilege must be claimed within strict time limits; a lack of discretion on the part of the judge determining the existence of solicitor-client privilege and the possibility of the Attorney General's gaining access to the material prior to that judicial determination.

The Court found that solicitor-client privilege is a principle of fundamental justice and a civil right of supreme importance in Canadian law. Given that privilege must remain as close to absolute as possible to retain its relevance, there must be stringent norms to ensure its protection. To pass *Charter* scrutiny, the procedure set out in s. 488.1 must minimally impair solicitor-client privilege.

The Court articulated general principles to govern the searches of law offices as a matter of common law pending any new legislation.

Securities Commission and lawyer independence

Early in the year the BC Securities Commission proposed new authority to exclude professionals, including lawyers, from practice before it if the conduct of those professionals relating to trading in securities was so egregious or grossly incompetent as to be contrary to the public interest. The Law Society strongly opposed the Commission having the power to restrict or prohibit the practice of lawyers before it — matters of discipline



An interlude at the 2002 Annual General Meeting affords an opportunity for colleagues to catch up. The AGM is the forum for conducting the annual business of the Society, including setting the practice fee for the following year, and for the discussion of member resolutions. In 2002 there was lively debate over inclusion of a CBA equivalent fee as a component of the practice fee.

that properly fall to the Society.

While backing off that initiative, the Commission issued a new paper in September, proposing that it have authority to prohibit a professional from practising before it if the professional has intentionally contravened the securities legislation, or has intentionally assisted others to do so.

In the Law Society's view, that proposal remains beyond the scope of the powers and penalties afforded to the Commission by the *Securities Act*. With respect to lawyers, such regulatory authority falls to the Law Society under the *Legal Profession Act*. The language of the proposed legislation is also very broad. It could allow the Commission to impose professional sanctions on a lawyer based on personal conduct outside the practice of law, such as in the lawyer's capacity as a director of a public company.

As lawyers are required to protect information that is subject to solicitor-client privilege, they would be prohibited from disclosing such information to the Commission, even if it were necessary to defend themselves against a charge that they have "aided or abetted the contravention of the *Securities Act* or Regulations." (By contrast, such privilege is maintained in proceedings under the *Legal Profession Act*.)

One of the most compelling reasons against the proposal is that it would be detrimental to the public interest by compromising the independence of the legal profession in BC. Making a lawyer subject to potential discipline by an administrative tribunal before which the lawyer appears on behalf of a client would wrongly interfere with the vigorous pursuit of the client's interests. Clients must be entitled to have their cases placed

Year in review



Lawyers cast ballots at a Special General Meeting in May. The meeting, requisitioned by members of the profession, raised the profile of the legal aid funding crisis. Lawyers at the meeting passed a resolution to express a loss of confidence in the Attorney General and to call on the Attorney to allocate to legal aid funding all of the revenues from the provincial tax on legal services and from federal contributions for legal aid.

before a tribunal in the best way possible, by counsel of their choice, provided that counsel is a Law Society member in good standing. In essence, the issue is that an agent of the state ought not to determine whether a lawyer can practise in a given area of law. In order to protect the independence of lawyers from the state, that determination must be made by a body independent of the state.

The Law Society has pointed to its statutory responsibility to govern the conduct of all lawyers, maintain a complaints and discipline process and impose a range of penalties for misconduct, conduct unbecoming or breach of the Act or Rules, including, in appropriate cases, the power to suspend or disbar a lawyer from practice.

The Society investigates all complaints received concerning the

conduct of lawyers practising in the securities law area, including any complaints that come from the Commission or from media reports. These are in fact few, and it is unnecessary to impose any other authority over the conduct of lawyers to ensure their proper regulation in securities practice.

On another front, the Law Society put forward submissions to the provincial government on its review of 60 administrative justice agencies. The Society has supported the initiative, but urged a tribunal-by-tribunal review rather than omnibus reforms that apply to all bodies — to ensure a thorough examination of the issues, needs and expertise of each body.

Provincial courthouse closures

The BC government's decision early in the year to close provincial

courthouses sparked controversy over the respective roles of government and the judiciary.

The Attorney General advised the Chief Judge of the Provincial Court of the closings by letter in January. While the decision affected matters of judicial administration (including the assignment of judges, sittings of the court, court lists, related matters of courtroom allocation and public access to the Provincial Court), it was made without consultation with or the agreement of the Provincial Court judiciary.

In light of concerns of the Chief Judge and in defence of judicial independence, the Law Society began a court challenge of the decision. The proceeding was later adjourned as the Attorney General and Chief Judge announced a protocol for consultation on future matters affecting court administration. Respecting the current round of courthouse closures, they also signed a memorandum of understanding to ensure public access to the courts and achieve cost reductions through such measures as circuit courts and videoconferencing some pre-trial appearances.

BC lawyers vote non-confidence in Attorney General

BC's ongoing legal aid funding crisis translated into a crisis of confidence in 2002. On May 22, 70% of the 1,140 lawyers at a member-requisitioned Special General Meeting voted to express a loss of confidence in the Hon. Geoff Plant, QC as Attorney General.

Lawyers at the meeting called on the Attorney General to allocate to the provision of legal aid all the revenues from the provincial tax on legal services and from federal contributions for legal aid.

In speaking to his motion of non-confidence, Victoria lawyer Michael

Mulligan said that the Attorney General is not a mere member of Cabinet, but a minister of justice with an obligation to see justice done, and legal aid funding cuts had to be viewed in that light.

Mr. Mulligan noted that BC is the only province to collect a tax on lawyers' accounts, which generated \$91.6 million the previous year, in addition to the \$9 million received from the federal government for criminal legal aid. He said the Attorney General had proposed a plan to reduce legal aid funding to \$54 million, while at the same time the government was increasing the provincial tax rate.

The Wirick matter

During 2002 the Law Society was to call on all its regulatory resources in the wake of conduct by Vancouver real estate lawyer Martin Wirick that had serious financial consequences for the profession and for some members of the general public and financial institutions.

Mr. Wirick voluntarily resigned his Law Society membership on May 23, 2002. The Society immediately obtained a court order for the appointment of a custodian of his practice on May 24 and began an audit. The evidence at that time was of substantial financial and procedural irregularities in his practice, including breaches of undertakings.

Mr. Wirick was cited and a discipline hearing panel found him guilty of professional misconduct for breaching his undertaking to pay out and discharge mortgages while acting for a developer client. He was ordered disbarred: see *Discipline Case Digest* 03/05.

Late in the year the Special Compensation Fund began consideration of claims for compensation on the basis of misappropriation or wrongful conversion of funds by Mr. Wirick. The Benchers rescinded the rule imposing

an annual limit on claim payments, thereby granting the Special Compensation Fund Committee discretion to approve claims without the restriction of a pre-determined cap.

For more on the Wirick claims and the Special Compensation Fund, see the Special Compensation Fund report on page 17 and the financial statements for the Special Compensation Fund on pages 27 to 29.

Proposed conveyancing practice reforms, financial protections

In June, 2002 the Benchers appointed a Conveyancing Practices Task Force, chaired by Victoria Bencher Ralston S. Alexander, QC, to canvass current conveyancing practice issues in light of problems that had arisen in the practice of Martin Wirick. The Task Force released two reports during the year, recommending practice reforms and related financial protections.

The Task Force concluded that, to better protect the public and uphold the integrity of lawyers' undertakings, there was a need to change certain conveyancing practices so as to diminish the opportunity for misuse of trust funds. There was also a need to improve the financial protections that cover all trust transactions.

A vendor's solicitor in a real estate transaction, for example, should provide a purchaser's solicitor with evidence that encumbrances on title have been repaid.

A recommendation that the Benchers had approved by year-end was to give a financial institution 30 days after a mortgage repayment in which to issue a discharge, and the lawyer responsible for the discharge (typically, the vendor's lawyer) a further 30 days to register the discharge. If a discharge is not registered at the Land Title Office within the cumulative 60-day period, the vendor's lawyer is

required to advise the Law Society of the institution's failure to provide the discharge. A purchaser's lawyer is also required to advise the Law Society if the vendor's lawyer does not provide discharge particulars within that same period.

These notifications are intended to provide the Law Society with information on the business processes of financial institutions and practices in the profession, and on whether certain institutions are not providing mortgage discharges within a particular timeframe. It may also flag situations that require attention or intervention from the Law Society. The Task Force stressed that no adverse inferences would be drawn against a lawyer from a failure to obtain a discharge of a repaid mortgage from a financial institution, in the absence of evidence of breach of undertaking or defalcation.

The Task Force also recommended new innocent party insurance coverage to compensate the public for losses that result from lawyer defalcation, on a go-forward basis. Funding of the proposed program could be through a blended premium. The first component of such a premium would be a general assessment paid by all practising lawyers. The second component would be a fee payable for each trust account (or trust ledger within a pooled trust account) opened for a client respecting a specific legal transaction or legal matter — with an exemption for very small trust transactions and for the collection and payment of retainers. That issue is before the Benchers in 2003.

Meredith receives Law Society Award

The Hon. **Kenneth E. Meredith** was presented with the Law Society Award at the Bench & Bar Dinner in November, in recognition by the Benchers of his remarkable service as

Year in review



The Hon. Kenneth E. Meredith, accompanied by his wife Barbara and family at the Bench & Bar Dinner in November, accepts from the Benchers the 2002 Law Society Award — presented in recognition of his lifetime contributions as a member of the bar and as a Justice of the BC Supreme Court. Mr. Meredith was instrumental to the introduction of a legal aid plan and establishment of the Law Foundation in BC.

a member of the Bar and as a Justice of the Supreme Court. The Law Society Award is given every two years to honour the lifetime contributions of the truly exceptional within the profession and the legal community, based on integrity, professional achievements, service and reform.

Mr. Meredith's career has spanned 23 years of practice — as a commercial law lawyer in Vancouver, 10 years as editor of the *Advocate*, eight years as a Benchers and more than 20 years as a Justice of the Supreme Court of BC.

His vision and commitment led to the establishment of a legal aid plan that has served British Columbians for three decades and to the establishment of the Law Foundation of British Columbia, which has played a critical role in funding legal aid, law libraries, legal education, legal research and law reform in the province.

ProBonoNet BC links lawyers and the community

The first website of its kind in Canada, ProBonoNet BC, was launched on November 19 at www.probononet.com, offering lawyers across BC the opportunity to respond directly to needs for pro bono assistance in their communities.

ProBonoNet BC is the cornerstone project of Pro Bono Law of BC — a non-profit society founded in 2002 by the Law Society of BC and the BC Branch of the Canadian Bar Association, with funding from the Law Foundation of BC. Through its website, Pro Bono Law strives to facilitate pro bono practice in the province by linking BC lawyers with the community groups and pro bono organizations that need their services.

This approach to pro bono in BC was set out in *Pro Bono Publico – lawyers*

-serving the public good in British Columbia, a report released in June by the Pro Bono Initiative Task Force of the Law Society and CBA (BC Branch), co-chaired by Peter J. Keighley, QC and Carman Overholt, QC.

Certification favoured for paralegals

During the year the Benchers decided in principle to allow a broader scope of work for law firm paralegals who become certified under a proposed Law Society certification program. A special Paralegals Task Force recommended a certification program, after studying different approaches to paralegals.

The Task Force study was spurred by developments in Ontario and other jurisdictions in which there are a significant number of unregulated independent paralegals in the marketplace. Legislative restrictions on non-lawyer practice are stronger in BC than in Ontario, and the experience with independent paralegals differs in the two provinces. Still, the Task Force flagged the possibility of change ahead in BC.

The public in BC deserves the full benefit of paralegals in the delivery of legal services, but without the risks posed by independent paralegals, the Task Force concluded. The Task Force recommended expanding the functions of paralegals (beyond what is now permitted by Chapter 12, Rule 4 of the *Professional Conduct Handbook*) if those paralegals work under the supervision of lawyers and if they are certified by the Law Society. Under such a program, certified paralegals could be encouraged to take on new functions, including certain advocacy roles, such as debt collection matters in Small Claims Court or first appearances and interim appearances on uncontested adjournments in criminal matters.

The Benchers authorized the Task

Force to continue consultations in 2003, to explore the legal framework for a certification program as well as the necessary standards, examinations and costs.

National mobility agreement signed

Canadian law societies ended the year on a celebratory note — with presidents from eight provinces gathering together at Osgoode Hall in Toronto for a formal signing of a new national mobility agreement for Canadian lawyers. The agreement, to be implemented through new rules passed by each signatory law society in 2003, makes it easier for most lawyers to travel and work across Canada.

Under the agreement, a Canadian lawyer from one province is allowed to practise in a reciprocating province for up to 100 business days in a calendar year without obtaining a permit, provided the lawyer meets certain criteria and does not create an economic nexus with the province. To take advantage of the new agreement, lawyers must meet certain requirements, such as having no discipline record and carrying professional liability insurance that is comparable to that required in the province they are visiting. The criteria for permanent transfer to another province are also changed, such that most lawyers would need to complete certain reading requirements specific to that province, but would not write transfer examinations.

