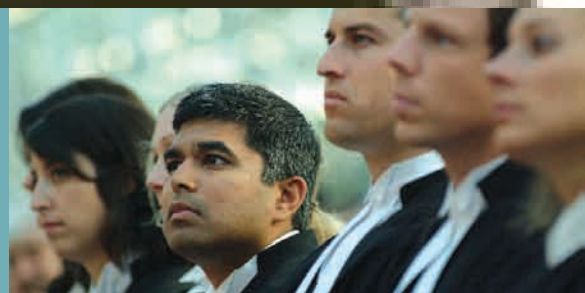




our  
**commitment**  
is clear

The Law Society of British Columbia  
2005 Annual Report





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our **commitment** is clear



2005 Law Society President Ralston S. Alexander, QC of Victoria (front left) with First Vice-President Robert W. McDiarmid, QC of Kamloops (back left), Second Vice-President Anna K. Fung, QC of Vancouver (front right) and Second Vice-President-elect John J.L. Hunter, QC of Vancouver.

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*"Lawyers care. They care about clients, each other and the ways in which the profession can respond to the changing needs of society in the 21st century."*

— Ralston S. Alexander, QC, President

## PRESIDENT'S MESSAGE

With this annual report I am officially "done" as President of the Law Society, in service to the public and the lawyers of British Columbia. It has been a great ride and I am sorry to see it end. My years as a Benchers have facilitated my meeting with a much larger number of lawyers in British Columbia and all of Canada than would otherwise have been possible. From that, I have formed some lasting impressions.

Canadian lawyers are caring, thoughtful and generous professionals. They are primarily (often with single-minded determination) concerned about the best interests of their clients. They work long hours for financial returns that are often modest, particularly when compared to popular misconceptions, and they are always there to help each other work out difficult legal problems for the good of a client.

Is this all widely known? Unfortunately, no. This reformatted annual report is one way to better tell our story as a profession. I hope that you will read the whole of the report and pass it on to clients and friends.

As I travelled around the province in 2005, I was frequently reminded of the volume of work that lawyers do for each other and for the public without any expectation of getting paid for it. I am not speaking of the various pro bono initiatives in the province. It is clear that pro bono clinics represent an immense contribution of volunteer time and effort from our members. That component of lawyers' contribution to the public good is on most people's radar screens, although it needs to be better publicized. I am, however, also speaking of the contributions that lawyers make to the education of other lawyers, and as volunteers for the Law Society and across the legal community.

The Continuing Legal Education Society of BC and our Professional Legal Training Course rely extensively on the free contributions of time and effort (often significant effort) of our members. In addition, I have found that it is not unusual at a county bar meeting for a lawyer to present a case comment, CLE course or a fully prepared presentation on a topic of general interest.

This is, of course, in addition to the contributions that lawyers make to the broader community in all sorts of roles, sometimes wearing a lawyer's hat, other times a baseball cap. By their volunteer service on boards for public bodies and non-profits, lawyers provide an especially important public service. In most such instances, the contribution is extensive and has a value beyond anything the society or non-profit could afford to purchase in the marketplace.

At the end of my official Law Society involvement, I am now, more than ever before, convinced of one overarching truism: Lawyers care. They care about clients, they care about each other, and they care about the ways in which the profession can respond to the changing needs of society in the 21<sup>st</sup> century.

I thank my fellow Benchers and the staff for their commitment to Law Society work and offer my encouragement to new President Rob McDiarmid, QC and our new CEO Tim McGee as they oversee the Law Society's operational priorities for 2006. Finally, I thank all lawyers for their commitment to their clients, to this organization and to the community as a whole. I ask each of my brothers and sisters at the bar to find ways to put your energy for caring to some good use in the public interest.



**Ralston S. Alexander, QC**  
*President*

*“As I conclude my first year with the Law Society, I’m inspired by the breadth of the work we do in this organization.”*

— Tim McGee



## MESSAGE FROM THE CHIEF EXECUTIVE OFFICER

Since arriving as the Law Society’s Chief Executive Officer last summer, I’ve reflected often on what a privilege it is to serve an organization that has as its first priority the public interest in the administration of justice.

For most people in the province, BC’s 11,000 lawyers are their key link to the legal system, their most trusted advisors. This is a profession that demands high standards of education, competency, ethics and financial responsibility. I have seen that lawyers are committed to those standards and to earning the public trust. But what is truly impressive, if perhaps less recognized, is the way that lawyers so often go beyond the call of duty — in serving clients, in taking on pro bono commitments and in making contributions to their profession and their community.

As I conclude my first year with the Law Society, I am struck by the breadth of the work we do in this organization, by the commitment of the Benchers and by the superb contributions of our volunteers. This year’s annual report takes a closer look at the Law Society and its people, and at some of the ways that the profession serves the cause of justice today.

The past year has been a busy one for me and for all the Law Society staff. At a fall priorities planning session with the senior management team, a new operational priorities plan entitled “Building for the Future” was developed. The plan sets out five key operational initiatives that focus on implementing the Benchers’ policy priorities in 2006 and beyond.

These initiatives bring a renewed focus and commitment in the areas of professional conduct and discipline, trust assurance and custodianships, support for sole practitioners and small firms, and government relations. Our goal in pursuing this plan is to ensure that the Law Society is at the forefront of self-regulating bodies in adopting best practices in all facets of its operations.

We have also introduced a number of new internal initiatives to improve our work processes, enhance our performance measures and improve employee communications, including the creation of an Employee Council to partner with management in a variety of areas.

In closing, I would like to thank and acknowledge our employees for their hard work and dedication. This was a year of change in the Law Society, and adapting to these changes on behalf of all the staff, presents new challenges and opportunities for our employees.

I also wish to thank our Benchers, and in particular our 2005 President Ralston Alexander, QC and current President, Rob McDiarmid, QC, for their leadership and support for all the work we do, including our new operational initiatives.

I look forward to working with the Benchers and our employees in the coming year to significantly advance the Law Society’s mandate to serve the public interest in the administration of justice.

A handwritten signature in black ink that reads "Timothy McGee". The signature is stylized with a large, sweeping 'T' and 'M'.

**Timothy E. McGee**  
Chief Executive Officer

# we're committed to our mandate

## OUR PUBLIC PROTECTION MANDATE

The primary mandate of the Law Society is to protect the public interest, as reflected in section 3 of the *Legal Profession Act*:

### Public interest paramount

3. It is the object and duty of the society
  - (a) to uphold and protect the public interest in the administration of justice by
    - (i) preserving and protecting the rights and freedoms of all persons,
    - (ii) ensuring the independence, integrity and honour of its members, and
    - (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership, and
  - (b) subject to paragraph (a),
    - (i) to regulate the practice of law, and
    - (ii) to uphold and protect the interests of its members.

This is a broad mandate, and the Law Society looks seriously at public policy issues that may affect the administration of justice or the delivery of legal services.

## SETTING AND UPHOLDING PROFESSIONAL STANDARDS

In regulating BC lawyers, the Law Society's primary responsibilities fall into these areas: *Credentials* — deciding the standards for admission to the profession and overseeing the education of articulated students, including skills training they receive through the Society's Professional Legal Training Course; *Ethics* — setting ethical standards of behaviour for all lawyers; *Practice Standards* — setting

standards of competency, inquiring into individual cases of incompetence and overseeing remedial measures; *Professional Conduct and Discipline* — investigating allegations of misconduct, resolving complaints and taking disciplinary action when appropriate; *Financial Protections* — covering lawyers for liability insurance and providing trust protection coverage for the public.

An independent governing body, the Law Society works at all times to ensure that BC's lawyers are honourable, competent and independent, and that they serve the public well.

## WHY THE LEGAL PROFESSION IS INDEPENDENT

Legal services, like other professional services, are regulated for public protection. Regulation helps lessen the risk that a member of the public will suffer serious harm at the hands of someone who purports to be a professional service provider, but in fact lacks the expertise, skill or character to deliver a service properly. Professional governing bodies — including those of doctors, nurses and accountants — are ideally positioned to set and evaluate professional standards and so are given this responsibility.

For the legal profession, however, the issue goes deeper. The Law Society must be an independent governing body, not only to ensure that lawyers have expertise, but also independence. There is an important principle at stake, and one that needs to be more widely known, in the view of Gordon Turriff, QC, a Benchler from Vancouver who heads the Law Society's Independence and Self-Governance Committee.

"Often people ask why lawyers govern themselves," says Mr. Turriff. "The answer is surprisingly simple: because if anyone else were responsible for regulating what lawyers do, that regulator could determine how lawyers would have to deal with their clients." The end result, he says, is that people would no longer have access to lawyers who were bound to discharge a duty of loyalty to the people who came to them for help. People could no longer be sure that a lawyer's advice is untainted by outside influence.

In some parts of the world, this has proved more than a theoretical concern. There have always been regions where the rule of law does not exist, or points in history when government or even military control of lawyers has facilitated the erosion of human rights.

A lawyer must act in a client's best interests. If lawyers were accountable to government for their actions, they would be conflicted, and the relationship could colour the handling of a client's legal case — most notably on any matter in which the state is involved, including a criminal prosecution. It is for that reason that our legal system has always guaranteed the independence of the legal profession. This is not for the benefit of lawyers, but for their clients who need independent legal advisors and advocates.

"Just think how intolerable it would be if someone had to get advice about a dispute with government from a lawyer who was in any way beholden to that same government," says Mr. Turriff. "Lawyer independence is thought to be so important that it is sometimes said to be a constitutional imperative, an essential condition of our society that cannot be eroded under any circumstance."