All law societies are participating in the national regime except the Law Society of New Brunswick, the territorial law societies and the *Chambre des Notaires du Québec* (in light of the unique role that notaries play under Quebec's civil law system). The *Barreau du Québec* is a signatory, but its participation must await

certain approvals and accommodations specific to the civil law system.

Benchers

Lay Benchers

Lay Benchers are appointed by the provincial Cabinet and, like elected lawyer Benchers, are Law Society volunteers. They bring a public viewpoint to all work of the Society, in policy discussions before committees and task forces and at the Benchers table. They also participate on hearing panels.

Reappointed a Lay Bencher in 2002 was **June Preston** of Victoria, who was joined mid-year by new appointees **Michael J. Falkins** of Victoria, **Patrick Kelly** of Vancouver, **Valerie MacLean** of Vancouver, **Patrick Nagle** of Sooke and Dr. **Maelor Vallance** of Vancouver. Marjorie Martin, Ann Howard, Anita Olsen and Jaynie Clark overhauled as Lay Benchers pending the new 2002 appointments. Having served the Law Society as Lay Benchers for more than a decade, Ms. Martin and Ms. Howard each achieved the status of Life Bencher.

In 2002 Ms. Olsen and Ms. Preston successively chaired the Complainants' Review Committee, and Lay Benchers participated on the Executive, Complainants' Review, Credentials, Discipline, Equity and Diversity, Futures, Practice Standards, Special Compensation Fund, Technology and Unauthorized Practice Committees and on the Lawyer Education, Disclosure and Privacy and Paralegals Task Forces.

Elected Benchers

William Jackson, Crown Counsel in Dawson Creek, was elected as a Bencher for Cariboo District for 2003 in a November 15, 2002 by-election, replacing Richard Gibbs, QC whose service as a Bencher and President completed at the end of 2002.

Profile of the profession

Of the 367 people called to the BC bar in 2002, most were new law school graduates — 188 (51.2%) were graduates from BC law schools, 109 (29.7%) were from other Canadian law schools and 14 (3.8%) were from foreign law schools. There were also 56 lawyers from other Canadian jurisdictions who transferred to BC (15.3% of all calls): see *Lawyers called to the BC bar (2000-2002)*.

As can be seen from the table *Law Society members*, there were 8,966 practising lawyers at year-end, 1,230 non-practising members and 190 retired members. Of lawyers with practising status in BC during the year, two-thirds were in private practice. Women made up 32% of the profession.

Looking at geographic distribution, 55.2% of lawyers are located in Vancouver district, 12.3% in Westminister, 9.3% in Victoria district, 3.7% in Nanaimo district, 3.6% in Okanagan, 2.1% in Kamloops district, 2.1% in Cariboo, 1.3% in Kootenay and just under 1% in Prince Rupert district. Another 9% reside out of province, many of whom maintain non-practising membership in BC.

The leading areas of practice, according to time spent by lawyers, are civil litigation (motor vehicle and all other), corporate-commercial, criminal, family law, real estate and administrative law: see *2002 areas of practice*.

Credentials

For the Law Society admission program, 2002 was a year of change. The Benchers approved 28 program reforms recommended by a special Admission Program Task Force, chaired by President Richard Gibbs, QC. The Task Force made its recommendations after extensive consultation in the profession. By Fall the Society had begun plans to introduce reforms to articling, the Professional

Year in review

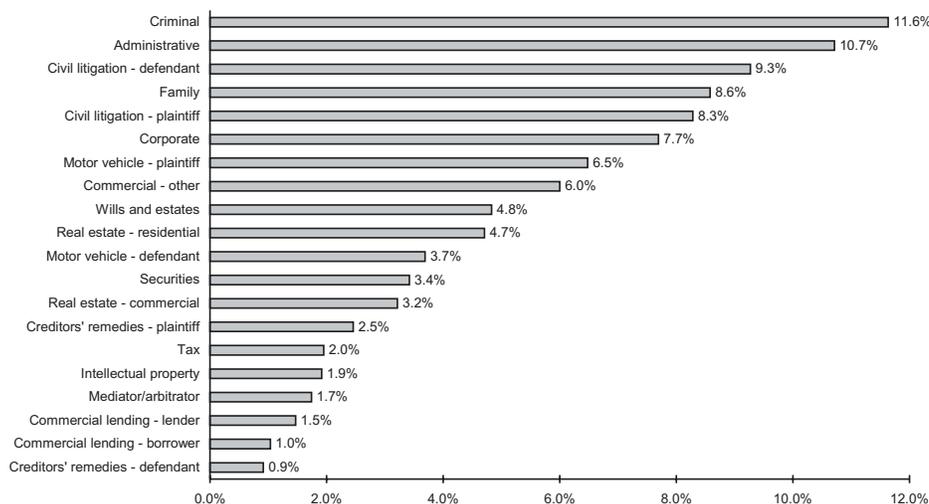
Lawyers called to the BC bar (2000 – 2002)

	2000	2001	2002
Called to the BC bar			
Recent graduates of BC law schools	198	211	188
Recent graduates of other Canadian law schools	101	88	109
Graduates of foreign law schools	18	16	14
Lawyers transferring from other jurisdictions	<u>67</u>	<u>29</u>	<u>56</u>
Total	<u>384</u>	<u>344</u>	<u>367</u>
Reinstatements	41	30	25

Law Society members (as at December 31, 2002)

Practising members	8,966	(86.3%)
Non-practising members	1,230	(11.9%)
Retired members	<u>190</u>	(1.8%)
Total	<u>10,386</u>	

2002 areas of practice



Legal Training Course (PLTC), examinations and skills assessments, governance of the admission program and post-call competence.

The Admission Program Task Force focused on the essential criteria for newly called lawyers — legal knowledge, lawyering and practice skills, professional attitude, experience in the practice of law and good character. For the admission program to meet these criteria, the Task Force recommended that the program retain both teaching and articling components, but that PLTC and articling should be better integrated and harmonized.

Over the course of the Task Force's study, it became clear that articling was a weak link in professional legal education. Because the quality of articles varies greatly, for some students it is now less significant than PLTC as preparation for the competent practice of law. This fact flagged the need for reform.

Under program changes planned for 2003, students will obtain experience during articles in a range of lawyer skills — set out in an admission program checklist — and in at least three areas of practice. Articled students and principals will also be required to file with the Law Society at the start of articles an articling education contract that incorporates references to the checklist, a joint mid-term report and a joint final compliance report. By May, 2004 a lawyer wishing to serve as a principal will require at least seven years of practice experience, rather than four, and will be limited to two students at a time.

PLTC, for its part, must place greater emphasis on skills, professional responsibility and practice management, and less on substantive law.

A proposal for a mandatory entrance examination as a prerequisite to PLTC or articling was dropped. The



Of the 367 people called to the BC bar in 2002, most were recent law school graduates — just over half from BC law schools and almost 30% from other Canadian law schools. Just over 15% of new lawyers came to BC on transfer from other provinces or territories.

exam was proposed in 1999 as a way to test the substantive law knowledge of students and to cut back on substantive law instruction in PLTC. The Task Force took account of concerns subsequently raised over an entrance exam, including the narrowing effect it might have on the law school curriculum, the delay it might impose on students starting the admission program and the concern that students might go to other provinces.

As part of a greater outreach effort in the law schools, the Law Society will, however, advise law students that success in the admission program requires they be knowledgeable in core areas of substantive law, practice and procedure, as they will be examined on these with little or no additional instruction in PLTC.

Another reform was to allow from other common law countries with five years of practice experience to apply for an exemption from parts of

PLTC, as they could already for the articling term, when coming to BC. As practice across Canada is becoming increasingly liberal (see “National Mobility Agreement signed” on page 8), law societies also looked at harmonizing admission standards for Canadian lawyers on a national scale, a project taken up first in the western provinces by BC’s Western Law Societies Task Force.

A Lawyer Education Task Force, chaired by Cariboo Bencher Patricia Schmit, QC, was struck mid-year for the next phase of reforms — to promote the excellence and competence of lawyers through post-call learning and information support and to probe the continuing education needs of newly called lawyers and sole practitioners.

In the midst of these various initiatives, the ongoing work of enrolment, education and call to the bar of articulated students, the transfer of lawyers

from other provinces and other countries and the reinstatement of former lawyers was carried out by the Credentials Committee and by staff. In 2002 the Committee was chaired by First Vice-President Howard Berge, QC and later by Russell S. Tretiak, QC. When the character or fitness of any applicant for admission, reinstatement or transfer needs to be addressed, the Committee considers these applications directly or orders a formal credentials hearing. The Committee is also responsible for reviewing applications relating to a student’s failed standing in PLTC and for considering any matters arising from articles.

New Law Society Rules in 2002 provided that an articulated student whose enrolment is subject to a Bencher review cannot be called and admitted before the Benchers have issued a decision on the review. Other rule amendments require a party initiating a Bencher review of a credentials or discipline decision to set out the issues in a Notice of Review. The rules also automatically stay the panel’s decision in the case of call and admission or reinstatement, or on application in other cases, and allow for a pre-review conference, with the presiding Bencher empowered to order exchanges of arguments and authorities.

During the year the Credentials Committee flagged for the Benchers a discrepancy that appeared to exist between the Law Society Rules and the Provincial Court Rules — or the interpretation of those rules — on the scope of practice for articulated students. Lawyers have noted that some Provincial Court judges do not allow students to appear at family law case conferences, arraignment hearings or trial confirmation hearings and that some registries have not allowed students to search family law files. The issues were subsequently raised

Year in review

with the Chief Judge who brought them to the attention of the administrative judges. The Chief Judge also subsequently issued a practice direction that, for the purpose of registry searches under Provincial Court Rule 20(10), a party's lawyer includes an articulated student acting for a party or acting as agent for a party's lawyer.

One pleasure of welcoming the next generation of lawyers is in honouring their academic achievements. During the year the Benchers presented Law Society gold medals to the top BC law school graduates, **Benjamin Berger** of UVic and **Susanne Elliott** of UBC, and awarded the Law Society scholarship for graduate legal studies to **James Hickling**, himself a 2000 gold medallist for UBC.

Ethics

The Ethics Committee, chaired by Ralston S. Alexander, QC and subsequently by G. Ronald Toews, QC in 2002, provides support to the Benchers in setting ethical standards for the profession. The Committee does this in several respects:

- identifying current professional responsibility issues;
- developing policy recommendations and possible changes to the *Professional Conduct Handbook*;
- interpreting existing rules for individual lawyers or Law Society committees; and
- publishing ethical opinions of interest to the profession as a whole.

In March, on the Committee's recommendation, the Benchers amended Law Society Rule 3-57 to allow lawyers to transmit a bill, and a letter accompanying a bill, to a client at the client's last known email address. The change reflects the legal recognition accorded to records in electronic form under the *Electronic Transactions Act* SBC 2001, c. 10.

Lawyers, however, must comply with section 69 of the *Legal Profession Act*, which requires that a lawyer's bill be signed by or on behalf of the lawyer or accompanied by a signed letter — which may be satisfied by an appropriate electronic signature in accordance with the *Electronic Transactions Act*.

The Ethics Committee provides opinions to lawyers who request assistance with ethical issues and may issue formal opinions.

For many years lawyers have questioned the propriety of joint retainers in divorce actions. In 1989 the Ethics Committee (then called the Professional Standards Committee) published an opinion in the *Benchers' Bulletin* that lawyers should not act for both spouses in bringing a joint action for divorce under the Divorce Rules because of the potential for disagreement to emerge between parties in family law matters, even after both spouses have received independent legal advice. That opinion was confirmed in 2000.

After concerns expressed by lawyers, the 2002 Committee determined that, in special circumstances, the prohibition need not apply. A lawyer, including one who has acted as mediator for the spouses, may act for both spouses in a joint action for divorce, provided all relief sought is by consent and both parties have received independent legal advice in relation to the matter.

The Ethics Committee also revised an earlier opinion on lawyer participation in a "home closing program" of First Canadian Title after that program was redesigned. A lawyer could act for a purchaser, or for a purchaser and a lender (provided that representation is permitted by Appendix 3 of the *Professional Conduct Handbook*) under the redesigned program on certain conditions, including that the

Personal assistance programs

To encourage lawyers to maintain wellness and competence, the Law Society funds two independent, confidential personal assistance programs: Interlock and the Lawyers Assistance Program (LAP).

Interlock offers professional counselling and referrals for lawyers and their families on a range of personal or work-related problems, including relationship difficulties and stress — on a self-referral basis. Interlock has registered psychologists, social workers, clinical counsellors and addiction specialists available in many communities in BC. In 2002 Interlock provided services to 366 new clients (289 lawyers, 75 students and two family members), with couples and family concerns being most prevalent (38%), followed by workplace stress (10%).

The Lawyers Assistance Program relies on a network of over 200 volunteers, premised on "lawyers helping lawyers." LAP takes self-referrals and may undertake interventions for substance abuse and other problems. The program helped 240 new people in 2002, and organized volunteer training retreats, AA retreats, support groups and career planning workshops.

lawyer not act for First Canadian Title and does not owe it any of the duties that are owed to a client.