# our leadership



## THE BENCHERS AND CEO as of November 2005

(Front row) CEO Timothy E. McGee, Second Vice-President Anna K. Fung, QC (Vancouver County), President Ralston S. Alexander, QC (Victoria County), First Vice-President Robert W. McDiarmid, QC (Kamloops District), Second Vice-President-elect John J.L. Hunter, QC (Vancouver County)

(Second row) Gavin H.G. Hume, QC (Vancouver County), Margaret Ostrowski, QC (Vancouver County), David A. Zacks, QC (Vancouver County), James D. Vilvang, QC (Vancouver County), June Preston (Lay Benchers), Carol W. Hickman (Westminster County)

(Third row) G. Glen Ridgway, QC (Nanaimo County), Gregory M. Rideout (Westminster County), Ian Donaldson, QC (Vancouver County), Patricia L. Schmit, QC (Cariboo County), Gordon Turriff, QC (Vancouver County), Arthur E. Vertlieb, QC (Vancouver County)

(Back row) Robert C. Brun, QC (Vancouver County), William F.M. Jackson (Cariboo County), Patrick Nagle (Lay Benchers), Dirk J. Sigalet, QC (Okanagan District), Michael J. Falkins (Lay Benchers), Patrick Kelly (Lay Benchers), Terence E. La Liberté, QC (Vancouver County)

(Not pictured) Joost Blom, QC (Vancouver County), Bruce A. LeRose (Kootenay County), Ross D. Tunnicliffe (Vancouver County), Dr. Maelor Vallance (Lay Benchers)

## THE BENCHERS — OUR DIRECTORS

The Benchers, the Law Society's board of directors, ensure that the Society meets its responsibilities under the *Legal Profession Act*.

There are 25 Benchers who are lawyers — elected by other lawyers in nine regions across BC — and up to six Lay Benchers, who are non-lawyers appointed by the Lieutenant Governor in Council (provincial cabinet).

Lawyers who are elected as Benchers serve two-year, renewable terms of office. Ralston S. Alexander, QC of Victoria took the office of President in January 2005. He was assisted by First Vice-President Robert W. McDiarmid, QC of Kamloops, Second Vice-President, Anna K. Fung, QC of Vancouver and Second Vice-President-elect John J.L. Hunter, QC of Vancouver.

## THE ATTORNEY GENERAL

The Attorney General of British Columbia is an ex officio Bencher under the *Legal Profession Act*. The Benchers worked with two Attorneys General during the year — Geoff Plant, QC and, as of June 15, the Hon. Wally Oppal. They also welcomed Deputy AG Allan Seckel, QC as a representative of the Attorney General.

## LIFE BENCHERS

Past Presidents or Treasurers and other long-serving Benchers become Life Benchers on completion of service. The Law Society had 60 Life Benchers in 2005, many of whom remained active Law Society volunteers. Joining the ranks of Life Benchers at year-end were outgoing President Ralston S. Alexander, QC, Cariboo Bencher Patricia L. Schmit, QC and Vancouver Bencher Ross D. Tunnicliffe.

## GOVERNANCE

Today, organizations are known not only by what they do but also by how they do it. The Benchers have committed to governing policies that emphasize:

- outward vision rather than internal preoccupation
- encouragement of the full examination of all issues and solutions
- strategic leadership more than administrative detail
- clear distinction of Bencher and management roles
- collective rather than individual decisions and actions
- future rather than past or present and
- proactivity rather than reactivity.

Benchers devote many hours each month to Law Society work, which includes preparing for and attending Benchers meetings, committee and task force meetings and various consultations with the profession and the community. Among their duties, they offer advice to lawyers, conduct articulated student interviews and may serve as Law Society appointees to other bodies. They also attend outside meetings, special events and call ceremonies on behalf of the Law Society. What is unique about their role is that they serve as members of hearing panels, a key regulatory responsibility.

The Benchers meet in Vancouver nine times each year and outside the Lower Mainland once a year, in conjunction with their annual retreat. Representatives of the CBA, BC Courthouse Library Society, Law Foundation of BC, Continuing Legal Education Society of BC and others in the legal community are regularly at these meetings, and individual BC lawyers are also welcome to attend.

The Society's website features upcoming meeting dates and minutes of Bencher meetings, as well as news, policy and regulatory changes.



*"The Law Society of British Columbia is the organization that regulates the legal profession in this province. As Attorney General, I recognize and rely upon the Society's critical role in upholding the rights and freedoms of all people in the administration of justice. Lawyers are in a unique position to help people by finding solutions to their legal problems and ways to resolve their disputes. The profession, the courts and government all share a responsibility to reach out and help people. There are people who do not know their rights, who feel intimidated by legal processes or who mistrust the justice system because of negative experiences outside of Canada. We need to show that the system is accessible and worthy of their trust — taking nothing for granted."*

— Wally Oppal, QC, Attorney General and Ex Officio Bencher of the Law Society

## OUR MANAGEMENT TEAM

The Law Society's Chief Executive Officer and his management board carry out the policies of the Benchers and oversee all Law Society operations.

Timothy E. McGee became CEO and Executive Director of the Law Society in June of 2005. He took over from Acting Executive Director Sholto Heberton, QC had served in an interim capacity since January 2005.

The Law Society operates over 20 programs, grouped into six operational areas — Credentials and Education, Regulatory Compliance, Insurance, Policy and Legal Services, Executive Support and Corporate Services. The CEO and his directors lead a team of professional, management and administrative staff dedicated to serving the public and the profession.

## SALUTING VOLUNTEERS

The Law Society is fortunate to have nearly 500 volunteers, most of whom are lawyers, serving on committees, task forces and working groups, as PLTC guest instructors or authors, as conduct reviewers, fee mediators, event panellists and as advisors on special projects. The Benchers and staff are grateful for the contributions of these very committed people.

Much of the Law Society's regulatory work is the responsibility of its committees, and many of the policy issues brought to the Benchers table come from these committees or task forces. Benchers serve on all of these, as do other volunteers from the profession, supported by Law Society staff from various departments, in particular, Policy and Legal Services. In 2005, there were 15 committees and 11 task forces: see pages 42-43 for a list of members.

## WHAT OUR LAY BENCHERS SAY

Appointed by the provincial government, Lay Benchers are public representatives at the Benchers table. They come from different walks of life, and bring different perspectives. If they have one thing in common, however, it is their devotion to public service.

June Preston has been a Lay Bencher since 2001. A retired Director of Family Education Services for the Vancouver Island Health Authority in Victoria, she has been honoured with an international award for her work with adoptive families. Ms. Preston says she values her responsibility to the public in setting standards for the effective governance of the Society and the regulation of lawyers in BC.

"I have enjoyed all my appointments to committees and task forces, which have proven to be a continual learning experience," she reflects. "As Lay Benchers, we are always encouraged to express our opinions, share ideas and offer suggestions from our various experiences. Staff are always very helpful and supportive to our learning."

She pays tribute to the contributions of her colleagues, including those who passed away during the past year. "We were all very sad and shocked at the sudden death of our two Lay Bencher colleagues, Lilian To and Patrick Nagle," she says. "They were highly regarded in their own professions and made unique contributions to committee work."

Patrick Kelly is Director of Strategic Planning & Communications with the British Columbia Region of Indian and Northern Affairs. He values his role in the Law Society. "Lay Benchers bring knowledge, skills and experience from diverse backgrounds and contribute perspectives to the governance decisions at the Benchers table and to the work of committees and task forces that enrich the value of those decisions," he says. "One thing that has impressed me strongly and continuously over the past few years that I've been a Lay Bencher is the extent to which all Benchers focus clearly and vigorously on promoting and defending the public interest."

*"One thing that has impressed me strongly and continuously over the past few years that I've been a Lay Bencher is the extent to which all Benchers focus clearly and vigorously on promoting and defending the public interest."*

— Patrick Kelly, Lay Bencher

## LAY BENCHERS: Our Public Representatives

The Law Society's Lay Benchers (left to right) Dr. Maelor Vallance, Patrick Nagle, Patrick Kelly, Michael Falkins and June Preston were generous with their time throughout the year.



## WHAT OUR LAY BENCHERS SAY *continued*

Mr. Kelly reflects on the fact he has learned a great deal about the practice of law in BC, and is grateful to the Benchers and Law Society staff for sharing their competence and views on law with the Lay Benchers. "We operate in a rapidly changing world," he says, "and I know that the Law Society can count on all of us who are Lay Benchers to step up to the plate with our Bencher colleagues when we are called upon to do our share in continuing to represent the public interest in governing the practice of law in BC."

Mike Falkins, a retired insurance broker from Victoria, points to the scope of Lay Bencher work — "We have served on virtually every committee within the Law Society, most task forces, and do a considerable number of hearings." In 2005 he was part of the search committee for a new Law Society CEO and endorsed the outcome. "We are delighted with the appointment of Tim McGee, and we look forward to an exciting era ahead and working with him and the management board over in the years ahead."

"Perhaps the most rewarding aspect of our work at the Law Society is that we are totally accepted by the elected Benchers — it is a unique feeling to know that we are wanted and that we do make a difference," he says. "The camaraderie between the Lay Benchers and the elected Benchers is nothing short of marvelous."

## A PLACE IN BC'S HISTORY

It was a summer's day in 1869 when 13 lawyers in the City of Victoria came together with a common purpose — to form a Law Society as their governing body. They were actively encouraged in this pursuit by Henry Pering Pellew Crease, Attorney General of the day. He thought it time that the newly consolidated Colony of British Columbia established clear standards of admission to the profession.

By that point in its history, British Columbia had already adopted English common law, and its justice system was based on English constitutional traditions. If there was any doubt about the need to formalize the legal profession as well, it was laid to rest by one Felix O'Byrne.

Mr. O'Byrne arrived in the colony in 1863, after a long voyage defrauding his fellow passengers at cards. He presented himself for call to the bar in the province, since he had legal training in England. He had, however, never been called to the bar there. At the Attorney General's initiative, his qualifications were put before the local barristers who found them wanting. Mr. O'Byrne left for the United States where he later died. According to the *History of the Legal Profession in BC 1869-1884* by Alfred Watts, QC, the *Colonist* newspaper of the

day published a rather unkind epitaph. "Felix O'Byrne died at New York on March last," the paper reported. "He left several Mrs. O'Byrnes to rejoice of his early departure and the end of his villainous career."

It was time indeed to clarify the standards of the profession. The Law Society was recognized by statutory enactments, starting in 1874 and culminating in the *Legal Professions Act* of 1884.

While the Law Society's history dates back to the early days of colonial British Columbia, its traditions are older still. As far back as 16th-century England, those who appeared in court for clients belonged to institutions known as the Inns of Court. They were known as "barristers" because they pleaded cases at the bar that divides the business area of the court from the public gallery. The senior barristers of Inns of Court were known as "Benchers" or "Masters of the Bench" who set standards for admission and decided a barrister's termination of membership. The term Bencher is still used today to describe members of the Law Society's board of directors, responsible for setting and upholding standards of all lawyers in the province.

In England, barristers and solicitors are separate professions, but in BC they are one.



Barristers are those lawyers who appear as counsel in court, while solicitors generally give advice, conduct transactions and do other legal work. BC lawyers can choose to practise as barristers, as solicitors, or both.

Today the legal profession of the province is more than 11,000 strong, serving a population of over four million, and the Law Society has become a modern, vibrant organization. The principles that underlie our work, however, are the same as they were in 1884 when the Society received its common seal. The motto emblazoned on the crest is *Lex Liberorum Rex*, meaning "The Law is King of Free Men" or, in more modern language, "Law is the Ruler of Free People." This reminds us that our democratic tradition is based on the rule of law, not of arbitrary rulings. In Canada, no person or government authority is above the law, all persons are equal before the law and the law is upheld within an independent justice system.

# committed to high standards



Johanna Fipke wanted to be a lawyer since childhood. She realized the dream last year, after finishing degrees in both law and commerce and her articles with Lawson Lundell in Vancouver. "When I first accepted an articling position at a big downtown law firm, I was skeptical as to whether it would be for me," she admits. "I don't consider myself someone who deals very well with being 'just another number'." But the experience was a good one, as was the fit with corporate and commercial law. "Every day holds something new and challenging and I can honestly say that I do not remember the last time I felt bored," Johanna says. Given that, coupled with a high-energy work environment and "the best mentors I could hope for," Johanna says her decision to follow this career path was the right one for her.

*"In our country we enjoy a legal system in which judges and lawyers carry out their work free from coercion or corruption, or the influence of political power. The role each of you assumes today as a member of the bar in the protection and the promotion of a civilized and democratic society cannot be underestimated. From time to time, in your hands will rest the causes of citizens who face the very considerable power of the state, or of large institutional interests. I know that they will be able to rely on you to see that their causes are vigorously advanced in our courts and elsewhere."*

— Chief Justice Donald I. Brenner, Supreme Court of BC  
December 9, 2005 Call and Admission Ceremony

## HONOURS

**Gold Medallists** > Paula Ramsay and Jesse Nyman, top graduates from University of Victoria and University of British Columbia law schools respectively, received Law Society gold medals in 2005, in recognition of their academic achievements.

**Graduate Studies Scholarship** > Kimberly M. Eldred received the \$12,000 Law Society scholarship for graduate legal studies. She has pursued a Masters of Law program at Harvard Law School, researching the protection of legal rights of persons involved in international criminal investigations and prosecutions.

## BECOMING A LAWYER

What does it mean to be a lawyer today? One thing is clear — law is a helping profession. Lawyers offer legal expertise to help people in all kinds of situations — by giving advice on incorporation and other business structures, completing the sale of a home or commercial property, negotiating labour deals, defending clients on criminal charges or drafting separation agreements. They work in every corner of the province, for large and small business, and for people at every income level.

Lawyers are also members of an independent profession, and all commit to high ethical standards. The Canons of Legal Ethics, part of the *Professional Conduct Handbook*, set out the framework. The Canons state that a lawyer is a minister of justice, an officer of the courts, a client's advocate and a member of an ancient, honourable and learned profession. All lawyers are bound to advise their clients properly, based on knowledge of the relevant facts and law, to endeavour by all fair and honourable

means to obtain for their clients every lawful benefit, remedy or defence and to be loyal to their clients, avoid conflicts of interest and maintain confidences.

These are important commitments that last the whole of a lawyer's career. They are the foundation for the lawyer's reputation as a trusted advisor.

## THE ROAD TO A CAREER IN LAW

In 2005 the Law Society welcomed 454 lawyers to the profession. Almost 70% were called to the bar for the first time, and the balance joined the profession on transfer from other provinces or territories or from other countries. The call and admission of new lawyers is celebrated at one of several large ceremonies held in Vancouver each year or at smaller ceremonies in communities throughout the province. It is a time for the court, the President of the Law Society and the Benchers to welcome new lawyers, and to thank the family and friends who supported them.

Madam Justice Jaqueline Dorgan, who presided over the call ceremony in Vancouver on May 25, 2005, offered words of inspiration to the hundred new lawyers before her. "My fervently held wishes for you this morning are three," she said. "One is that you will remember what your profession demands, indeed, expects of you. Two, that you will know not only what you stand for, but what you will stand up for. And three, that you will search for beauty and that, once found, you will include it in your life."

Without doubt, law is a career that takes hard work and dedication. By the time of their call, lawyers have completed at least three years of an undergraduate degree followed by three years of academic study at law school. They have also passed qualification examinations and supplemented their substantive legal education through practical skills in the Law Society Admission Program. This program consists of nine months of articles (supervised practical experience) in a law firm or other legal workplace and the 10-week Professional Legal Training Course.



*"PLTC was the most useful and practical part of my legal education."* — Catalina Rodriguez

Catalina Rodriguez is no stranger to hard work or study. A lawyer in Colombia who has also done graduate studies in journalism, she practised law in that country for a year before moving to Canada to be with her husband, a BC lawyer. Picking up her career meant hitting the books again. "Going back to law school was the right thing to do for me," she said. "Not only did I learn about Canada's legal system, but I met great people who became good friends, and got a fantastic job."

Catalina is now articling with Ogilvy Renault in Vancouver. She enjoys the experience immensely — "I haven't stopped learning" — and she credits her 10 weeks in the Professional Legal Training Course for getting her ready. "PLTC prepared me for the real day-to-day work in a law firm," she said. "It reinforced what kind of information should go in a memo, how to organize and draft an opinion letter, and how to prepare a court application. It made me feel like I knew what I was doing when I started articles. And I had fun at the same time!"

Catalina still keeps in touch with her roots (freelancing for Colombian magazine *Semana*) and is looking forward to a practice in employment and labour law, or in litigation.

## PROFESSIONAL LEGAL TRAINING COURSE

The Professional Legal Training Course (PLTC) has bridged the gap between law school and law practice for more than 20 years. This past year, 330 students completed the course in Vancouver and Victoria.

Raquel Goncalves, one of the staff lawyers who teaches in the program, says students learn how to apply their legal knowledge to real-life problems effectively — through a focus on the skills, procedure, practice management and ethics that lawyers need in order to be competent. "Students love the practical aspect of PLTC," she says.

One of them is Jon Dykstra. He credits the skills work, extensive readings and PLTC guest instructors for introducing him to the practice of law. "For the first time, I reviewed and completed forms and documents, wrote contracts and letters, and

engaged in mock advocacy assignments," he says. "I heard from several practitioners about their individual perspectives and experiences in their areas of practice."

As an articulated student, he enjoys delving into litigation files, assisting in preparing for trials and doing chambers applications and provincial court hearings. He points to the opportunities to help clients, such as a landlord he assisted in a difficult dispute. He also helped a client who faced an interjurisdictional family case, which was settled to the client's satisfaction, without him having to travel or go to court. One of the most important things Jon Dykstra says he has learned so far is to listen to clients, sit back and think about their files, and keep them informed.

As any student will agree, PLTC packs a great deal of information into a short timeframe, so it is a challenge. But it is also a place where students make connections, build long-term friendships and simply live their lives. "There are 20 memorable stories in every class, three times a year," instructor Raquel Goncalves says. "Just last year, for example, I had two students who both became first-time fathers of little boys within three days of each other, just before exams. They both survived labour and PLTC with distinction."

PLTC is always changing. Recently the Law Societies of BC and Nunavut agreed that a faculty member from BC would travel to Iqaluit to offer one session in 2006, which will serve as the Nunavut bar admission course. The Law Society is undertaking the project to lend support to growth of the legal profession north of the 60<sup>th</sup> parallel.



**LEFT:** PLTC student, Jon Dykstra  
**RIGHT:** PLTC instructor, Raquel Goncalves

## ARTICLES

Articles refer to the nine months that a law student spends in a law firm or other legal workplace to complete practical training or apprenticeship. An articulated student works under the supervision of a principal, a lawyer who acts as a mentor. Some students also accept clerkships to work under the supervision of a judge, in which case some of their time clerking is credited toward articles.

At the recommendation of the Credentials Committee, the Benchers in 2005 reaffirmed the need for high requirements to serve as a principal, but agreed to make these more flexible. Principals must be in active (either full-time or part-time) practice for seven of the 10 years preceding a student's articling start date, including three of the five years immediately preceding the articling start date in full-time active practice.

## NEW TO THE PROFESSION (in 2005)

### New call and admission

Recent graduates of BC law schools	213
Recent graduates of other Canadian law schools	92
Graduates of foreign law schools	25
	330

### Transfer

Lawyers transferring to BC from other jurisdictions	124
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### Reinstatement

Former BC lawyers reinstating as members	36
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## WHERE BC LAWYERS LIVE & WORK (as of December 31, 2005)

District	% of profession
Vancouver	55.5%
Victoria	9.6%
Nanaimo	3.6%
Westminster	12.5%
Kootenay	1.1%
Okanagan	3.7%
Cariboo	2.0%
Prince Rupert	0.6%
Kamloops	2.1%
Out-of-province	9.3%
	100%

## CHARACTER AND FITNESS

The Credentials Committee, chaired in 2005 by Second Vice-President Anna K. Fung, QC, is responsible for overseeing the 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.

Each applicant for enrolment, for call to the bar, for transfer or for reinstatement must satisfy the Law Society that he or she has the necessary academic qualifications, is a person of good character and repute and is fit to become a barrister and a solicitor of the Supreme Court.

Most of the administrative work in reviewing applications is carried out by staff of the Law Society's Member Services Department. If it appears that the character or fitness of any applicant needs to be addressed, the Credentials Committee reviews the application and may order a formal credentials hearing. The Committee is also responsible for reviewing applications relating to a student's failed standing in PLTC and any matters relating to a student's articles.

## MOBILITY OF LAWYERS

Lawyers from elsewhere in Canada may come to BC to practise law on a temporary basis (in most cases 100 business days in a calendar year) if their home law societies allow BC lawyers reciprocal access under the National Mobility Agreement and if they meet other eligibility criteria. Lawyers wishing to practise in BC in the longer term may apply to the Law Society for call and admission in the province.

## LAWYERS FROM OUTSIDE CANADA

Lawyers from outside Canada who wish to practise the law of their home jurisdiction (for example, US immigration law) may serve clients in BC as practitioners of foreign law, provided they meet Law Society criteria for a permit.