The Committee gave opinions to individual lawyers on matters ranging from the separation of business ventures from a lawyer's practice to screening measures appropriate in some circumstances for new staff joining a law firm.

The Committee also carried out policy development for the Benchers on the *Professional Conduct Handbook*. During the year, the Committee worked up recommendations for changes to Chapter 3 to clarify a lawyer's obligations to a client who lacks capacity to give instructions and changes to Chapter 7 to allow a lawyer in some circumstances to take shares in a corporate client in lieu of fees.

With a new National Mobility Agreement on the horizon, the Ethics Committee explored the potential for a harmonized code of professional conduct for the western provinces or a national code for all of Canada. The Committee told the Benchers that the responsibility of each law society to set professional standards within its jurisdiction may preclude a harmonized mandatory code for the provinces. A model code of conduct might prove useful, however, and that project may be looked at further.

Practice advice

The Law Society Practice Advisor, Practice Management Advisor and Ethics Staff Lawyer answer several thousands of practice enquiries each year, with the more significant or common enquiries often leading to practice advice articles in the *Benchers' Bulletin* and other publications.

The Law Society offers services and resources to assist lawyers to practise competently, ethically and in a way that is financially viable, and to avoid



The Pacific Legal Technology Conference was a new event in 2002. Presented by the Law Society, together with the Canadian Bar Association (BC Branch), the Trial Lawyers Association of BC and the ABA Law Practice Management Section, the Conference offered a full day of education on the practical side of technology for lawyers in practice. Over 300 lawyers, office administrators, legal researchers and IT staff attended.

complaints and insurance claims.

There are many facets to this program, including advice on practice and professional conduct issues. A very successful initiative is publication of practice resources on the Law Society website. In 2002 BC lawyers downloaded over 16,000 practice checklists and 8,600 articles on such fundamentals as "Opening and Maintaining Client Files," "Getting Started: Trust Accounting," "Getting Started: Opening Your Law Office," "Winding up a Sole Practice," "Remitting Interest to the Law Foundation" and "CDIC reports."

A highlight of the year was the inaugural Pacific Legal Technology Conference "*Technology that Works and Pays for Itself*" on October 18, organized by Practice Management Advisor Dave Bilinsky and presented by the Law Society, the CBA, BC Branch,

the Trial Lawyers Association of BC and the ABA Law Practice Management Section. The Conference offered a full day of multi-track educational sessions by acclaimed speakers who focused on the practical results of technology. Over 300 litigators, solicitors, office administrators, legal researchers and IT professionals attended.

The Conference showcased legal technologies, what they can do for law firms and legal departments, how they can be implemented in a busy office or in the course of trial to maximize benefits and how firms can manage the legal and ethical side of technology. Special features included a look at the technologies behind the new "21st Century Courtroom" at the Vancouver Law Courts and a full exhibitors display area for software presentations and hands-on demonstrations.

Year in review

Complaint files by type of conduct alleged

Type of file	2000	2001	2002	
Complaints:				
Abuse of process	38	30	21	(1.5%)
Advertising	28	6	7	(.5%)
Breach of Act or rules	31	52	33	(2.4%)
Breach of confidentiality	16	15	11	(.8%)
Breach of undertaking	55	27	50	(3.6%)
Conduct unbecoming	22	14	25	(1.8%)
Conflict of interest	79	85	56	(4.1%)
Counselling/engaging in unlawful conduct	10	5	5	(.4%)
Court: missed limitation/disrespect	14	11	7	(.5%)
Criminal/quasi-criminal conduct	11	6	11	(.8%)
Delay/inactivity	67	50	64	(4.7%)
Discrimination	4	4	4	(.3%)
Dissatisfaction with legal service	226	228	253	(18.4%)
Error/negligence/incompetence	63	61	55	(4.0%)
Failure to communicate/respond	139	112	130	(9.4%)
Failure to follow/obtain client instructions	45	19	15	(1.1%)
Fees	69	60	63	(4.6%)
Miscellaneous/unclassifiable	40	33	64	(4.6%)
Misleading/dishonest conduct	77	93	74	(5.4%)
Office management/employee supervision	5	14	13	(.9%)
Opposing party: direct contact/dissatisfaction	116	162	159	(11.6%)
Personal problems affecting practice	3	4	4	(.3%)
Rudeness	30	36	32	(2.3%)
Sharp practice	42	42	20	(1.5%)
Threatening	29	24	25	(1.8%)
Trust defalcation	24	30	15	(1.1%)
Unpaid creditor/disbursement	81	58	94	(6.8%)
Withdrawal from case	13	17	10	(.7%)
Withholding file/funds	<u>46</u>	<u>50</u>	<u>56</u>	(4.1%)
Total complaint files opened	1,423	1,348	1,376	
Public enquiry files opened*	<u>243</u>	<u>213</u>	<u>214</u>	
Total complaints and public enquiries	<u>1,666</u>	<u>1,561</u>	<u>1,590</u>	
Files closed	1,733	1,655	1,535	

* In addition to complaint files, the Law Society opens files for all written public enquiries about lawyer conduct (in which no particular lawyer is identified) or enquiries that do not relate to lawyer competency or conduct, but to some aspect of the legal system. The Professional Conduct Department staff also routinely offer information by telephone about lawyers in general, the Law Society and justice system, handling almost 3,700 public calls in 2002.

Professional conduct and discipline

Staff lawyers and paralegals in the Professional Conduct Department carry out the initial review and assessment of complaints about lawyers — a fundamental part of the Law Society's role in enforcing standards of professional responsibility. Complaints are most frequently made by clients, opposing parties or lawyers, but a complaint is defined in the Law Society Rules to include information from any source that suggests a disciplinary violation.

In 2002, the Law Society received 1,590 complaints and enquiries, slightly more than in 2001 (1,561).

The department's goal is to complete and close most files within six months, although complex or serious matters can take longer to investigate and assess. By year-end, staff completed their review and assessment of 1,535 files.

In 2002 the Professional Conduct Department continued work on alternative forms of complaint resolution. The intent was to improve efficiency, increase the satisfaction of lawyers and complainants and spend less investigative time on minor matters. This allows for greater focus on the most serious and complex complaints, such as those involving the mishandling of trust funds.

In 2002 15.1% of complaints were resolved or reconciled, sometimes with the assistance of Law Society staff.

Telephone complaint resolution is an approach often favoured by complainants and is considered for such matters as unpaid debts, return of files, general dissatisfaction, simple delay and rudeness. Another option open to lawyers and clients when fees are at issue is a voluntary fee

continued on page 15

Disposition of complaints and public enquiries closed in 2002

	# of files	% of all files
Reconciled/resolved ¹	231	15.1%
Minor misconduct	56	3.6%
Minor error	45	2.9%
Referred to Discipline Committee	149	9.7%
Referred to Practice Standards Committee	48	3.1%
Misconduct not established after investigation ²	678	44.2%
Outside Law Society jurisdiction: complainant advised of possible civil remedies ³	<u>328</u>	21.4%
Total	<u>1,535</u>	

Note 1: Just over 15% of all complaints were reconciled or resolved between the lawyer and client, sometimes with Law Society assistance, such as through telephone complaint reconciliation. When there was minor misconduct or a minor error, this was often acknowledged by the lawyer and the acknowledgement conveyed to the client, without need for a discipline referral. 12.8% of complaints were sufficiently serious to warrant a referral to either the Discipline or Practice Standards Committee.

Note 2: After investigation, the Professional Conduct Department may determine that a complaint is invalid or that there is insufficient evidence to substantiate the allegation. When a complainant finds a staff determination unsatisfactory, he or she may in some circumstances have the matter reviewed by the Complainants' Review Committee.

Note 3: The Law Society frequently receives complaints that fall outside its jurisdiction, most commonly complaints of dissatisfaction over a lawyer's fees or services that do not amount to a conduct or competency concern for the Society. The Society explains the difference between its regulatory jurisdiction over lawyers and the complainant's legal options, which may include a fee review before a registrar.

Actions taken by Discipline Committee

	2000	2001	2002
Citations	28	33	33
Admonishments from Discipline chair	26	17	16
Conduct reviews	<u>70</u>	<u>42</u>	<u>33</u>
Total	<u>124</u>	<u>92</u>	<u>82</u>

Note: For Practice Standards Committee statistics, see page 16.

Disposition of citations

	2000	2001	2002
Admissions of guilt (Rule 4-21)	1	6	4
Resignations	—	—	—
Disbarments	—	2	2
Suspensions	3	7	4
Fines	3	5	7
Reprimands	7	5	6
Citation rescissions by Discipline Committee*	11	8	5
Citation dismissals by hearing panels	<u>1</u>	<u>3</u>	<u>—</u>
Total citations completed	<u>26</u>	<u>36</u>	<u>28</u>

* May include matters referred for conduct review.

Disposition of 2002 reviews by Complainants' Review Committee

No further action	75
Complaint withdrawn	1
Referred to Practice Standards Committee	2
Referred to Discipline Committee	<u>2</u>
Total	<u>80</u>

Note: A complainant who is dissatisfied with the staff's disposition of a complaint may ask the Complainants' Review Committee, which is chaired by a Lay Benchler, to reconsider the disposition. The Committee could find no grounds for further action on 94% of the 80 matters reviewed.

Year in review

mediation program.

In 2002 the department referred 48 complaints (3.1% of files closed) to the Practice Standards Committee, up from the 26 files (1.6%) referred in 2001. The department referred 149 files (9.7%) to the Discipline Committee for consideration, the same number as in 2001. A referral to the Discipline Committee may result in such disciplinary action as a letter to the lawyer from the Committee chair, a conduct review before a Bencher and another senior practitioner, or a citation for a formal hearing before a panel.

Of the files closed in 2002, 44.2% did not reveal a conduct or competency concern or were unprovable or unfounded. 21.4% were assessed as outside the Law Society's jurisdiction.

A complainant who is unhappy with

a staff decision to take no further action on a complaint can, in some circumstances, request a review before the Complainants' Review Committee, which is chaired by a Lay Bencher. A review of procedural fairness by the office of the provincial Ombudsman is also an option, although as a result of recent financial cutbacks the Ombudsman has indicated that its power is limited.

The Law Society complaints process is confidential, and the Society reports out only to the complainant and lawyer. This ensures the integrity of an investigation, fairness to the lawyer's reputation and privacy of the complainant. If, however, a complaint is already known to the public, such as through media reports, the Society may comment publicly on the status of the complaint.

When there is enough evidence of misconduct to merit a formal discipline hearing, the hearing is open to the public, and both the circumstances of the misconduct and the results of any discipline action are also public.

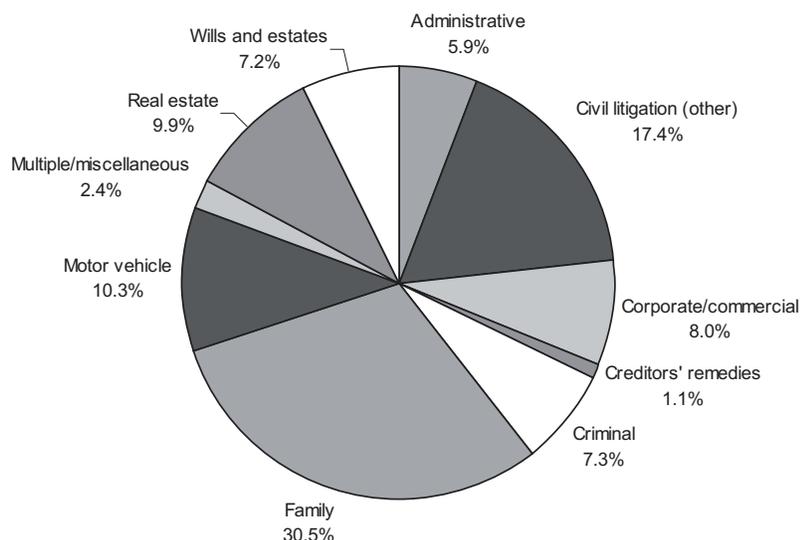
During the year, Law Society Rule 5-3 (4) was adopted to provide that a person is disqualified from appearing as counsel for any party in a Law Society credentials or discipline hearing for three years after serving as a Bencher or as a member of a hearing panel. It was previously the Benchers' policy that Life Benchers should never appear as counsel in hearings and other former Benchers should not appear for three years. It is the Benchers' policy not to retain former Benchers to represent the Law Society in internal hearings.

To ensure that Law Society regulation is transparent and efficient and that legitimate privacy interests are respected, the Law Society's Disclosure and Privacy Task Force, chaired by Peter J. Keighley, QC, undertook a review of Law Society regulatory processes, beginning with discipline. The Task Force's recommendations, approved by the Benchers in principle in the Fall, will allow for publication of both discipline hearing dates and citations on the Law Society website, as well as the full text of hearing reports.

The Benchers also decided that a hearing panel should be permitted to order, on its own motion, that all or part of a hearing be held in camera to prevent disclosure of personal, privileged or confidential information and that such issues further be discussed at pre-hearing conferences.