To transfer to BC and practise domestic law, a foreign lawyer must obtain a Canadian LL.B. or undergraduate common law degree or a Certificate of Qualification issued by the National Committee on Accreditation through the Federation of Law Societies of Canada, and then complete the admission program. A lawyer with practice experience in a common law jurisdiction outside Canada may apply for a reduction in the nine-month articling term or an exemption from all or part of PLTC.

## A LOOK AT BC LAWYERS (as of December 31, 2005)

Membership category	Men	Women	Total	
Practising	6,482	2,990	9,472	(85.2%)
Non-practising*	596	764	1,360	(12.2%)
Retired members	269	23	292	(2.6%)
<b>Total</b>	<b>7,347</b> (66%)	<b>3,777</b> (34%)	<b>11,124</b>	

\* It is common for lawyers to choose non-practising membership when on a career break or in employment situations that do not require them to practise law.

*“Lawyers learn the law at law school and they learn ethics and procedure at PLTC. We hope that by offering a course in practice management, we will help lawyers achieve the last piece necessary to the conduct a successful practice.”*

*— Patricia Schmit, QC, Benchers and Chair of the Lawyer Education Task Force, pictured here with her dachshund Andy outside her office in Quesnel.*



#### A PASSION FOR SMALL FIRM PRACTICE

Patricia L. Schmit, QC has been Chair of the Law Society's Lawyer Education Task Force for the past three years. She is passionate when she speaks about bringing professional development opportunities to lawyers in small firms and in small communities.

"In BC, most legal services provided to ordinary people are by lawyers who practise in small firms or as sole practitioners. They make up 50% of lawyers in practice in BC," she says. "Most of the lawyers practising outside the Lower Mainland are in small firms or in sole practice. Dare I say that most of the affordable legal services are provided by this group."

Pat is a founding partner of Chudiak Schmit & Company, a three-lawyer firm that serves the city of Quesnel and surrounding area, home to 25,000 people. She believes strongly in the Law Society's overall commitment to foster a culture of lifelong learning for lawyers — and to do that in every part of the province. "If we want to maintain a profession that is accessible to real people with real problems, where people can find legal counsel in their own communities, we, the Law Society, need to assist lawyers who enter this type of practice to be successful," she says.

To this end, the Lawyer Education Task Force proposed a new course to equip lawyers in setting up as sole or small practitioners. In 2005 the Benchers gave the go-ahead.

"We are now in the process of developing a free, online, province-wide course and proposing that it be mandatory for those lawyers newly opening up small or solo practices," she says. "This course will focus on practice and client management, trust accounting, business accounting — all the facets necessary to run a small law practice. It is designed to help lawyers succeed in business."

An elected Benchers since 1998 and the chair of numerous Law Society committees, including the Special Compensation Fund Committee in 2005, Pat finished her service at year-end. She is now a Life Benchers and a member of the Small Firm Task Force.

# lawyers keeping current

## PROFESSIONAL DEVELOPMENT

In the law, as in life, change is a given. Through a commitment to their own professional development, lawyers ensure they are ready to meet the needs of their clients now and in the future.

BC lawyers stay current in a variety of ways — through legal publications, up-to-the minute electronic bulletins and databases, specialty websites and, of course, continuing legal education courses. They also now report to the Law Society on all their continuing education activities — both formal courses and self-study.

## POPULAR LEGAL RESOURCES

A traditional place for lawyers to keep up on the law is at library. Law libraries offer a wealth of information. The BC CourthouseLibrarySociety(BCCLS)—supported by the Ministry of Attorney General, the Law Society and the Law Foundation — has 31 branches across the province, open to lawyers, articulated students and members of the public. The libraries are a central hub in courthouses — a place to study, conduct legal research and prepare for court. Library information service hours were recently extended until 5:30 pm, which better accommodates anyone who needs research assistance after court.

In addition to books, manuals and journals, some BCCLS branches offer no-cost searches of a number of legal databases. In 2005 these services were expanded. "We were happy to make LawSource available in Vancouver, when it was previously just in areas outside the Lower Mainland, and we now have CLE online products throughout the province," says Johanne Blenkin, Executive Director. "In partnership with UBC, we also digitized the early *BC Reports* so they are now searchable via a link on our website or via UBC's website at no cost."

Given the trend to access legal information online, the Canadian Legal Information Institute (CanLII) is fast gaining recognition. Just a click away — at [www.canlii.org](http://www.canlii.org) — CanLII offers a free internet database of Canadian caselaw, statutes and regulations. The resource was designed with both the legal profession and the general public in mind, and features a sophisticated search engine. CanLII is the brainchild of the Federation of Law Societies of Canada and receives funding from law societies across the country, including the Law Society of BC, and from such organizations as the Law Foundation of BC.

Catherine Best, a research lawyer with the firm Boughton, is the Law Society appointee to the CanLII board. She praises the service, which makes legal research less costly and easier to find. "CanLII is the leader in providing free internet access to Canadian legal information," she says. "By creating and funding CanLII, the law societies have made an enormous contribution to access to justice in Canada."

## CLE

The Continuing Legal Education Society of BC is a key provider of courses and publications for BC lawyers and their staff. CLE continues to introduce innovations. On the technology front, these include webcasts of many courses, online access to course materials by subscription and the option to purchase electronic editions of practice manuals.

In November 2005 CLE presented its inaugural Leaders in Learning Award to lawyers James P. Taylor, QC and John O.E. Lundell, QC, both well respected for their contributions to continuing legal education. The many lawyers who serve as instructors and authors for CLE demonstrate that volunteerism is alive in all parts of the legal community, and that lawyers are generous with their time.

## TECHNOLOGY TODAY

More than ever, technology influences the way lawyers practise law.

It's a reason the Law Society has devoted some of its practice resources to helping the profession master technology. For a third year, the Pacific Legal Technology Conference was held in Vancouver. Hosted by the Law Society, the Canadian Bar Association (BC Branch), the Trial Lawyers Association of BC and the American Bar Association Law Practice Management Section, the event attracted over 200 lawyers and law firm staff who gathered to learn about the latest technologies.

Taking centre stage at the Conference was a day-long mock trial based on *Air India*, one of the most dramatic and complex court cases in Canada.

Chief prosecutor Joe Bellows, QC recalls of the case that it put both technology and people to the test. "The first of many formidable challenges was to physically review every document that constituted the RCMP archive of the *Air India* investigation," he said. "By the end of the case, the 'file' consisted of tens of thousands of individual documents and over a million pages of material."

"The technology that proved of greatest practical importance to me was the ability to have the image of a document, photograph or sketch displayed electronically for a witness on a monitor in the witness box and simultaneously for Crown, defence and the Court," says Bellows. "The witness could 'mark' the screen, thus marking the image. The then 'marked' image was printed out, within minutes, in court and tendered as the next exhibit."

## TECHNOLOGY TODAY *continued*

Since it is likely that demand for technology services in courtrooms will grow in the coming years, particularly in civil cases, the Court Services Branch is exploring the introduction of compact units for electronic evidence presentation. But if technology is beginning to be felt in the courtroom, it has already had greatest impact in the law office. Lawyers and their staff routinely use computerized systems — from accounting and case management software to systems for online filing in public registries.

Bill MacLeod is a Vancouver litigator and a speaker at the Pacific Legal Technology Conference. In his view, electronic evidence at trial is interesting, but lawyers can achieve the most from technology in other ways. "Since something like 95% of all cases result in settlement, it is in the day-to-day preparation of counsel for the resolution of disputes that the main work of litigation counsel takes place — and where the main benefits from speeding up the process result," Mr. MacLeod reflects.

"We have adopted electronic workflow for our communications," he says of his own office. "Most of our business is conducted by email. Incoming paper letters are scanned to our computer system and are then transmitted electronically to the lawyers and staff in the office who need to see them. Incoming faxes go directly into the computer system and are routed to the appropriate parties. We try to keep our entire files online." An interesting benefit is the difference it has made in the office environment. This was recently flagged by one temporary secretary. Everything was so quiet, she said, because people spent so little time looking around for things!

## PRACTICE ASSISTANCE

All professionals need a helping hand from time to time. For this reason, the Law Society Benchers and staff offer BC lawyers confidential practice and ethics advice. Practice Advisors Felicia S. Folk and Dave Bilinsky and Ethics Staff Lawyer Jack Olsen handled the bulk of the 5,200 enquiries to the Law Society office in 2005. Barbara Buchanan joined the practice advice team in the fall after Ms. Folk's return to private practice.

To supplement these one-on-one consultations, the Law Society offers online practice resources, which are very popular. In 2005 lawyers accessed over 103,000 web pages on practice issues, downloaded more than 30,000 copies of articles and other resources and almost 41,000 practice checklists.

## PRACTICE COURSE AHEAD

For three years, the Law Society's Lawyer Education Task Force has looked at ways to enhance continuing education resources and to help lawyers acquire and maintain practice management skills. With endorsement from the Benchers in 2005, the Task Force is now laying the groundwork for a "new firm" practice course, to be offered free online, designed specifically for lawyers moving into solo or small firm practice.

## PLACE A BOOKMARK

The Law Society's website is well worth a tour — go to [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca) — as more and more people are finding out. Visits to the site have more than doubled since 2003.

The BC Lawyer Lookup is the most used feature — accessed for over 600,000 searches in 2005. The most popular information resource is the online *Benchers' Bulletin*, followed by the hearings schedule and reports, practice resources, the *Professional Conduct Handbook*, what's new page, Law Society Rules, news releases and PLTC information.

Here is a quick site summary for 2005:

Site visits	598,116
Pages viewed	2,266,249
Lawyer Lookup searches	616,698
Documents downloaded	173,604



## TRIAL TECHNOLOGY SHOWCASE

Crown Counsel Joe Bellows, QC and Margaret Mereigh demonstrate state-of-the-art trial presentation techniques at the Pacific Legal Technology Conference in October. Technology was essential to one of Canada's largest, most complex trials — the Air India trial — in which Bellows was lead counsel.

*"The first of many formidable challenges was to physically review every document that constituted the RCMP archive of the Air India investigation. By the end of the case the 'file' consisted of tens of thousands of individual documents and over a million pages of material."*

*— Joe Bellows, QC, Crown Council*

# encouraging healthy workplaces

## EQUITY OMBUDSPERSON

To help counter discrimination and encourage equitable workplace practices, the Law Society funds the services of an Equity Ombudsperson, Anne Chopra. Ms. Chopra assists anyone who works in a firm in resolving concerns over possible discrimination, as well as law firms that wish to prevent discrimination and promote a healthy work environment.

In her role as Ombudsperson, Ms. Chopra is independent of the regulatory function of the Law Society. Her services are confidential and available to law firm staff, law students, articulated students, lawyers, human resource administrators and managing partners in law firms at no cost.

## STAYING WELL

To take care of others, it is important for a professional to stay healthy in mind, body and spirit. The Law Society funds two confidential, independent services to help lawyers, articulated students and their families maintain healthy relationships and to tackle stress, substance abuse or work-related concerns. These are the Interlock and Lawyers Assistance Programs.

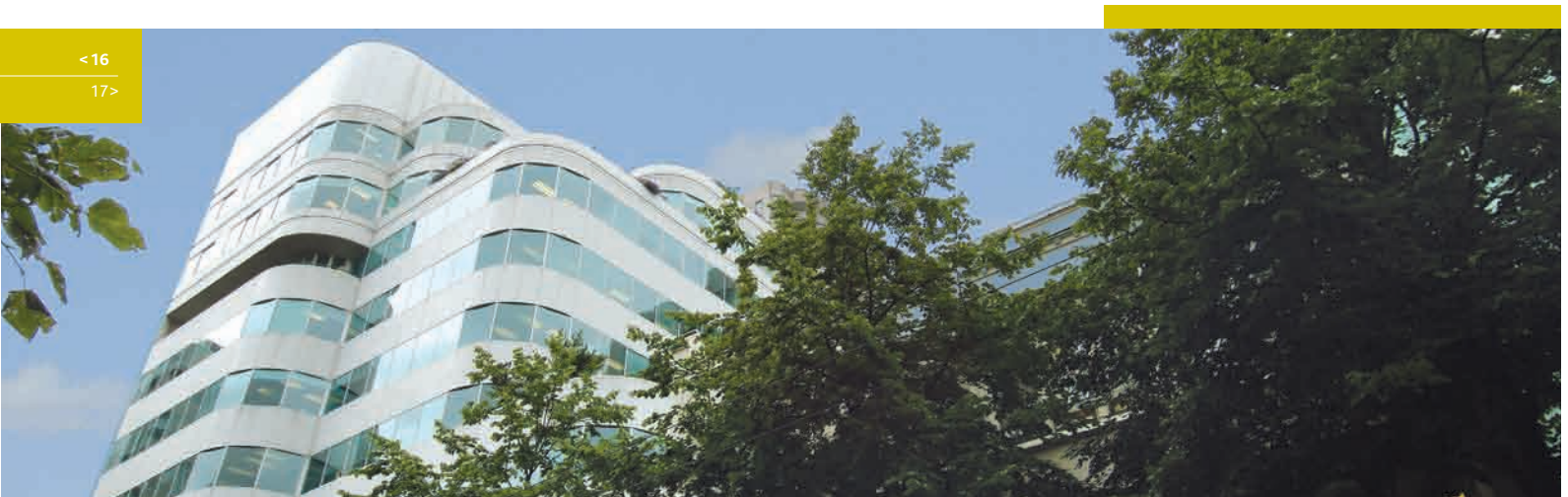
Interlock is the first BC-based assistance program to meet North American accreditation standards, and is recognized for its professional counselling and referrals. Over 400 lawyers, students and family members consulted Interlock in 2005 on family and personal problems, grief, depression and addictions.

According to Interlock Director of Service, Nancy Payeur, lawyers now recognize the importance of stopping small problems from becoming bigger in the face of conflicting pressures. "We are seeing more lawyers who are taking time for serious reflection," she says. "Many want to develop greater focus, calm and clear priorities — both at work and at home."

When a professional is struggling, the support of a colleague can be invaluable. The Lawyers Assistance Program (LAP) runs a peer support and intervention service, which is entirely independent but funded by the Law Society. Based on the approach of "lawyers helping lawyers," LAP lent assistance to 250 lawyers over the past year on a range of personal issues, including alcohol and drug addiction.

Debra Van Ginkel, QC is a long-time supporter who was honoured by LAP in 2005 with the "Lawyer Helping Lawyer Award" for her volunteer work. A family law lawyer with Watson Goepel Malady in Vancouver, Ms. Van Ginkel has served on the LAP board for eight years, including two years as Chair. She is also founder of a mentoring project for women lawyers.

She says that LAP has gone a considerable distance in building personal connections among lawyers, which makes an enormous difference in their professional and personal lives. "We have each received invaluable peer support and, in turn, we are able to provide peer support to others," she reflects. "Because of LAP, many of the troubled members of our profession are no longer as isolated and are able to benefit from the wisdom and support that others are able to provide."



# equity & diversity in the profession

The Law Society is committed to making the legal profession a welcoming one for all lawyers. By promoting equity and diversity, the Society demonstrates leadership to the profession and helps ensure that BC lawyers are a reflection of the diverse communities they serve.

The Society published two groundbreaking equity studies in the early 1990s — including a gender bias study led by Ted Hughes, QC. Since then, the Society has worked on making the profession more inclusive and breaking down discriminatory barriers that lawyers or their clients may encounter in the justice system.

The Society's Equity and Diversity Committee — chaired in 2005 by Vancouver Benchers Art Vertlieb, QC — has a mandate from the Benchers to examine the issues that impact on women, aboriginal people, multicultural and religious communities, persons with disabilities and those who are lesbian, gay, bisexual or transgendered, with a view to making policy or program recommendations. The Committee is assisted in its work by committed volunteers on several working groups.

One recent focus has been on women in the profession. The Women in the Legal Profession Task Force, chaired by Benchers Gavin Hume, QC, is looking at the status of BC women lawyers today, drawing on recent research from other jurisdictions. Research from the early 1990s showed that women were leaving the profession in disproportionate numbers to men, and that many faced discrimination in the practice of law, difficulties accommodating work and career responsibilities or barriers to career advancement. At that time, women made up 22% of all lawyers in BC.

Many equity initiatives have been pursued in the intervening years and, together with a balance of students in law schools, women today make up a full third of the profession. Yet, there is more work to be done before women equal men in numbers or fill out the senior ranks of the profession. One of the signs of success will be when all lawyers confirm they are leaving the profession as they entered it — willingly.

Here are the highlights of the Law Society's equity initiatives during the year:

**Model workplace policies** > Thanks to the Women in the Legal Profession Task Force, and volunteer lawyers who have lent their expertise, the Law Society began to update its set of model policies for BC law firms. These policies reflect best practices on handling workplace harassment, maternity and parental leave, alternate work arrangements, workplace equity, respectful language and equity in recruitment and hiring. The policies, to be published in 2006, will also include guidance on accommodating lawyers with disabilities. The Law Society encourages law firms to adopt workplace policies and to advertise that fact when recruiting articulated students and lawyers.

**Court access for people with disabilities** > In cooperation with the Ministry of Attorney General and the judiciary, the Law Society is looking at ways to improve physical access at courthouses for lawyers and members of the public with disabilities.

## BREAKING DOWN BARRIERS

Halldor Bjarnason is known for his ready smile. A Vancouver lawyer, he chairs the Law Society's Disability Research Working Group, which is now looking into the accessibility of BC courthouses. Halldor was honoured this past year with the Coast Foundation Award for Inspirational Achievement. Despite cerebral palsy, he has let nothing stop him in the pursuit of his dreams — be it taking a Paralympic gold medal (Seoul, 1988), becoming a lawyer (the suspenders suit him) or rappelling down an office building for an Easter Seals fundraiser (one of his more recent endeavours).



**Diversity review** > The Law Society's own equity and diversity practices were assessed during an internal diversity review this past year. The Law Society has gone a long way towards making its office a model workplace, but it is important to benchmark progress against the best practices of other organizations. There is opportunity to improve accessibility in the Law Society's

own building and to adopt a workplace policy on disability issues.

**Court interpreters** > Court interpreters help people who cannot speak or understand English to participate in court proceedings as parties or witnesses. A special working group is completing a study that will help guide lawyers on working effectively with court interpreters.

**Exit survey for BC lawyers** > The Women in Legal Profession Task Force developed a survey, for rollout in 2006, that invites all lawyers who leave the profession to share their reasons for doing so. The Law Society plans to use the results to flag any systemic problems, including harassment or discrimination.



## CONNECTING WITH DIVERSE COMMUNITIES

Aleem Bharmal is a human rights lawyer with the Community Legal Assistance Society in Vancouver, a non-profit that provides legal services and develops the law for those who are mentally, socially, economically or otherwise disadvantaged. Aleem knows the importance of people being able to obtain the legal services they need. "We find that the biggest barrier to accessing legal services is financial," he says. "However, different ethnic, linguistic and cultural backgrounds can also be factors, and often intersect with the financial barrier."

Aleem is also a member of the Law Society's Equity and Diversity Committee. He reflects on the connection between equity issues and access to justice for clients. "Obviously an increased diversity within the profession of lawyers who can speak the various major ethnic languages would go a long way to improving accessibility," says Aleem. He notes that better use of translation and interpretation services would also be beneficial — and the Equity and Diversity Committee will soon be publishing a report on that issue.

Aleem's passion for equity issues comes in part from his experiences abroad. As a young lawyer, he worked as a Human Rights Officer for the UN High Commission of Human Rights in Rwanda in 1996 where he helped in monitoring and reporting on the administration of justice and ongoing human rights violations. He also assisted in obtaining witness statements on the Rwandan genocide for the UN International Tribunal in Arusha, Tanzania. He learned through personal accounts of the brutal realities of the Rwandan genocide — up to a million people dead at the hands of the Hutu militia, millions more displaced, 60,000 detained, and a judicial system in tatters. Seeing the aftermath was, for Aleem, nothing short of "life-changing." It was a reminder of how fragile human rights can be, and why lawyers need to safeguard the rule of law and the rights of all people.

A couple of events caused a buzz in 2005. One was the BC Women Lawyers Forum, sponsored by the CBA, BC Branch, with promotional assistance from the Law Society. It was a time to celebrate the advancement and mutual support of women in the profession.