The rules will also allow for public access to hearing exhibits, at the expense of the person making the request and subject to removal of privileged or other specified information.

2002 complaint files by area of practice



Practice standards

In addition to programs that enhance overall competence in the profession, the practice problems of individual lawyers are addressed by a Practice Standards Committee, which in 2002 was chaired by Russell S. Tretiak, QC and then by Gerald J. Kambeitz, QC.

The Committee addresses competency issues in two ways:

- by assisting lawyers whose competency is in question achieve competency; and
- by restricting from practice incompetent lawyers who pose a danger to present or future clients.

When a lawyer is referred to the Practice Standards Committee — often by the Professional Conduct Department staff or the Discipline Committee as a result of complaints — the lawyer may be asked to participate in a practice review conducted by a volunteer practitioner and a Law Society

staff lawyer. New referrals to the Committee were up in 2002 and the number of practice reviews ordered by the Committee rose from 11 in 2001 to 21 in 2002.

Through practice reviews and recommendations, as well as follow-up measures in the program, the focus is on remediation where possible and economically feasible for the lawyer. When the practice review and remedial studies program began in 1986, efforts often focused on upgrading lawyers with poor legal knowledge or turning around disorganized practices. The reality today is that, even if well-versed in law and procedure, some lawyers face financial difficulties, depression or psychiatric problems that can contribute to a crumbling legal practice. Increasingly, the Committee seeks to have a struggling lawyer restrict his or her practice to certain areas, or to work only under the supervision of another lawyer — steps that emphasize the

lawyer's individual responsibility to maintain competence. These approaches have proved successful for many lawyers in stabilizing their practices and protecting clients.

To meet the growing need for practice reviews and follow-up, the practice standards program relies on volunteers within the profession, both to assist staff on practice reviews and to serve as practice supervisors.

Many lawyers referred to the Practice Standards Committee recognize their need to establish a viable law practice, meet professional responsibilities and avoid disciplinary consequences. If their problems are very serious or they are unwilling to make the necessary changes, a discipline referral is still possible. The Practice Standards Committee plays an important role in overseeing remedial measures ordered by a discipline or credentials panel.

Equity and diversity

The Equity and Diversity Committee, chaired by President Richard Gibbs, QC and later by Anne K. Wallace in 2002, assists the Benchers on diversity issues, including multiculturalism, gender equality, disability and sexual orientation.

During the year the Committee conferred on Discrimination Ombuds-person, Anne Chopra, the new title of Equity Ombudsperson, along with a broader educational role, which includes assisting with the integration of equity and diversity issues in PLTC.

The Committee also laid plans through working groups to follow up on several diversity initiatives. In follow-up to the 2001 *Lawyers with Disabilities* report, the disability working group secured federal funding to gather empirical research on the obstacles now facing lawyers with disabilities and, through policy forums, to identify ways of eliminating those

2002 referrals to the Practice Standards Committee

Lawyers referred	29
Results of referrals:	
Practice review ordered	21
Meeting with senior lawyer	2
Referred to Discipline Committee	1
Disposition of ongoing files:	
New practice restrictions	13
Practice supervision put in place	1
Referred to Discipline Committee	2
Matter completed to satisfaction of Practice Standards Committee (file closed)	22
Costs ordered	\$43,100

The Practice Standards Committee considers referrals from Professional Conduct Department staff, the Discipline Committee or other sources, and takes remedial, rather than disciplinary, action to assist a lawyer who is having difficulty in practice.

Year in review

obstacles.

2002 was a year to reflect on gender issues as well. A decade after release of *Women in the Legal Profession* and *Gender Equality in the Justice System*, Law Society studies that documented widespread gender bias within the legal profession and the justice system, women lawyers continue to leave the profession in greater numbers than men. Although steps have been taken to encourage women to remain in the profession, more work is needed. The working group on women in the legal profession planned new research, such as confidential exit interviews for lawyers leaving the profession as well as meetings of practitioners, law students and articulated students.

Finally, the Aboriginal working group outlined steps to implement Benchers' resolutions to improve the experience of Aboriginal people in the profession — from law school, to articling through to the practice of law. The Benchers had earlier approved an admission outreach program (coordinated with the law schools and other bodies) to help members of the Aboriginal community and other historically disadvantaged groups enter law school and to assist Aboriginal students in finding the financial resources necessary to attend law school preparatory programs.

Unauthorized practice

Because of the serious risk to the public of unqualified people offering legal services, the Law Society is responsible under the *Legal Profession Act*, not only for setting and upholding regulatory standards for lawyers, but for ensuring that unqualified people do not illegally offer legal services or misrepresent themselves as lawyers.

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.

Through the work of the Unauthorized Practice Committee in 2002, chaired by Gerald J. Kambeitz, QC, the Law Society obtained 26 undertakings and covenants from non-lawyers to refrain from unauthorized practice, as well as six consent injunctions and five other injunctions.

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

The types of unauthorized practice encountered in 2002 varied — from individuals preparing divorce papers, to collection agencies appearing in court on collection actions to former lawyers holding out that they were lawyers or entitled to practise law. One of the more common problems during the year came from small businesses — including certain tax preparation firms and a notarial practice — offering to prepare corporate documents although they lacked the qualifications or authority to do so.

With the advent of new internet filing requirements for annual reports in the Corporate Registry, the Committee noted that the principals of companies may choose to file reports directly. Those that need assistance or advice, however, should be alerted to the importance of professional qualifications. On the Committee's recommendation, the Corporate Registry added to its website a caution that, "if assistance is required in preparing the annual report, individuals should

consult a lawyer."

During the year the Committee launched into a policy discussion of lay advocates who appear for employers before the Workers Compensation Board. The Committee had concerns over lay advocates providing services, without adequate regulatory protections for the public. That issue, and the Law Society's approach to WCB lay advocates, will be looked at further in 2003.

One perennial problem — that of notaries public offering probate services — was resolved on appeal to the Supreme Court of Canada. In October the Court refused to hear an appeal by Sparwood notary public Marian Gravelle who had been ordered to stop probating wills. The BC Supreme Court and BC Court of Appeal decisions were accordingly left standing, to the effect that BC notaries are not entitled to probate wills or to prepare documents relating to the estate of a deceased person under the *Notaries Act: Law Society of British Columbia v. Gravelle* 2001 BCCA 393.

Special Compensation Fund

2002 proved a difficult year for the Special Compensation Fund. In the wake of the deplorable actions of former Vancouver lawyer Martin Wirick, the Law Society was called on to demonstrate the profession's deep commitment to public protection.

In May, 2002 Mr. Wirick voluntarily resigned his Law Society of BC membership, noting financial and procedural irregularities in his real estate practice. The Law Society immediately obtained a court order for the appointment of a custodian and undertook an audit of his practice. Mr. Wirick was cited and a discipline hearing panel found him guilty of professional misconduct for breaching his undertaking to pay out and discharge mortgages on property while acting for one of his developer

clients. Mr. Wirick was ordered disbarred on December 16: see *Discipline Case Digest* 03/05.

The actions of Mr. Wirick while acting for the developer client in conveying and mortgage financing transactions led to a large number of claims against the Special Compensation Fund. The Fund, paid for entirely by BC lawyers, compensates people for loss suffered through theft by a BC lawyer acting in that capacity. Payment from the Fund is discretionary and determined by the Special Compensation Fund Committee.

In 2002 these challenges were taken up by a dedicated Committee chaired first by Robert W. Gourlay, QC and later by Peter J. Keighley, QC.

The Law Society's audit and investigation of Mr. Wirick's practice has proved time-consuming. This was so because of overlapping claims relating to various properties he handled, the complexity of the claims and the need to identify the potential for recoveries. The Benchers have received detailed updates on the status of outstanding claims, costs and possible recoveries since the start of the investigation.

In recognition of the need to maintain public confidence, the Benchers rescinded Law Society Rule 3-33 to remove the \$17.5 million cap on payments that the Special Compensation Fund Committee can authorize in a calendar year. This step gave the Committee discretion to approve claims without the restriction of a pre-determined cap. It was yet another affirmation of the unique and enduring commitment of BC lawyers to public protection.

By the end of 2002 the Law Society had received 479 claims against the Fund, totalling \$65 million, that related to Mr. Wirick's practice. The Special Compensation Fund Committee reviewed 31 of these claims,

totalling \$9 million. The Committee approved payment of \$5 million of the claims and denied \$4 million, since this latter amount related to duplicate or overlapping claims in the transactions under review.

As of April 30, 2003 the total number of claims relating to Mr. Wirick's practice had risen to 501, totalling \$68 million. As of that date, the Committee had reviewed 51 of the claims (including those reviewed in 2002) totalling \$16 million. In its review, it approved \$10 million of the claims and denied \$6 million in duplicate or overlapping claims.

The Special Compensation Fund carried \$17.5 million in coverage (\$15 million in insurance and a \$2.5 million deductible) for the 2002 bond period. A claim attaches to the bond period in which the Society becomes aware of evidence that a lawyer may have engaged in a misappropriation or wrongful conversion. All claims arising from the practice of Martin Wirick are attributed to the Special Compensation Fund 2002 bond period. The insurers are accordingly

responsible to pay \$15 million of the total claim payments approved by the Special Compensation Fund Committee for that period, after payment by the Law Society of the \$2.5 million deductible.

The Special Compensation Fund assessment was \$250 in 2002, which the Benchers resolved to increase to \$600 in 2003. That increase was needed to cover audit and investigation costs, to pay claims and to increase the Special Compensation Fund reserves. While the Society has diligently managed the Special Compensation Fund files to control custodian, investigation and audit costs, those costs increased significantly in 2002, primarily related to the practice of Mr. Wirick. The Benchers are exploring various options for financing claim payments from the 2002 bond period, including financing the claims over a number of years.

For more information on the Special Compensation Fund, see financial statements on the Fund on pages 27 to 29.

Special Compensation Fund claims paid (1998 – 2002)

Year	\$ Paid	No. of paid claims involved	No. of lawyers
1998	45,879	5	4
1999	45,692	2	2
2000	363,022	10	5
2001	1,035,959	10	4
2002	5,326,205	36	8

Over the past five years, the Special Compensation Fund paid out \$6,816,757 on 63 claims. These claims were caused by 16 lawyers — out of over 6,800 lawyers in private practice (the claims against several of these lawyers were paid out over the course of more than one year).

Year in review

Lawyers Insurance Fund

Through the Lawyers Insurance Fund (LIF), all BC lawyers in private practice are required to carry liability insurance for legal malpractice of up to \$1 million per error and \$2 million annually.

The number of reports to LIF

annually has remained consistent over the last five years: see *Claim and incident reports 1998 – 2002*. Just over one-third of all matters are reported as actual claims and the balance as incidents, or potential claims.

BC lawyers understand their obligation to report all potential claims and

to do so early, which has allowed for better management of the program. In each of the past five years, the program closed at least 70% of all reports without payment of either defence costs or settlements. Of reports closed in 2002, no claims developed in 46%, claims were abandoned in 22.9% and claims were dismissed pre-trial in 5.8%. The repair of claims continues to be a feature of LIF's proactive claims management. Thanks largely to the efforts of Claims Counsel, in almost 10% of all reports closed, the problem was successfully repaired. This approach has significant benefits both for lawyers and their clients. LIF realizes substantial savings from minimizing or eliminating a potential loss, and clients are often pleased to maintain a working relationship with their lawyers.

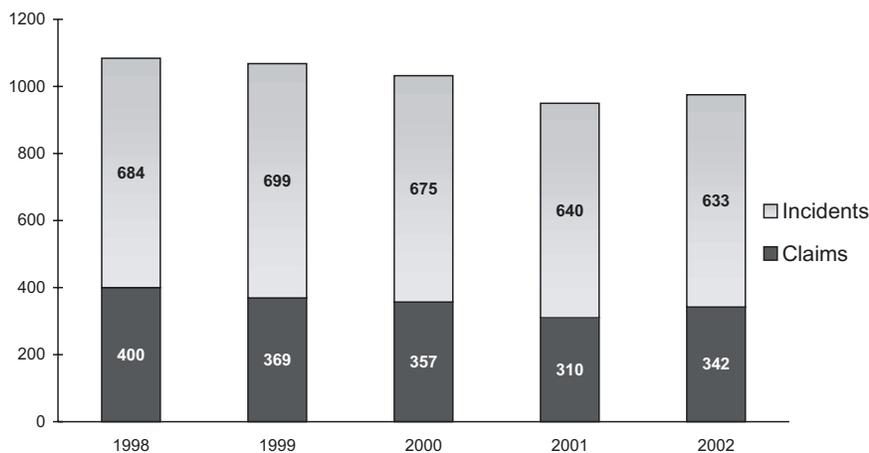
The percentage of insurance reports received from BC lawyers in 2002, broken down by area of practice, are set out in the chart *Insurance reports by area of law – 2002*. The leading areas were plaintiff motor vehicle cases (16.6% of all reports), other plaintiff civil actions (14.4%), residential real estate matters (10.8%) and commercial matters (10.1%).

The leading causes of loss to the program were the same in 2002 as in 2001 — insufficient review by lawyers and poor client communications, followed by inadequate office procedures and systems, negligent advice and insufficient preparation.

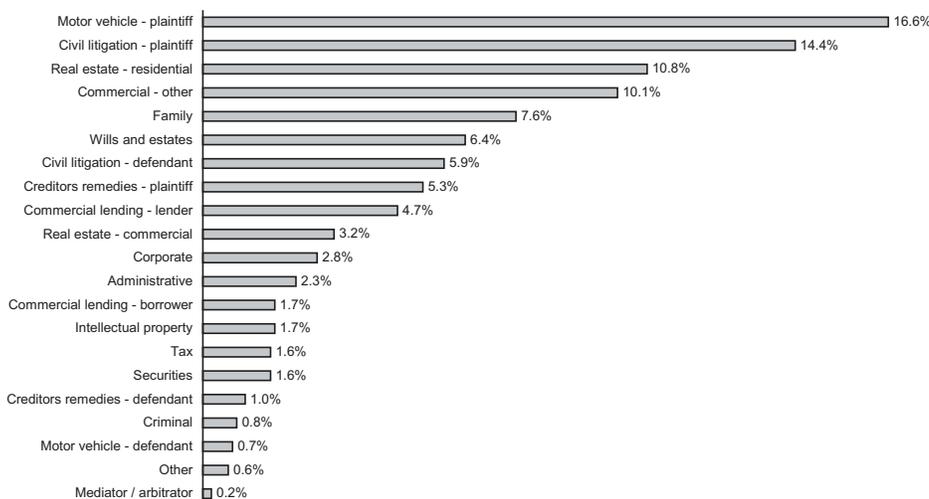
The satisfaction of lawyers with the program remained high according to 2002 survey results. 92% of survey respondents gave a high approval rating (4 or 5 on a scale of 1 to 5) on the handling of their claims, 91% on the outcome of their claims, 97% on the work of Lawyers Insurance Fund Claims Counsel and 95% on the service provided by defence counsel.

Mid-year, lawyers employed by community law offices or by public

Claim and incident reports 1998 – 2002



Insurance reports by area of law – 2002



advocacy associations that provide free legal services to the public were offered the opportunity to purchase professional liability insurance coverage through the Lawyers Insurance Fund. The community law offices had earlier lost Legal Services Society funding and, with it, insurance coverage for their employed lawyers. The Benchers wished to offer these lawyers coverage through the Lawyers Insurance Fund, recognizing that rates in the private insurance market had hardened and that lawyers working for non-profit legal aid and public advocacy groups would have difficulty finding affordable insurance.

The profession as a whole can have confidence in the integrity of the Lawyers Insurance Fund and in the Fund's sound financial position to compensate the public for lawyers' errors and omissions and provide reasonable protection for lawyers from malpractice. For detailed financial information, see the Lawyers Insurance Fund financial statements on pages 30 to 33 and also "Finances," which follows.

Finances

BC lawyers pay the cost of Law Society operations through annual assessments and other fees. The Society carries out its duties through three funds:

- General Fund — the primary source of funding for Society regulation, programs and services;
- Liability Insurance Fund — a fund to provide errors and omissions insurance coverage for lawyers for professional services;
- Special Compensation Fund — a fund to reimburse those who suffer a loss as a result of lawyer theft.

The 2002 audited financial statements for these funds are set out on

pages 22 to 33 of this report. These statements reflect the presentation and disclosure standards of the Canadian Institute of Chartered Accountants respecting not-for-profit organizations.

All funds are financed and accounted for separately. The Lawyers Insurance Fund and Special Compensation Fund both make a proportionate contribution to the General Fund for Law Society facilities, administrative services and some defined program expenses. These expenses are incurred within the General Fund budget and recovered from the other two Funds.

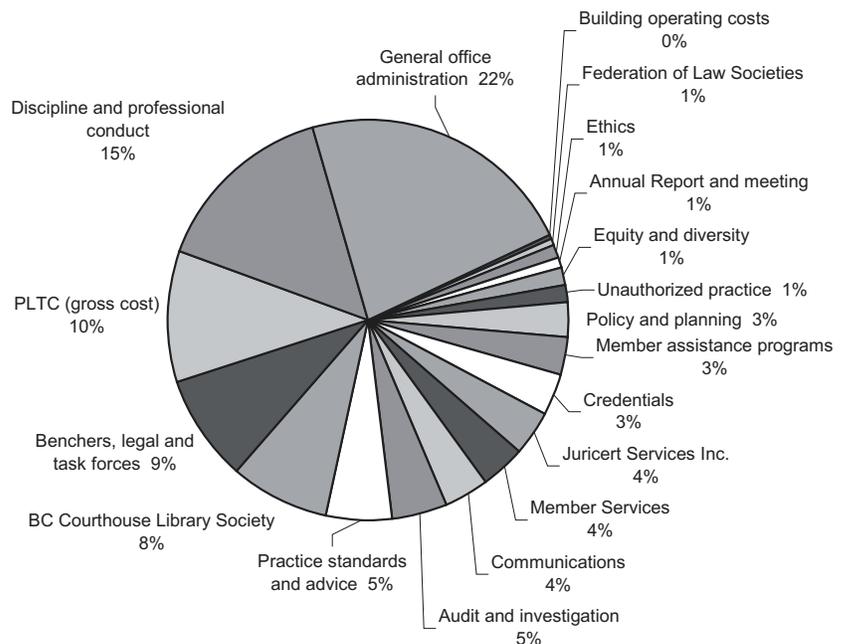
The General Fund provides the resources for regulation of the legal profession in BC, a primary

responsibility of the Law Society, and receives a majority of its revenue from the annual fee paid by practising lawyers.

The pie chart 2002 General Fund expenditures shows the gross program costs of the main Law Society programs as a percentage of the General Fund's total cost, including the related space and staffing costs.

Overall, the programs administered by the Law Society in 2002 were similar to those in 2001. The General Fund's total expenses, including Juricert Services Inc., building operations and co-funded program costs increased by only \$86,000 or .6%, whereas total revenues increased by nearly 5%.

2002 General Fund expenditures



This chart shows gross program expenditures as a percentage of total 2002 General Fund expenditures, other than building operations, which are shown on a net basis.

Year in review

The Law Society had anticipated an increase in costs in 2002 related to certain programs and, in particular, to the Society's constitutional challenge of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. With the Federation of Law Societies joining the litigation on behalf of all law societies in Canada, and thanks to the generous pro bono contributions of the Law Society's counsel, the litigation proved less costly than anticipated in 2002 and also enjoyed some early success. As noted in "2002 highlights," the federal Attorney General agreed to interim consent orders in courts across the country to exempt lawyers from the recording and reporting requirements of Part 1 of the *Act*, pending final resolution of the litigation. The case is set to proceed in BC Supreme Court in 2004.

As a result of revenues increasing and expenses remaining under budget, the General Fund recorded a budget surplus of \$723,000 in 2002, which left the Fund with a reserve of nearly \$1.4 million at year-end.

The Law Society has frequently tackled the current practice issues that im-

act on BC lawyers and their clients, such as proceeds of crime legislation, in addition to fulfilling its overall regulatory responsibilities. The Society nevertheless continues to charge a practice fee that compares favourably with that in other jurisdictions.

The Special Compensation Fund reserve decreased significantly in 2002. An operating loss of \$3.22 million resulted in the Fund's reserve dropping to \$4 million. The Wirick matter, described in the Special Compensation Fund section of this report, was the main reason for the year's deficit. While custodian, audit and investigation expenses were tightly managed, they were nevertheless very high. Primarily as a result of the Wirick matter, the year also ended with a significant claims inventory that will impact on the Fund's financial results for several years as the Special Compensation Fund Committee reviews the claims for payment. The Benchers are exploring various financing options.

The Lawyers Insurance Fund's reserve increased by \$4.3 million to \$17.1 million in 2002. The financial strength of this Fund is reflected in



the stability of insurance assessments that BC lawyers have enjoyed over the past several years.

All funds of the Society are financially sound.

President's report ... from page 2

federal government folded, agreed to exemptions for lawyers in all provinces, and paid costs.

BC lawyers may be rightly proud of the Benchers for an effective litigation remedy. Neither the Canadian Bar Association nor any other law society in Canada intended to challenge the *Proceeds of Crime (Money Laundering) Act* in its application to lawyers and its interference with the lawyer-client

relationship. Were it not for the leadership of the Benchers of British Columbia we lawyers would have been clandestinely informing government of our clients' affairs, and of our suspicions about our clients' affairs, for nearly two years now.

We ran out of writs in about March, 2002. Damn good thing, too.

There is a clear unifying theme to Bencher activity in 2002. The Benchers strove mightily to protect the public interest, with major initiatives in discipline, credentials and Special Compensation Fund

matters — thereby justifying continued public and government confidence in a self-regulated legal profession. At the same time, the Benchers acted decisively to protect the independence of the judiciary and of the legal profession from government, important foundations for a free and democratic society.

All in all, it was a fractious, divisive year in which traditional relationships were disrupted and much hostility engendered. Important principles were upheld. The geese, however, remain ...

**GENERAL FUND
SPECIAL COMPENSATION FUND
LAWYERS INSURANCE FUND**

AUDITORS' REPORT

**To the members of
The Law Society of British Columbia**

We have audited the statements of financial position of **The Law Society of British Columbia – General Fund, Special Compensation Fund and Lawyers Insurance Fund** as at December 31, 2002 and, for each of these Funds, the statements of revenue and expense, changes in net assets and cash flows for the year then ended. These financial statements are the responsibility of the Funds' management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and

disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Funds as at December 31, 2002 and the results of their operations and their cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

PricewaterhouseCoopers LLP

Vancouver, B.C.
May 2, 2003

Chartered Accountants

Consolidated Financial Statements

For the year ended December 31, 2002

CONSOLIDATED STATEMENT OF FINANCIAL POSITION as at December 31, 2002

CONSOLIDATED STATEMENT OF CHANGES IN NET ASSETS

	2002	2001			
	\$	\$			
Assets					
Current assets					
Cash and cash equivalents	6,858,077	1,052,749			
Unclaimed trust funds	538,919	464,077			
Accounts receivable and prepaid expenses	360,289	453,508			
B.C. Courthouse Library Fund (note 2)	385,824	430,850			
Due from Lawyers Insurance Fund (note 6)	1,921,772	9,571,315			
Due from Special Compensation Fund (note 6)	<u>3,972,084</u>	<u>766,376</u>			
	14,036,965	12,738,875			
Property, plant and equipment					
Cambie Street property – net (note 3)	12,824,862	13,444,727			
Other – net (note 3)	<u>1,246,429</u>	<u>1,178,277</u>			
	<u>28,108,256</u>	<u>27,361,879</u>			
Liabilities					
Current liabilities					
Accounts payable and accrued liabilities	9,803,500	6,755,923			
Liability for unclaimed trust funds	538,919	472,382			
Current portion of building loan payable (note 5)	500,000	500,000			
Deferred revenue	6,307,978	8,849,210			
B.C. Courthouse Library Grant (note 2)	385,824	430,850			
Deposits	<u>92,306</u>	<u>96,754</u>			
	17,628,527	17,105,119			
Long-term debt					
Building loan payable (note 5)	<u>9,100,000</u>	<u>9,600,000</u>			
	<u>26,728,527</u>	<u>26,705,119</u>			
Net assets					
Invested in property, plant and equipment – net	4,471,290	4,523,003			
Unrestricted	<u>(3,091,561)</u>	<u>(3,866,243)</u>			
	<u>1,379,729</u>	<u>656,760</u>			
	<u>28,108,256</u>	<u>27,361,879</u>			

	2002			2001
	Invested in property, plant and equipment – net of associated debt	Unrestricted	Total	Total
	\$	\$	\$	\$
Net assets – beginning of year	4,523,003	(3,866,243)	656,760	547,995
Net (deficiency) excess of revenue over expense for the year	(907,162)	1,630,131	722,969	108,765
Repayment of associated debt	500,000	(500,000)	–	–
Purchase of property, plant and equipment	<u>355,449</u>	<u>(355,449)</u>	–	–
Net assets – end of year	<u>4,471,290</u>	<u>(3,091,561)</u>	<u>1,379,729</u>	<u>656,760</u>