Another event, already a favourite with law school students, was held at the University of British Columbia in the spring. This was a panel discussion, chaired by Art Vertlieb, QC, Equity and Diversity Chair and featuring Anna Fung, QC, Law Society Second Vice-President, Noreen Collins, Past President of the Trial Lawyers Association

of BC, and Bandna Ubhi, a Vancouver lawyer. The panel engaged a large crowd of law students, both women and men, who were eager to learn about what commitment it takes to have a career, a family and a life in balance.

committed to **the community**



*“In two years we went from having no student pro bono organization at UVic Law to a thriving group of close to 100 students working with 18 community organizations. While my efforts spearheading this group made things ridiculously busy for me at times, it also made my law school experience meaningful and real.”*

*— Andrea Luey*

## A COMMITMENT TO PRO BONO LEGAL SERVICES

Low-income people in BC now have better access to legal information and advice, even when they may not qualify for legal aid. This is thanks to the strength of community organizations and volunteer efforts of BC lawyers.

The Legal Services Society (LSS), which administers the provincial legal aid plan, suffers from chronic underfunding. And while LSS has introduced innovative programs, such as family duty counsel and online information services, the fact is that many poor people simply do not qualify for legal aid, either because they do not meet financial eligibility guidelines or they need services that fall outside the plan. Many end up representing themselves, sometimes in difficult circumstances. The Law Society has supported lawyers offering pro bono legal services, but not as a substitute for a properly funded legal aid program.

With demand increasing, formal pro bono programs have emerged.

Law students have not shied away from the challenge. The UBC Law Students' Legal Advice Program and the Pro Bono Students Canada at both UBC and the University of Victoria offer pro bono services, with the help of dedicated law students.

Andrea Luey is a law student who helped launch the UVic program. It pairs students with local lawyers to help with research and background work in pro bono cases. Andrea believes that students are privileged to have a legal education and should use it for the greater public good. And she thinks they have the power to make changes, if there is enough momentum.

"In two years we went from having no student pro bono organization at UVic Law to a thriving group of close to 100 students working with 18 community organizations," she says. "While my efforts spearheading this group made things ridiculously busy for me at times, it also made my law school experience meaningful and real."

As quickly as pro bono programs have emerged in recent years, lawyers young and old have stepped forward. Since opening a pro bono legal clinic in 1999, the Salvation Army has doubled the number of its clinics in BC from 11 to 22. In 2005 over 300 lawyer volunteers staffed the clinic to help over 4,000 low-income clients on criminal, family, labour, welfare and other cases. The clinics provide a venue for lawyers to meet with people in the community, provide summary assessment and legal advice, help with completion of court documents, wills and notarizations and prepare clients who intend to appear in court on their own.

Access Justice (Western Canada Society to Access Justice) is another program devoted to pro bono. Under the guidance of founder Dugald Christie, Access Justice now sponsors 60 summary advice clinics in communities from Coquitlam to Smithers. Over 400 lawyers and 125 administrative staff volunteer for the program, and more than 500 clients come through the doors each month for advice. The Law Society provided some funding assistance to Access Justice in 2005.

One of the Law Society's most important contributions has been to extend insurance coverage to retired and non-practising BC lawyers to encourage them to volunteer their services in pro bono programs approved for that purpose.

Pro Bono Law of BC, which the Law Society helped in its start-up years, has worked on creating a pro bono culture in the profession. The program actively matches lawyers with community organizations that need legal services. In 2005, the program introduced rosters of lawyers to represent clients in family law, judicial review and appeals to the Federal Court of Appeal.

Innovations are everywhere, and one is the community partnership forged by Davis & Company, a Vancouver law firm, with the MS Society of Canada (BC). The law firm offers the MS Society pro bono services for clients with MS who are facing legal problems. This model has been described in a newly published guide to help other law firms create one-on-one pro bono relationships with local organizations in need.

Many lawyers also care for the community by giving of their own time for free on the boards of local organizations, in charitable and fundraising activities and in youth recreation.

## LAWYERS SUPPORT PUBLIC LEGAL EDUCATION

On April 18, 2005 a self-help centre opened at the Vancouver Law Courts. The first of its kind in BC, the centre offers resources to a growing number of litigants now going it alone in civil cases. Inside, visitors can receive one-on-one assistance on available resources, read brochures, booklets and manuals, fill out their court documents, research online or watch videos to learn more about the court system and procedures.

The goal of the centre is to increase access to justice for unrepresented people and efficiencies for the justice system — to see if it can reduce delays, costs and complications in court. Over 1,300 people visited the centre in its first six months of operation — three out of four were involved in family law cases. For some of those who need legal advice, referrals can be made to one of the pro bono clinics. The centre's website is also becoming very popular. This is but one legal resource. The Legal Services Society offers LawLink and Law-Line, for example, and other community organizations and advocacy groups provide legal information.

People in BC are also fortunate to have organizations devoted to public legal education. The Law Courts Education Society offers an array of services throughout the province. Court tours and orientations, court watching and mock trials all provide opportunities for people, especially children and youth, to learn about the justice system. In 2005 the Law Courts Education Society received an Honorable Mention from the National Association for Court Management as part of its Justice Achievement Awards. This was in recognition of its online information services to update family members on the status of the Air India trial.

Mr. Justice Paul Williamson, President of the Law Courts Education Society, notes that over 140 lawyers each year spend time at schools and community events. "This work is all voluntary and involves hundreds of donated hours by these lawyers," he says. Their work is central to LCES's efforts to personalize the work of our justice system and inform all British Columbians of their rights and responsibilities."

The People's Law School is another valuable program which, since 1972, has offered public law classes, a cultural minorities program, publications and a justice theatre for students. "Volunteerism is the fire that fuels the People's Law School," says Law Society Second Vice-President Anna Fung, QC, who chaired the board in 2005. She notes that People's Law School has succeeded in rolling out programs year after year on a shoestring budget, largely due to the generous contribution of time and expertise of the legal profession. "Each year about 135 lawyers volunteer to teach free law classes, serve as panelists on law-related radio programs and review booklets for legal content and accuracy," she adds.

## ACCESS TO JUSTICE

The Law Society applauds lawyers and others in the legal community who work hard to enhance public understanding of and confidence in the justice system. BC lawyers consistently demonstrate their commitment to people in need — through pro bono legal services, public legal education and community service outside of law.

Access to justice is a basic need of people in a free and democratic society, and that means a long-term commitment to making reform and funding choices consistent with filling this need. The Justice Review Task Force, with representatives from government, the judiciary and the profession, has worked on civil justice, criminal and family law reforms. While lending support to this work, the Law Society is also firmly of the view that reforms should be based on adequate research and consultation.

The Law Society's Access to Justice Committee, chaired in 2005 by Benchers Margaret Ostrowski, QC, has devoted itself to monitoring various access to justice initiatives. The Society's Unbundling Legal Services Task Force began public consultations in the spring of 2005 to canvass whether lawyers should offer "unbundled" services, that is, discrete or defined legal services, as an alternative to complete representation of a client through each stage of a transaction or dispute. This is one way of containing costs and increasing people's access to legal services.

## THE LAW FOUNDATION

BC's public legal education programs flourish, thanks in large part to financial assistance from the Law Foundation of BC. Since its inception in 1969 under the *Legal Profession Act*, the Foundation has been funded from the interest on lawyers' pooled trust accounts to support a broad range of work — legal aid, legal research, law libraries, law reform and legal education.

The Law Society consistently encourages lawyers to place their trust accounts with financial institutions that provide fair rates of return to the Foundation.

Over the past year, many community projects have moved forward thanks to Law Foundation funding, including an educational project in Surrey to help combat abuse of seniors, landlord clinic workshops in Prince George and family law seminars in Keremeos. Through all these innovative projects, the Foundation helps weave a better understanding of the law into the fabric of many communities.

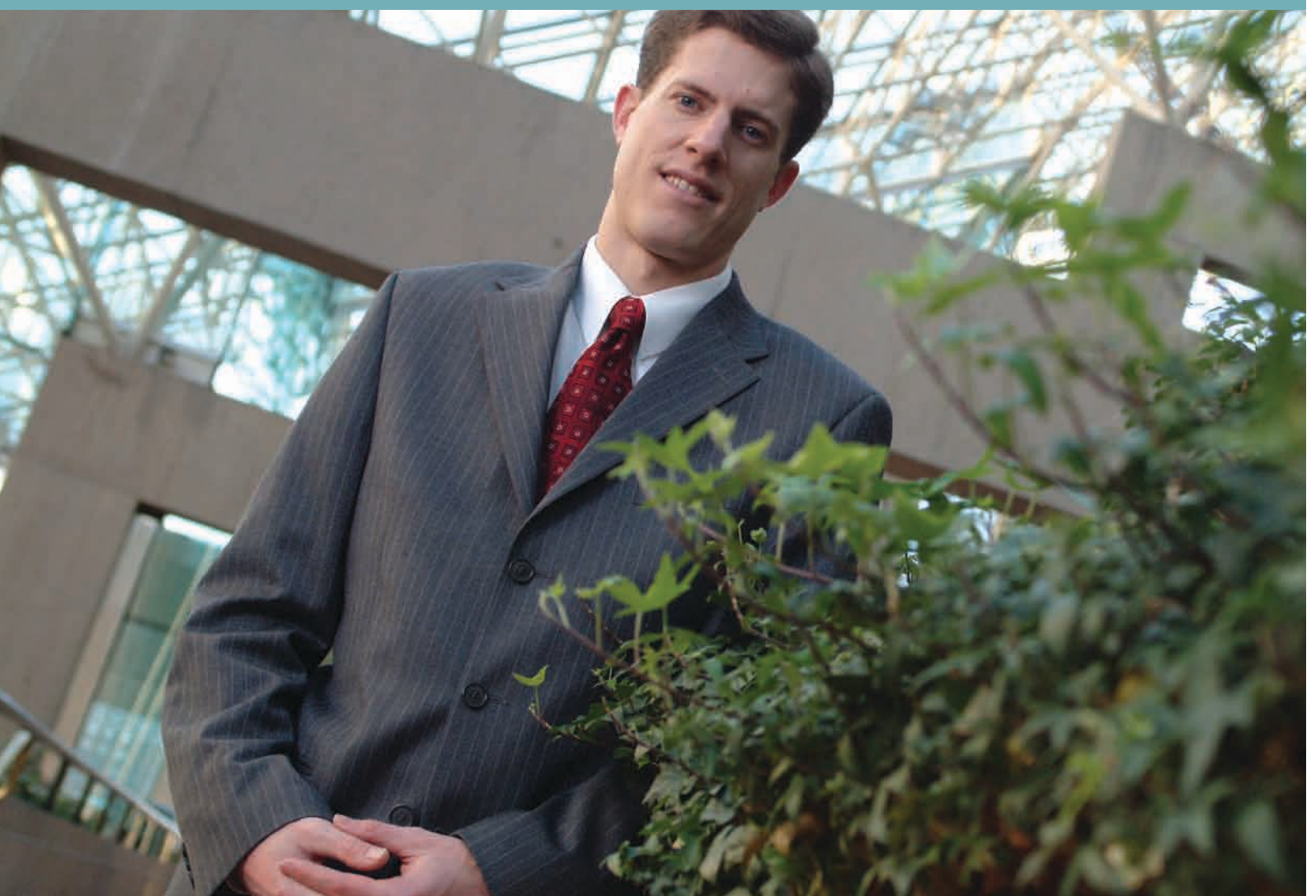
**PRO BONO:  
ONE LAWYER'S EXPERIENCE**

Roy Millen is a young associate in a busy downtown practice at Blake Cassels in Vancouver who has already racked up some interesting experience — he was special prosecutor on obstruction of justice charges in *R. v. Gill*, part of the legal team challenging the application of money laundering legislation to lawyers and counsel representing the Musqueam Band in a land dispute.

Like most lawyers, he takes his career seriously. He also makes time for pro bono. Along with 400 other lawyers across BC, Roy volunteers for Access Justice, giving low-income people summary legal advice through a pro bono clinic based at the Vancouver Law Courts.

One of his recent pro bono cases was to help a man whose wife had suffered a traumatic brain injury in a car accident and could no longer manage her affairs. His application was successful, with the husband and a close family friend appointed as joint committees. Both husband and wife were happy with the outcome. "I wanted to help my client understand the court process, put his case before the court in the best possible manner and ensure he obtained fair treatment from the justice system," Roy says. "It is these kinds of cases where a self-represented litigant might get lost in the procedural labyrinth, or might not have the resources to address the substantive legal context of his case."

Roy also does pro bono legal work for the Environmental Dispute Resolution Fund and volunteers his time to Big Brothers and Better Environmentally Sound Transportation. A competitive runner and avid outdoor enthusiast, he says his challenge is the same as that of many lawyers — to balance family and career with other commitments and interests. This is particularly so since the arrival of what he calls his "biggest non-work file." That would be his son Tasman, who was born last fall and has been keeping his family busy, and smiling.



# our professional standards



**ETHICS COMMITTEE VOLUNTEER**  
Anne Stewart, QC

## ETHICS

The Law Society holds an important public trust — to set and maintain standards of professional responsibility for the legal profession.

The Law Society's *Professional Conduct Handbook* articulates the ethical standards expected of BC lawyers. The Canons of Ethics form the first chapter of the *Handbook*, and these describe general ethical principles. The balance of the *Handbook* addresses a lawyer's specific obligations — on client confidentiality, avoiding conflicts of interest, preserving client property, advocacy practices, fees, marketing and supervision of employees.

When lawyers need help interpreting their ethical obligations, they are encouraged to turn to the Ethics Committee, the Ethics Staff Lawyer or a Benchers for assistance.

The 2005 Ethics Committee was chaired by Victoria Benchers Anne Wallace, QC until her appointment to the Provincial Court mid-year, when Gavin Hume, QC took over as Chair. In addition to helping individual lawyers, the Committee is mandated to study possible *Handbook* changes and to make policy recommendations to the Benchers.

Like many other committees, it boasts loyal volunteers. Anne Stewart, QC is one of the non-Benchers members. She welcomes her work on the Committee — so much so that she actually breathed a sigh of relief on seeing the letter telling her she had been reappointed for 2006. "The discussions are always lively and thought-provoking," she says, noting how the Ethics Committee fields questions from lawyers, raises new issues for consideration and publishes articles in the *Benchers' Bulletin*. "In my totally prejudiced view, it is the best committee the Law Society has."

She and other members of the Committee were busy in 2005. One of the issues before them was the confidentiality that exists over communications between the lawyers who seek ethical advice and those within the Law Society who provide it.

Another issue before the Committee was a lawyer's responsibility to avoid scams. In recent years, the Law Society has learned of dishonest investment promoters who have asked to deposit funds in law firm trust accounts. The money typically comes from investors who have been promised huge profits. Scammers of this sort try to use a lawyer's trust account and insurance coverage to feign credibility and draw in more victims.

## ETHICS *continued*

At the Committee's recommendation, the Benchers amended Chapter 4, Rule 6 of the *Professional Conduct Handbook* to require a lawyer to be on guard against becoming the tool or dupe of an unscrupulous client. Although lawyers have always had an ethical obligation to refrain from dishonest or fraudulent activities, the amendments to Chapter 4 of the *Handbook* expressly highlight a lawyer's duty to refrain from any activity the lawyer "knows or ought to know" assists a fraudulent enterprise. In addition, a new footnote to Rule 6 explicitly warns a lawyer to be wary of clients who promise third parties unrealistic returns on investments and who state that the funds are to be placed in trust with the lawyer.

## TRUST ASSURANCE

BC lawyers routinely handle trust money for clients and other people in the course of transactions and other legal work. In doing so, they must meet standards of financial accountability.

Law firms are expected to observe Law Society accounting rules and file an annual trust report to verify compliance. The trust report consists of a self-report component signed by a lawyer and a report from an outside accountant who conducts a specific review of books and records. Significant problems or exceptions in a report can result in a Law Society audit of the firm's books and records.

The trust accounting rules are updated regularly. The Law Society of BC was the first in Canada to adopt restrictions on the amount of cash a lawyer can receive in trust. This was a preventive measure put in place in 2004 to discourage anyone who might seek to use a lawyer's trust account to launder money. By 2005 the no-cash rule was adopted across the country. As a result, a lawyer cannot receive in cash \$7,500 or more in any one client matter or transaction, subject to limited exceptions.

During the year, the Law Society laid out plans for a new trust assurance program after conducting a survey and comparison of trust programs from across Canada and internationally.

The new model will begin in 2006 and be phased in over three years. It will consist of self-reporting by law firms on their compliance with accounting rules and, as a new component, rotational Law Society audits, which a firm will undergo every six years, or more frequently if needed. The reforms will allow the Law Society to make best use of its resources, target audits more effectively and relieve the great majority of firms of the need to retain outside accountants.

As of March 2005, law firms began remitting to the Law Society a trust administration fee on client matters, intended in part to help fund trust assurance initiatives.

ETHICS COMMITTEE AND STAFF: hard at work.



## UNCLAIMED TRUST FUNDS

Under the *Legal Profession Act*, a lawyer who has held money in trust for two years without being able to find the client or other rightful owner may remit the money to the Law Society to manage. The Society continues to attempt to locate the

owner or that person's heirs. If the owner cannot be found within five years, the Law Society remits the money to the Law Foundation in accordance with the *Legal Profession Act*.

The Law Society honours all valid claims for the return of unclaimed trust money and, if a claim is made subsequent to a remittance to the Law Foundation, the Foundation will reimburse the Society.

# committed to public protection

## PROFESSIONAL CONDUCT — COMPLAINT REVIEW AND RESOLUTION

It is the Law Society's responsibility to review complaints about lawyers. Most complaints come from clients, opposing parties or other lawyers, but the Society considers information from any source that suggests a disciplinary violation by a lawyer.

In each case, the Society must assess whether there is a conduct issue or a concern about the lawyer's competency that needs to be addressed for public protection. The Society may also review a lawyer's conduct outside the practice of law that may harm the standing of the profession.

A member of the public who has concerns about a lawyer's conduct, but is not certain whether to make a complaint or whether there are other options for resolving the matter, is welcome to call the Law Society office for guidance.

## COMPLAINTS INTAKE

The initial intake and assessment of complaints about the conduct or competency of a BC lawyer are handled by the Law Society's Professional Conduct Department, staffed by both lawyers and paralegals. The office received 1,272 complaints in 2005 (down almost 3% from 2004).

When the Law Society receives a complaint, staff open a file and disclose the complaint to the lawyer. If the matter is within the Law Society's jurisdiction, the staff will generally ask for the lawyer's response and decide if investigative steps are warranted.

No lawyer welcomes the prospect of dealing with the Law Society about a complaint, but most lawyers understand that the Law Society has a job to do.

"Lawyers support our efforts principally because, individually and collectively, they are concerned to establish and maintain the confidence of the public in the ethics and integrity of our profession," says Stuart Cameron, Director of Professional Regulation. "Public confidence is only possible if there is an effective response to complaints."

## COMPLAINTS RESOLUTION

Most issues between lawyers and their clients can be worked out between them and never reach the Law Society. But even when a problem or disagreement escalates into a complaint, it is often not about improper conduct by a lawyer — it is about poor service. These complaints typically surface after a breakdown in communications and may be founded on misunderstandings. Sometimes a client has unrealistic expectations about the outcome of a legal matter or a lawyer has failed to adequately explain timelines, procedures or cost.

Whenever possible, the Law Society tries to resolve complaints between lawyers and clients.

"We have a very experienced team of professionals and support staff who are committed to the fair and impartial investigation of complaints of lawyer misconduct," says Mr. Cameron. "They are encouraged to be proactive and, whenever possible, arrive at a resolution of a complaint that satisfies the interests of the complainant and the lawyer."

## PROBLEMS SOLVED

In 2005 the Professional Conduct Department staff helped to resolve about 13% of all complaints. Most of these were service complaints suited to informal resolution.

For example, one client complained to the Law Society that her lawyer, acting for her in a property sale, had failed to provide her with a copy of the mortgage discharge or a final accounting and had not returned telephone calls.

A staff lawyer in the Professional Conduct Department contacted the lawyer by telephone. It turned out that lawyer had been delayed in obtaining the discharge for legitimate reasons, but had failed to keep the client "in the loop." She agreed to contact the client immediately to apologize, tell her that the mortgage discharge was in hand and confirm that the transaction was complete. "The client said that she was pleased with the result and the help of the Law Society," said Mr. Cameron, noting that the lawyer ought to have explained the reason for the delay. "To the client, that courtesy was all that was really missing."