Approved by



President



Chair of Audit Committee

Consolidated Financial Statements

For the year ended December 31, 2002

**CONSOLIDATED STATEMENT OF
REVENUE AND EXPENSE**

	2002 \$	2001 \$
Revenue		
Practice fees	9,791,895	9,281,315
Enrolment fees	844,230	800,875
Application fees	342,320	313,303
Fines and penalties	193,008	213,929
Interest and other income	<u>588,185</u>	<u>469,729</u>
	<u>11,759,638</u>	<u>11,079,151</u>
Expense		
Amortization of other property, plant and equipment	252,556	337,018
Annual report and meeting	139,432	83,444
Audit and investigation	629,377	685,235
Benchers and other committee meetings	969,213	899,043
British Columbia Courthouse Library Society	1,144,000	1,180,000
Communications and publications	518,768	528,729
Credentials	477,945	546,610
Discipline and complaints	2,166,872	2,141,660
Equity and diversity	196,562	176,667
Ethics	119,478	109,837
Federation of Law Societies' contribution	114,303	87,283
General office administration	2,928,188	2,637,653
Member information group	516,481	535,462
Membership assistance programs	432,460	438,596
Non-program legal	267,772	578,489
Policy and planning	388,331	339,621
Practice advice	555,780	441,041
Practice standards	189,641	179,191
Professional Legal Training Course	1,480,065	1,396,530
Unauthorized practice	<u>199,998</u>	<u>186,355</u>
	13,687,222	13,508,464
Costs recovered from Special Compensation and Lawyers Insurance Funds		
Co-sponsored program costs	(1,727,384)	(1,737,887)
Administrative	<u>(1,448,251)</u>	<u>(1,417,878)</u>
	<u>10,511,587</u>	<u>10,352,699</u>
Excess of revenue over expense before the following	1,248,051	726,452
Juricert expenses (note 1)	(502,118)	(470,816)
Cambie Street property operating costs – net (note 4)	<u>(22,964)</u>	<u>(146,871)</u>
Net excess of revenue over expense for the year	<u>722,969</u>	<u>108,765</u>

**CONSOLIDATED STATEMENT OF
CASH FLOWS**

	2002 \$	2001 \$
Cash flows from operating activities		
Net excess of revenue over expense for the year	722,969	108,765
Items not affecting cash		
Amortization of Cambie Street building and tenant improvements	654,606	661,046
Amortization of other property, plant and equipment	<u>252,556</u>	<u>337,018</u>
	1,630,131	1,106,829
Decrease (increase) in current assets		
Unclaimed trust funds	(74,842)	(47,965)
Accounts receivable and prepaid expenses	93,219	(126,083)
B.C. Courthouse Library Fund	45,026	350,242
Due from Lawyers Insurance Fund	7,649,543	(6,349,462)
Due from Special Compensation Fund	(3,205,708)	(252,769)
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	3,047,577	2,878,740
Liability for unclaimed trust funds	66,537	56,270
Deferred revenue	(2,541,232)	3,205,085
B.C. Courthouse Library Grant	(45,026)	(350,242)
Deposits	<u>(4,448)</u>	<u>84,254</u>
	6,660,777	554,899
Cash flows from financing activities		
Decrease in long-term debt – net	(500,000)	(500,000)
Cash flows from investing activities		
Property, plant and equipment additions – net	<u>(355,449)</u>	<u>(444,720)</u>
Increase (decrease) in cash and cash equivalents	5,805,328	(389,821)
Cash and cash equivalents – beginning of year	<u>1,052,749</u>	<u>1,442,570</u>
Cash and cash equivalents – end of year	<u>6,858,077</u>	<u>1,052,749</u>
Represented by		
Cash	6,858,077	1,052,749
Short-term investments	<u>–</u>	<u>–</u>
	<u>6,858,077</u>	<u>1,052,749</u>

The Law Society of British Columbia — GENERAL FUND
Consolidated Financial Statements

For the year ended December 31, 2002

**NOTES TO CONSOLIDATED
 FINANCIAL STATEMENTS**

1. Nature of operations and basis of presentation

Description of the Fund

The General Fund (the Fund) comprises the assets, liabilities, net assets, revenue and expense of the operations of The Law Society of British Columbia (the Society) other than those designated to the statutory Special Compensation and Lawyers Insurance Funds. The Society is a not-for-profit organization and the Fund is considered to be non-assessable under current income tax legislation.

The Society, as the initial shareholder, incorporated a company called Juricert Services Inc. (Juricert) in September 1999 for the purpose of establishing a process of electronic authentication of lawyers. Juricert commenced initial operations in 2000. As at December 31, 2002, the Society remained the sole shareholder of Juricert.

Basis of presentation

These financial statements include the accounts of the company's wholly owned subsidiary, Juricert.

2. Significant accounting policies

Allocated administrative expenses

Administrative expenses are recovered by the Fund from both the Lawyers Insurance and Special Compensation Funds. Recoveries are based on budgeted amounts derived either on a percentage of use or the percentage of the Fund's staff as compared to the Society's total direct program staff.

Allocated rental revenue

The Cambie Street property is treated as a separate cost centre. Allocated rental revenue represents rent allocated to each of the Funds. Rental revenue allocated to the Fund has not been eliminated in the preparation of these financial statements.

Amortization

Amortization is provided on a straight-line basis as follows:

Buildings	2½% per annum
Computer hardware	20% per annum
Computer software	10-20% per annum
Furniture and fixtures	10% per annum
Leasehold improvements	10% per annum

Tenant improvements are amortized over the term of the lease to which they relate. The Society recognizes a full year's amortization expense in the year of acquisition.

B.C. Courthouse Library Fund

The Society administers funds held on behalf of the B.C. Courthouse Library. Such funds are held in trust and the use of the funds is not recorded in the statement of revenue and expense of the Fund.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, demand deposits, and short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

Revenue recognition

The Society follows the deferral method of accounting for annual fees. Fees are billed and received in advance on a calendar-year basis. Accordingly, fees for the next fiscal year received prior to December 31 have been deferred for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Unclaimed trust funds

The Fund recognizes a liability for unclaimed trust funds on the statement of financial position. If these funds are claimed, the owner of the trust fund balance is entitled to the principal balance plus interest at prime rate minus 2%. Due to the historically low collection rates on these balances, the Fund does not accrue for any interest owing on the trust fund amounts held and recognizes income earned from the unclaimed trust fund investments in the statement of revenue and expense. Unclaimed funds outstanding for more than five years are transferred to the Law Foundation.

Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

3. Property, plant and equipment – Cambie Street property and other

Cambie Street property

	2002		2001	
	Cost	Accumulated amortization	Net	Net
	\$	\$	\$	\$
Land	4,189,450	–	4,189,450	4,189,450
Buildings	11,277,430	3,018,109	8,259,321	8,537,715
Leasehold improvements	3,100,661	2,840,876	259,785	585,578
Tenant improvements	988,113	871,807	116,306	131,984
	<u>19,555,654</u>	<u>6,730,792</u>	<u>12,824,862</u>	<u>13,444,727</u>

(continued on page 26)

The Law Society of British Columbia — GENERAL FUND
Consolidated Financial Statements

For the year ended December 31, 2002

3. Property, plant and equipment – Cambie Street property and other (continued)

Other property, plant and equipment

	2002		2001	
	Cost	Accumulated amortization	Net	Net
	\$	\$	\$	\$
Furniture and fixtures	1,673,696	1,284,868	388,828	383,060
Computer hardware	1,118,152	864,342	253,810	235,270
Computer software	1,289,612	685,822	603,790	559,946
Law libraries – at nominal value	<u>1</u>	<u>–</u>	<u>1</u>	<u>1</u>
	<u>4,081,461</u>	<u>2,835,032</u>	<u>1,246,429</u>	<u>1,178,277</u>

4. Cambie Street property operating costs – net

	2002	2001
	\$	\$
Rental revenue	437,272	431,926
Allocated rental revenue	<u>1,033,229</u>	<u>1,033,277</u>
	<u>1,470,501</u>	<u>1,465,203</u>
Expense		
Amortization	654,606	661,046
Insurance	43,380	28,254
Net loan interest	305,281	453,370
Property management salaries	151,589	146,158
Property taxes	275,917	261,238
Repairs and maintenance	253,045	232,300
Utilities	103,882	119,067
Recovery from tenants	<u>(294,235)</u>	<u>(289,359)</u>
	<u>1,493,465</u>	<u>1,612,074</u>
Net operating costs	<u>(22,964)</u>	<u>(146,871)</u>

5. Building loan payable

In 1992, the Benchers authorized the lending of monies from the Lawyers Insurance Fund to fund the capital development of the

Society's buildings at 839 and 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly yield to maturity earned on the Lawyers Insurance Fund bond investment portfolio. It is the intention of the Fund to repay a minimum of \$500,000 of the principal each year. During 2002, principal of \$500,000 (2001 – \$500,000) was repaid.

	2002	2001
	%	%
Weighted average rate of interest	<u>4.12</u>	<u>5.00</u>

6. Interfund transactions

The operations of the Fund, the Lawyers Insurance Fund and the Special Compensation Fund are controlled by the management of the Society. Transactions between the Funds are recorded at fair values at the dates of the transactions.

Amounts due to and from the Lawyers Insurance and Special Compensation Funds arise from transactions of an operating nature, and have no fixed terms of repayment. The amounts due to and from the Special Compensation Fund are non-interest bearing.

Monthly interest on the Fund's net loan position with the Lawyers Insurance Fund is paid by the Fund at a rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. The Fund's net loan position includes the Fund's building loan and other operating balances with the Lawyers Insurance Fund. This net loan position fluctuates during the year as amounts are transferred between the Fund and the Lawyers Insurance Fund to finance ongoing operations.

During the year, interest paid to the Lawyers Insurance Fund totalled \$305,478 (2001 – \$453,370) after deduction of approximately \$110,945 (2001 – \$77,584) of interest revenue received from Fund cash balances held by the Lawyers Insurance Fund.

Other interfund transactions are disclosed elsewhere in these financial statements.

Financial Statements

For the year ended December 31, 2002

STATEMENT OF FINANCIAL POSITION as at December 31, 2002

	2002 \$	2001 \$
Assets		
Current assets		
Cash and cash equivalents	2,332,395	940,534
Accrued interest receivable	1,969	63,512
Insurance recoverable (note 4)	<u>2,445,622</u>	<u>—</u>
	4,779,986	1,004,046
Investments (note 2)	<u>6,898,514</u>	<u>8,923,587</u>
	<u>11,678,500</u>	<u>9,927,633</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	20,976	10,000
Deferred revenue	3,708,000	1,947,000
Due to General Fund (note 3)	<u>3,972,083</u>	<u>766,376</u>
	7,701,059	2,723,376
Net assets		
Unrestricted net assets	<u>3,977,441</u>	<u>7,204,257</u>
	<u>11,678,500</u>	<u>9,927,633</u>

Claims (note 4)

Subsequent event (note 4(b))

Approved by



President



Chair of Audit Committee

STATEMENT OF CHANGES IN NET ASSETS

	2002 \$	2001 \$
Unrestricted net assets – beginning of year	7,204,257	8,337,090
Deficiency of revenue over expense for the year	<u>(3,226,816)</u>	<u>(1,132,833)</u>
Unrestricted net assets – end of year	<u>3,977,441</u>	<u>7,204,257</u>

* * *

STATEMENT OF REVENUE AND EXPENSE

	2002 \$	2001 \$
Revenue		
Annual assessments	2,266,375	1,797,200
Investment and interest income	<u>724,713</u>	<u>598,624</u>
	2,991,088	2,395,824
Expense		
Allocated office rent	38,340	38,340
Audit	10,000	7,809
Claims and costs (note 4)	2,878,379	1,035,958
Contribution to costs of General Fund		
Administrative	549,809	518,661
Co-sponsored program costs	785,771	768,851
Counsel costs	170,013	76,289
Custodians' fees – net of recoveries	494,288	336,880
Insurance premium	148,333	146,522
Investment brokers' fee	16,407	16,027
Miscellaneous	123,546	74,354
Salaries, wages and benefits	538,928	341,634
Spot audits and related costs	<u>464,090</u>	<u>167,332</u>
	6,217,904	3,528,657
Deficiency of revenue over expense for the year	<u>(3,226,816)</u>	<u>(1,132,833)</u>

The Law Society of British Columbia — SPECIAL COMPENSATION FUND
Financial Statements

For the year ended December 31, 2002

STATEMENT OF CASH FLOWS

	2002 \$	2001 \$
Cash flows from operating activities		
Deficiency of revenue over expense for the year	(3,226,816)	(1,132,833)
Item not affecting cash – amortization of premium on bonds	<u>47,742</u>	<u>55,215</u>
	(3,179,074)	(1,077,618)
Decrease (increase) in current assets		
Accrued interest receivable	61,543	11,359
Insurance recoverable	(2,445,622)	–
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	10,976	(134,874)
Deferred revenue	1,761,000	939,400
Due to General Fund	<u>3,205,707</u>	<u>252,769</u>
	(585,470)	(8,964)
Cash flows from investing activities		
Sale of investments – net	<u>1,977,331</u>	<u>338,493</u>
Increase in cash and cash equivalents	1,391,861	329,529
Cash and cash equivalents – beginning of year	<u>940,534</u>	<u>611,005</u>
Cash and cash equivalents – end of year	<u><u>2,332,395</u></u>	<u><u>940,534</u></u>
Represented by		
Cash	2,332,395	940,534
Short-term investments	<u>–</u>	<u>–</u>
	<u><u>2,332,395</u></u>	<u><u>940,534</u></u>

NOTES TO FINANCIAL STATEMENTS

1. Significant accounting policies and description of the Fund

Description of the Fund

The Special Compensation Fund (the Fund) is maintained by The Law Society of British Columbia (the Society) pursuant to section 31 of the *Legal Profession Act* to reimburse persons who sustain a pecuniary loss as a result of the misappropriation or wrongful conversion by a member of the Society of money or other property entrusted to or received by the member in his or her capacity as a barrister or solicitor. The Fund is financed by members' annual assessments, and claims are recorded net of recoveries from the Fund's insurers when they have been approved for payment by the Special Compensation Fund Committee as delegated by the Benchers.

The Society is a not-for-profit organization and the Fund is considered to be non-assessable under current income tax legislation.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on budgeted amounts derived either on a percentage of use or the percentage of the Fund's staff as compared to the Society's total direct program staff.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, demand deposits, and short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

Investments

Bonds are carried at amortized cost, providing for the amortization of the discount or premium on a straight-line basis to maturity. When an investment has experienced a loss in value that is other than temporary, the investment is written down to its estimated net realizable value. Realized gains and losses are included in the determination of excess (deficiency) of revenue over expense for the year.

Revenue recognition

The Society follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been deferred for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Use of estimates

The preparation of financial statements in conformity with

Financial Statements

For the year ended December 31, 2002

Canadian generally accepted accounting principles requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

2. Investments

	2002	2001
	\$	\$
Investments – at amortized cost (market value: \$6,665,587; 2001 – \$9,273,613)	<u>6,898,514</u>	<u>8,923,587</u>

Investments consist primarily of domestic government treasury bills, government bonds, and high grade corporate bonds, having a maturity of up to 26 years.

The effective yield to maturity on the total portfolio is 3.00% (2001 – 4.16%).

3. Interfund balances

Amounts due to the General Fund are current and non-interest bearing.

4. Special Compensation Fund claims

a) Outstanding claims

Pursuant to section 31(6) of the *Legal Profession Act*, the payment of Fund claims is at the discretion of the Special Compensation Fund Committee as delegated by the Benchers. No provision has been made in these financial statements for claims not resolved by the Special Compensation Fund Committee. As at December 31, 2002, 743 claims or potential claims (2001 – 272 claims) were known but not yet determined. These claims amounted to approximately \$72,554,565 (2001 – \$15,338,585). This increase in claims relates primarily to the Wirick case (b). If all claims were approved for payment, \$51,164,606 (2001 – \$6,059,681) would be payable by the Fund and \$21,389,959 (2001 – \$9,278,904) by the Fund's insurers. These amounts do not include an estimate for claims attributable to 2002 or prior years that have not as yet been filed. In addition, these amounts include potential duplicate claims with respect to the Wirick case.

The Fund has renewed its indemnity bond for January 1, 2003 to April 30, 2003. The bond provides that total claims attributable to the period in excess of \$2,500,000 are 100% reimbursed by a commercial insurer up to a maximum of \$15,000,000 for claims against one lawyer and in total.

The Fund has also renewed its indemnity bond for April 30, 2003 to April 30, 2004. The bond provides that total claims attributable to the period in excess of \$2,500,000 are 90% reimbursed by a commercial insurer up to a maximum of \$15,000,000 for claims against one lawyer and in total.

b) Wirick case

In May 2002, the Discipline Committee ordered an audit investigation, pursuant to Rule 4-43, of Martin Keith Wirick's practice. Since then, the Society has continued to investigate the various claims attributed to Mr. Wirick's practice activities. Information continues to be received from financial institutions and other lenders to assist in the investigation of claims. At each Benchers' meeting since May 2002, the Benchers have been given a detailed update of the status of the outstanding claims, investigation costs and any relevant information concerning possible recoveries. This will continue until the file is closed.

As of December 31, 2002

Number of claims received	479 statutory declarations
	\$
Amount claimed	65,000,000
Amount reviewed (number of claims – 31)	9,000,000
Amount denied due to duplication (number of claims – 13)	4,000,000
Total approved for payment	5,000,000
Total paid	5,000,000

As of April 30, 2003 (inclusive of December 31, 2002 information)

Number of claims received	501 statutory declaration
	\$
Amount claimed	68,000,000
Amount reviewed (number of claims – 51)	17,000,000
Amount adjourned (number of claims – 4)	(1,000,000)
Amount denied due to duplication (number of claims – 17)	(6,000,000)
Total approved for payment	10,000,000
Total paid	8,000,000

The Fund carries insurance of \$15,000,000 for each bond period (\$17,500,000 total coverage with a deductible of \$2,500,000). The bond period is defined as the year in which the Society becomes aware of evidence indicating a member may have been guilty of an act or acts of misappropriation or wrongful conversion. All claims concerning Mr. Wirick will fall into the 2002 bond period and as such, the Fund has claims greater than its level of insurance. In 2002, the Benchers agreed to allow the Special Compensation Fund Committee to exceed the \$17,500,000 cap they had imposed in the Society rules.

Of the \$68,000,000 total outstanding claims as of April 30, 2003, the insurers would cover only \$15,000,000 of this total amount. In accordance with the absolute discretionary nature of the Fund arrangements, the claims become a liability only when approved by the Special Compensation Fund Committee.

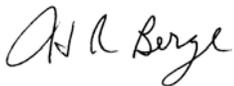
As of April 30, 2003, \$10,000,000 has been approved for payment. Of this total approved, \$8,000,000 has been paid, and the Fund expects to recover \$5,500,000 from its insurers. In addition, the Society expects to recover amounts from the sale of assets recovered as part of the investigative process.

Consolidated Financial Statements

For the year ended December 31, 2002

**CONSOLIDATED STATEMENT OF
FINANCIAL POSITION
as at December 31, 2002****CONSOLIDATED STATEMENT OF
CHANGES IN NET ASSETS**

	2002	2001		2002	2001
	\$	\$		\$	\$
Assets			Unrestricted net assets – beginning of year	12,812,273	11,738,577
Cash and cash equivalents	5,855,593	16,594,262	Excess of revenue over expense for the year	<u>4,336,585</u>	<u>1,073,696</u>
Accounts receivable	32,611	55,038	Unrestricted net assets – end of year	<u>17,148,858</u>	<u>12,812,273</u>
Accrued interest receivable	848	481,039			
Income tax recoverable	–	22,700			
Reinsurers' share of provision for claims	6,163,000	5,346,000			
Due from members	1,907,418	1,899,444			
General Fund building loan (note 4)	9,600,000	10,100,000			
Investments (note 2)	<u>87,907,705</u>	<u>83,049,864</u>			
	<u>111,467,175</u>	<u>117,548,347</u>			
Liabilities					
Accounts payable and accrued liabilities	568,776	727,141			
Income taxes payable	9,000	–			
Deferred revenue	3,783,250	4,416,370			
Due to General Fund (note 6)	1,921,772	9,571,315			
Provision for claims (note 5)	81,038,519	82,696,248			
Provision for ULAE (note 5)	<u>6,997,000</u>	<u>7,325,000</u>			
	94,318,317	104,736,074			
Net assets					
Unrestricted net assets	<u>17,148,858</u>	<u>12,812,273</u>			
	<u>111,467,175</u>	<u>117,548,347</u>			

Approved by


President



Chair of Audit Committee

Consolidated Financial Statements

For the year ended December 31, 2002

CONSOLIDATED STATEMENT OF REVENUE AND EXPENSE

	2002 \$	2001 \$
Revenue		
Annual assessments	9,994,181	9,253,981
Investment income (note 2)	7,752,366	5,623,492
Other income	<u>26,135</u>	<u>26,648</u>
	<u>17,772,682</u>	<u>14,904,121</u>
Insurance expense		
Actuary, consultant and investment broker fees	221,656	206,973
Allocated office rent	87,966	88,049
Audit	36,000	22,215
Contribution to costs of General Fund		
Administrative	900,957	902,585
Office	199,131	226,994
Premium taxes	9,983	9,119
Provision for settlement of claims (note 5)	10,041,000	10,360,000
Provision for ULAE (note 5)	(328,000)	(183,000)
Salaries, wages and benefits	<u>1,307,842</u>	<u>1,245,154</u>
	12,476,535	12,878,089
Loss prevention expense		
Contribution to costs of General Fund		
Co-sponsored program costs	<u>941,613</u>	<u>969,036</u>
	<u>13,418,148</u>	<u>13,847,125</u>
Excess of revenue over expense before the following	4,354,534	1,056,996
(Provision for) recovery of income taxes	<u>(17,949)</u>	<u>16,700</u>
Excess of revenue over expense for the year	<u>4,336,585</u>	<u>1,073,696</u>

CONSOLIDATED STATEMENT OF CASH FLOWS

	2002 \$	2001 \$
Cash flows from operating activities		
Excess of revenue over expense for the year	4,336,585	1,073,696
Items not affecting cash		
Amortization of premium on bonds	451,021	720,375
Realized gain on disposal of investments	<u>(2,924,842)</u>	<u>(531,456)</u>
	1,862,764	1,262,615
Decrease (increase) in assets		
Accounts receivable	22,427	(8,837)
Accrued interest receivable	480,191	47,967
Reinsurers' share of provision for claims	(817,000)	5,159,000
Due from members	(7,974)	462,757
Due to/from General Fund	(7,649,543)	6,350,291
Income taxes payable (recoverable)	31,700	(8,267)
Increase (decrease) in liabilities		
Accounts payable and accrued liabilities	(158,365)	207,623
Deferred revenue	(633,120)	1,278,771
Provision for claims	(1,657,729)	(2,398,338)
Provision for ULAE	<u>(328,000)</u>	<u>(183,000)</u>
	<u>(8,854,649)</u>	<u>12,170,582</u>
Cash flows from investing activities		
Purchase of investments – net	(2,384,020)	(5,157,118)
Decrease in General Fund building loan	<u>500,000</u>	<u>500,000</u>
	<u>(1,884,020)</u>	<u>(4,657,118)</u>
(Decrease) increase in cash and cash equivalents	(10,738,669)	7,513,464
Cash and cash equivalents – beginning of year	<u>16,594,262</u>	<u>9,080,798</u>
Cash and cash equivalents – end of year	<u>5,855,593</u>	<u>16,594,262</u>
Represented by		
Cash	5,855,593	16,594,262
Short-term investments	<u>–</u>	<u>–</u>
	<u>5,855,593</u>	<u>16,594,262</u>

The Law Society of British Columbia — **LAWYERS INSURANCE FUND**
Consolidated Financial Statements

For the year ended December 31, 2002

**NOTES TO CONSOLIDATED
FINANCIAL STATEMENTS**

1. Significant accounting policies and description of the Fund

Description of the Fund

The Lawyers Insurance Fund (the Fund) is maintained by The Law Society of British Columbia (the Society) pursuant to section 30 of the *Legal Profession Act*. The Society is a not-for-profit organization, and only the subsidiary LSBC Captive Insurance Company Ltd. (the Captive) is considered assessable for income tax under current legislation.

Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on budgeted amounts derived either on percentage of use or the percentage of the Fund's staff as compared to the Society's total direct program staff.

Basis of consolidation

These consolidated financial statements include the accounts of the Fund and the Captive, a wholly owned subsidiary.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, demand deposits, and short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

Investments

Bonds and treasury bills are carried at amortized cost, providing for the amortization of the discount or premium on a straight-line basis to maturity. When an investment has experienced a loss in value that is other than temporary, the investment is written down to its estimated net realizable value. Realized gains and losses are included in the determination of excess (deficiency) of revenue over expense for the year.

Reinsurance

The Society reflects reinsurance balances on the statement of financial position on a gross basis to indicate the extent of credit risk related to reinsurance and its obligations to policy holders, and on a net basis on the statement of revenue and expense to indicate the results of its retention of assessments retained.

Revenue recognition

The Society follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been deferred for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires

management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

2. Investments

	2002 \$	2001 \$
Investments – at book value (market value – \$85,429,223; 2001 – \$85,330,225)	<u>87,907,705</u>	<u>83,049,864</u>

The effective yield to maturity on the total portfolio is 3.11% (2001 – 4.33%).

	2002 \$	2001 \$
Short-term investments	<u>448,173</u>	<u>11,724,868</u>
Bonds		
Federal	–	49,671,263
Corporate	–	17,165,359
Pooled Funds	<u>55,108,814</u>	<u>4,488,374</u>
	<u>55,108,814</u>	<u>71,324,996</u>

Equity		
Canadian Pooled Funds	18,957,710	–
U.S. Pooled Funds	6,711,469	–
Non-North America Pooled Funds	<u>6,681,539</u>	–
	<u>32,350,718</u>	–
	<u>87,907,705</u>	<u>83,049,864</u>

	2002 \$	2001 \$
Investment income		
Cash and treasury bills	74,350	1,022,387
Bond interest	2,666,291	4,336,654
Amortization of premium on bonds	(451,021)	(720,375)
Net interfund loan interest (note 6)	305,478	453,370
Dividends	2,232,426	–
Gain on sale of investments	<u>2,924,842</u>	<u>531,456</u>
Net investment income	<u>7,752,366</u>	<u>5,623,492</u>

3. Errors and omissions insurance claims

Effective January 1, 1990, the Fund began underwriting the program by which errors and omissions insurance is provided to members of the Society. The Society's members have coverage as follows:

	2002 \$	2001 \$
Deductible – member	5,000 or 10,000	5,000 or 10,000
Deductible – the Fund	995,000 or 990,000	995,000 or 990,000
Total coverage per occurrence	<u>1,000,000</u>	<u>1,000,000</u>
Annual aggregate per member	<u>2,000,000</u>	<u>2,000,000</u>

Consolidated Financial Statements

For the year ended December 31, 2002

The amount of the member deductible is \$5,000 for each initial claim resulting in the payment of damages and \$10,000 for each additional claim within a three-year period resulting in the payment of damages.

For 1996 and previous years, the Captive entered into reinsurance contracts under which all risks in excess of the inner aggregate retentions, which are borne by the Captive, were ceded to reinsurers. The policy of ceding reinsurance does not relieve the Captive of primary liability as the originating insurer.

Since January 1, 1997, the Captive has not renewed its annual reinsurance contracts, and therefore all losses on claims since 1997 will be fully borne by the Captive as primary insurer and reimbursed by the Society under agreement.

4. General Fund building loan

In 1992, the Benchers authorized the lending of monies from the Fund to fund the capital development of the Society's buildings at 839 and 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly yield to maturity earned on the Fund investment portfolio. It is the intention of the General Fund to repay a minimum of \$500,000 on the principal each year. During 2002, principal of \$500,000 (2001 – \$500,000) was repaid.

	2002 %	2001 %
Weighted average rate of return	<u>4.12</u>	<u>5.00</u>

5. Provision for claims and unallocated loss adjustment expenses (ULAE)

The changes in unpaid claims recorded in the consolidated statement of financial position as at December 31, 2002 and 2001 and their impact on claims for the year are as follows:

	2002 \$	2001 \$
Unpaid claims – beginning of year	82,696,248	85,094,586
Provision for losses and expenses for claims occurring in the current year	17,396,000	19,627,000
Decrease in estimated losses and expenses for losses occurring in prior years	<u>(7,355,000)</u>	<u>(9,267,000)</u>
Unpaid claims liability	<u>92,737,248</u>	<u>95,454,586</u>
Less:		
Payments on claims incurred in the current year	(511,565)	(637,106)
Payments on claims incurred in prior years	(12,124,103)	(6,769,016)
Recoveries on claims	131,940	249,782
Change in reinsurers' share of provision for claims	817,000	(5,159,000)
Change in due from members	<u>(12,001)</u>	<u>(442,998)</u>
Claims payments – net of recoveries	<u>(11,698,729)</u>	<u>(12,758,338)</u>
Provisions for claims – end of year	<u>81,038,519</u>	<u>82,696,248</u>

The provision for claims is an actuarially determined estimate of the Fund's portion of settlement costs relating to claims incurred prior to the statement of financial position date. The provision is an estimate subject to variability, which arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time. Variability can be caused by the receipt of additional information, changes in judicial interpretation, or significant changes in severity or frequency of claims from historical trends.

The provision for ULAE is an actuarially determined estimate of the Society's future costs relating to the administration of claims incurred up to the statement of financial position date.

The provisions are based on the historical claims experience of the Fund and are reviewed annually by an independent actuary using updated information. All changes in provision estimates are expensed in the current period. Although the provisions are believed to be adequate, they are based on estimates, and the final actual loss values may vary significantly from those estimated.

6. Interfund transactions

The operations of the Fund, the General Fund and the Special Compensation Fund are controlled by the management of the Society. Transactions between the Funds are recorded at fair values at the dates of the transactions.

Amounts due to and from the General Fund arise from transactions of an operating nature and have no fixed terms of repayment.

Monthly interest on the Fund's net loan position with the General Fund is paid to the Fund at a rate equal to the stated monthly yield to maturity earned on the Fund investment portfolio. The Fund's net loan position includes the General Fund building loan and other operating balances with the General Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund and the Fund to finance ongoing operations.

Interest received by the Fund totalled \$305,478 (2001 – \$453,370) after deduction of approximately \$110,945 (2001 – \$77,584) of interest revenue paid to the General Fund on General Fund cash balances held by the Fund during the year.

Other interfund transactions are disclosed elsewhere in these consolidated financial statements.

7. Regulatory requirements

The Captive is licensed under the *Insurance (Captive Company) Act* of B.C. The regulations of this Act require the Captive to maintain certain minimum reserves. The Captive was in compliance with those regulations as at December 31, 2002.

2002 committees and task forces



P.J. Keighley, QC,
Audit, Futures and
Special Compensation
Fund Chair



R.W. McDiarmid, QC,
Audit Chair



A. Olsen,
Complainants'
Review Chair



J. Preston,
Complainants'
Review Chair



H.R. Berge, QC,
Credentials Chair



R.S. Tretiak, QC,
Credentials and
Practice Standards
Chair

Committees*

Executive

Benchers: R.C. Gibbs, QC (Chair), H.R. Berge, QC, W.M. Everett, QC, P.J. Keighley, QC, R.S. Alexander, QC, J. Clark, R.W. McDiarmid, QC, J. Preston
Staff: J.G. Matkin, QC, J. Hoskins, D. Newell

Audit

Benchers: P.J. Keighley, QC (Chair, Jan-Oct), R.W. McDiarmid, QC (Chair, Oct-Dec), R.D. Diebolt, QC, R.W. Gourlay, QC, G.C. Taylor, D.A. Zacks, QC, J.S. Shackell, QC (Life Bencher)

Non-Benchers: Dirk Sigalet, QC, Richard Stewart, Ted Strocel

Staff: J.G. Matkin, QC, N. Stajkowski, A. Whitcombe

Complainants' Review

Benchers: A. Olsen (Chair, Jan-Aug), J. Preston (Chair, Sept-Dec), P. Nagle, M. Ostrowski, QC

Non-Benchers: Peter Gorgopa, Jan Lindsay, Paul Love

Staff: C. Picard, A. Said, E. van Eck

Credentials

Benchers: H.R. Berge, QC (Chair, Jan-Oct), R.S. Tretiak, QC (Chair, Oct-Dec), R.S. Alexander, QC, J.J.L. Hunter, QC, A. Olsen, J. Preston, P.L. Schmit, QC, G.R. Toews, QC, G. Turriff, QC, M. Vallance,

G.J. Lecovin, QC (Life Bencher)

Non-Benchers: Hugh Braker, QC, William Ehrcke, QC, John Leathley, Stephen Richards, Peter Warner, QC

Staff: L. Small, M. Lucas

Discipline

Benchers: W.M. Everett, QC (Chair), I. Donaldson, QC, A.K. Fung, QC, D.W. Gibbons, QC, V.J. MacLean, M. Martin, R.W. McDiarmid, QC, P. Nagle, A.K. Wallace, J.S. Shackell, QC (Life Bencher)

Non-Benchers: J.A. Carmichael, QC, Deborah Lovett, QC, Stephen Mulhall, Diane Turner

Staff: J. Whittow, QC, H. Caldwell, M. Currie, J. Dent, T. Follett, J. Gossen, K. Gouden, T. Holmes, G. Keirstead, K. Kim, R. Long, P. Martinuk, G. Myers

Equity and Diversity

Benchers: R.C. Gibbs, QC (Chair, Jan-Oct), A.K. Wallace (Chair, Oct-Dec), P. Kelly, M. Ostrowski, QC, J. Preston, M. Vallance

Non-Benchers: Halldor Bjarnason, Gerry Ferguson, William Jackson, Ken Kramer, Terence LaLiberté, QC, Jason Lee, Kathy Louis, Karen MacMillan, Beverly Nann, Michiko Sakamoto-Senge, Georgina Spilos, Mark Stevenson, Tim Timberg, Henry Vlug

Staff: K. Foo

Ethics

Benchers: R.S. Alexander, QC (Chair, Jan-Oct), G.R. Toews, QC (Chair, Oct-Dec), R.D. Diebolt, QC, R.W. Gourlay, QC, M. Ostrowski, QC, G.G. Ridgway, QC, W.J. Sullivan, QC, J.D. Vilvang, QC, D.A. Zacks, QC, W.M. Trotter, QC (Life Bencher)

Non-Benchers: Laura Donaldson, Terrence Robertson, QC, John Smith, Anne Stewart, QC, Peter Voith

Staff: J. Olsen, J. Hoskins

Futures

Benchers: W.M. Everett, QC (Chair, Jan-Oct), P.J. Keighley, QC (Chair, Oct-Dec), R.S. Alexander, QC, H.R. Berge, QC, A.K. Fung, QC, D.W. Gibbons, QC, R.C. Gibbs, QC, J.J.L. Hunter, QC, V.J. MacLean, R.W. McDiarmid, QC, R.D. Tunnicliffe, G. Turriff, QC, R.S. Margetts, QC (Life Bencher)

Non-Benchers: Sabrina Ali, J.A. Carmichael, QC, Stan Lanyon, QC, Pat Sweeney

Staff: D. Newell

Practice Standards

Benchers: R.S. Tretiak, QC (Chair, Jan-Oct), G.J. Kambeitz, QC (Chair, Oct-Dec), M.J. Falkins, M. Martin, G.C. Taylor, R.D. Tunnicliffe

Non-Benchers: Rosalyn Manthorpe, Charlotte Olsen, Peter Ramsay, QC, Mark Skwarok

* **Note:** Committee appointments have traditionally been made for the period January through December. In 2002, however, new committee appointments were made in October for the balance of 2002 and reaffirmed for 2003. The terms of Committee chairs in 2002 are indicated.

2002 committees and task forces



W.M. Everett, QC,
Discipline and
Futures Chair



A.K. Wallace,
Equity and Diversity
Chair



R.S. Alexander, QC,
Ethics and
Technology Chair



G.R. Toews, QC,
Ethics Chair



G.J. Kambeitz, QC,
Practice Standards
and Unauthorized
Practice Chair



R.W. Gourlay, QC,
Special Compensation
Fund Chair

Staff: J. Whittow, QC, J. Morris, D. DeGaust, D. Bilinsky

Special Compensation Fund

Benchers: R.W. Gourlay, QC (Chair, Jan-Oct), P.J. Keighley, QC (Chair, Oct-Dec), M.J. Falkins, P. Kelly, R.W. McDiarmid, QC, P.L. Schmit, QC, R.D. Tunnicliffe, G. Turriff, QC, A.K. Wallace

Non-Benchers: Azim Dato, QC, David Masuhara, David Renwick, Ron Skolrood

Staff: M.A. Cummings, L. Hlus, G. Keirstead

Technology

Benchers: R.S. Alexander, QC (Chair), M.J. Falkins, J.J.L. Hunter, QC, W.J. Sullivan, QC

Non-Benchers: Todd McKendrick, Ross McLarty, Leo Raffin, Alexander Szibbo

Staff: A. Whitcombe, N. Stajkowski

Unauthorized Practice

Benchers: G.J. Kambeitz, QC (Chair), J. Clark, M.J. Falkins, J.D. Vilvang, QC

Non-Bencher: James Herperger

Staff: C. Wiseman, J. Hoskins

Task Forces

Admission Program

Benchers: R.C. Gibbs, QC (Chair), H.R. Berge, QC, R.D. Diebolt, QC, J.S. Shackell, QC (Life Bencher)

Non-Benchers: Mary Childs, Anne Chopra, William Ehrcke, QC, Susan

Sangha, Peter Warner, QC

Staff: J.G. Matkin, QC, A. Treleaven, L. Small, L. Burns (CLE), M. Lucas

Alternative Dispute Resolution

Bencher: R.S. Alexander, QC

Non-Benchers: Deborah Zutter (Chair), Jerry McHale, QC

Staff: J. Hoskins, L. Cooney

Conveyancing Practices

Benchers: R.S. Alexander, QC (Chair), G.J. Kambeitz, QC, D.A. Zacks, QC

Non-Benchers: Paul Bradley, Kenneth Jacques, James Mooney, Franco Trasolini

Staff: J.G. Matkin, QC, M. Lucas, R. Usher

Disclosure and Privacy

Benchers: P.J. Keighley, QC (Chair), V.J. MacLean, J. Preston

Non-Bencher: Maureen Baird

Staff: J. Whittow, QC, C. Wiseman, B. Daisley, J. Eamer-Goult, J. Hoskins, D. Palmer

Lawyer Education

Benchers: P.L. Schmit, QC (Chair), R.S. Alexander, QC, H.R. Berge, QC, J.J.L. Hunter, QC, G. Turriff, QC, M. Vallance

Non-Benchers: Mary Childs, Susan Sangha, Peter Warner, QC

Staff: A. Treleaven, M. Lucas

Libraries

Benchers: R.D. Tunnicliffe (Chair), R.W. McDiarmid, QC, P.L. Schmit, QC, R.S. Margetts, QC (Life Bencher)

Non-Benchers: Catherine Best, Neil Campbell, Sylvia Teasdale

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