Even if the lawyer and client have more serious, irreconcilable differences, the Law Society can sometimes suggest a useful solution. In one case this past year, a lawyer and client had a fundamental disagreement about the final steps on an immigration application after a lot of work had been put into the case. While the lawyer would not continue to act for the client, and was within his rights to withdraw from the case, the Law Society helped work out a process to break an impasse over release of the documents. The client was able to take away the file and move the application forward. Both client and lawyer had their interests protected and they were grateful for the assistance.

## TOWARD A NEW MODEL OF COMPLAINT REVIEW AND RESOLUTION

Professional Conduct Department is enhancing its focus on complaint resolution and is pursuing new approaches for quicker assessment and completion of complaint files.

"Our experience demonstrates that between 85% and 90% of complaints are either service-related, outside the Law Society's jurisdiction or otherwise matters not appropriate for our discipline process," says Mr. Cameron. "The changes we are making are designed to allow for prompt and reliable categorization. Those complaints that are amenable to resolution will be quickly identified and appropriate action taken and those that ought not to be proceeded with will be closed. The 10%-15% of more serious complaints will be

immediately diverted for a focused investigation and, where warranted, a timely referral to the Discipline Committee."

Under the plan, a new Public Response group will begin handling all complaints at the point of intake and identify complaints that are service-related and amenable to informal resolution. The staff in this group will all possess a range of legal, mediation and customer-service skills. "The watchwords for our day-to-day work will be accessibility, responsiveness and timeliness," says Mr. Cameron, who will head the group.

Complaints that raise the possibility of more serious discipline violations will be transferred to a new Prosecution group for investigation and counsel work.

Enhancing the functionality of this group's case management capability is a priority to support performance.

## OTHER AVENUES FOR COMPLAINTS

There are complaints that raise still other issues. If a matter involves an allegation of discrimination by a lawyer, it may be a conduct issue, but the Law Society also offers the services of an Equity Ombudsperson who can explain options to a complainant or arrange a mediation if both sides agree.

When fees are in dispute, lawyers and clients can access a voluntary fee mediation program offered by the Law Society or have the matter formally decided in a fee review before a BC Supreme Court registrar or master. Other people who approach the Law Society may be contemplating legal action against a lawyer, such as a claim of negligence. If an informal resolution is possible, the Law Society will assist. In other cases clients are advised to seek legal advice to explore their options.



*"I relish the opportunity to come to work every day with the thought that what we do in the Professional Conduct and Discipline groups can and does make a difference in the lives of the general public and our members. We are often able to patch up a relationship between lawyer and client that is going sour, and even when that is not possible, we provide a necessary outlet for matters that would otherwise eat away at public confidence in the profession."*

— Stuart Cameron,  
Director of Professional Regulation

## INVESTIGATION

When the staff of the Professional Conduct Department begin investigation of a complaint, they may request further information from the complainant, the lawyer or anyone else involved. They are assisted on investigations by experienced investigators and forensic accountants as needed.

The Law Society's review and investigation of a complaint is confidential, which means it is discussed only with a lawyer and complainant. Confidentiality over complaints is necessary to ensure fairness and the integrity of the Law Society's investigation overall. When a matter is already known

to the public, such as through newspaper reports, the Law Society can confirm the status of its investigation to other people, including members of the media.

## REFERRALS FOR FURTHER ACTION

If a complaint discloses a serious ethical problem or competency concern about a lawyer, the Professional Conduct Department can refer it for further action:

- to the Practice Standards Committee, in the case of a competency issue
- to the Discipline Committee, in the case of an ethical concern or breach of the Law Society Rules.

The Professional Conduct Department referred 136 complaints (8.9% of files reviewed) to the Discipline Committee for consideration and 31 complaints (2%) to the Practice Standards Committee in 2005. Of all the complaints reviewed by staff in 2005, 22.1% were found to be outside the Law Society's jurisdiction and 40.9% did not establish a conduct or competency problem: see *Disposition of complaints and public enquiries closed in 2005* on page 29.

## COMPLAINANTS' REVIEW COMMITTEE

If the staff determine no further action is warranted on a complaint, in some circumstances a complainant may request a review before the Complainants' Review Committee (CRC), chaired by a Lay Benchers.

The CRC has authority to review the complaint and make further enquiries. The CRC may decide to refer the complaint to the Discipline Committee or Practice Standards Committee or confirm the staff's decision to take no further action.

## 2005 COMPLAINT FILES BY TYPE OF CONDUCT ALLEGED

Type of file		
Abuse of process	19	(1.5%)
Advertising	11	(.9%)
Breach of Act or rules	38	(3.0%)
Breach of confidentiality	12	(.9%)
Breach of undertaking	56	(4.4%)
Conduct unbecoming	20	(1.6%)
Conflict of interest	75	(5.9%)
Counselling/engaging in unlawful conduct	2	(.1%)
Court: missed appearance/disrespect	6	(.5%)
Criminal/quasi-criminal conduct	16	(1.2%)
Delay/inactivity	61	(4.8%)
Dissatisfaction with legal service	206	(16.2%)
Error/negligence/incompetence	55	(4.3%)
Failure to communicate/respond	131	(10.3%)
Failure to follow/obtain client instructions	37	(2.9%)
Fees	65	(5.1%)
Miscellaneous/unclassifiable	20	(1.6%)
Misleading/dishonest conduct	55	(4.3%)
Office management/employee supervision	11	(.9%)
Opposing party: direct contact/dissatisfaction	150	(11.8%)
Personal problems affecting practice	3	(.2%)
Rudeness	39	(3.1%)
Sharp practice	26	(2.0%)
Threatening	19	(1.5%)
Trust defalcation	25	(2.0%)
Unpaid creditor/disbursement	64	(5.0%)
Withdrawal from case	16	(1.3%)
Withholding file/funds	34	(2.7%)
Total complaint files opened	1,272	
Public enquiry files opened*	239	
Total complaints and public enquiries	1,511	
Files closed	1,527	

(For disposition of files closed, see page 29.)

\* 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 the justice system, handling almost 3,500 public calls in 2005.

## DISCIPLINE COMMITTEE

The Discipline Committee reviews complaints referred by the Professional Conduct Department and the Complainants' Review Committee. In considering each complaint, the Discipline Committee does one of the following:

- decides the complaint warrants no further action
- asks the Chair of the Discipline Committee to send the lawyer a letter

to address the conduct in question (a practice now formally recognized in the Law Society Rules)

- orders that the lawyer attend a conduct meeting
- orders that the lawyer attend a conduct review
- recommends that the Chair authorize a citation leading to a formal discipline hearing.

The Committee, chaired in 2005 by First Vice-President Robert W. McDiarmid, QC, authorized 20 conduct letters, 56 conduct reviews and 41 citations during the year. The Committee also ordered nine conduct meetings, a new program in 2005.

## 2005 COMPLAINT FILES BY AREA OF PRACTICE

Family	29.7%
Civil litigation (other)	21.7%
Real estate	15.5%
Motor vehicle	8.0%
Wills and estates	7.4%
Criminal	5.3%
Corporate/commercial/securities/tax	5.0%
Administrative	5.0%
Multiple/miscellaneous	1.3%
Creditors remedies	1.1%
	100.0%

This table reflects the percentage of complaint files by area of law for all 2005 complaints in which the area of law is identified.

## DISPOSITION OF COMPLAINTS AND PUBLIC ENQUIRIES CLOSED IN 2005

	# of files	% of all files
Reconciled/resolved <sup>1</sup>	202	13.2%
Minor misconduct	99	6.5%
Minor error	47	3.1%
Referred to Discipline Committee	147	9.6%
Referred to Practice Standards Committee	31	2.0%
Misconduct not established after investigation <sup>2</sup>	624	40.9%
Complaint withdrawn/abandoned	40	2.6%
Outside Law Society jurisdiction: complainant advised of possible civil remedies <sup>3</sup>	337	22.1%
Total	1,527	

Note 1: Over 13% 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. Over 11% 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 an action in negligence or fee review before a registrar. If both the complainant and the lawyer would like a less formal option, the Law Society offers fee mediation.

## CONDUCT REVIEWS

A conduct review is not a hearing, but an informal face-to-face meeting carried out by a Conduct Review Subcommittee — composed of one or two Benchers or of a Bencher and a non-Bencher practitioner. This process gives a lawyer the opportunity to recognize and overcome problems so as to avoid future complaints.

A Conduct Review Subcommittee reviews the conduct issues and prepares a report for the Discipline Committee. If the lawyer appears willing and able to rectify practice deficiencies, the Subcommittee will usually recommend that the Discipline Committee take no further action.

Although a conduct review is an informal procedure, it results in a written report to the Discipline Committee and forms part of a lawyer's professional conduct record. As such, the fact of a conduct review and the resulting report can be considered by any future discipline hearing (on consideration of penalty).

## DISPOSITION OF 2005 REVIEWS BY COMPLAINANTS' REVIEW COMMITTEE

A complainant who is dissatisfied with the staff's disposition of a complaint may ask the Complainants' Review Committee, chaired by a Lay Benchers, to reconsider the disposition. The Committee could find no grounds for further action on 84% of the matters reviewed in 2005.

No further action	70
Referred to Discipline Committee	7
Referred to Practice Standards Committee	2
Referred to a Benchers	1
Referred to staff for further investigation	3
Total	83

## DECISIONS MADE BY DISCIPLINE COMMITTEE IN 2005

Citations	41
Conduct letters	20
Conduct reviews	56
Conduct meetings	9
No further action	11
Matter to remain on file*	17
Total	154

\* In the case of a former member, the Committee may decide that the matter be reconsidered only in the context of a future application for reinstatement.

## DISPOSITION OF CITATIONS IN 2005

Admissions of guilt (Rule 4-21)	3
Resignations	—
Disbarments	—
Suspensions	13
Fines	9
Reprimands	10
Citation rescissions by Discipline Committee*	4
Citation dismissals by hearing panels	1
Total citations completed	40

\* Includes matters referred for conduct review.

## CONDUCT MEETINGS

At the recommendation of a special Conduct Review Task Force, an alternative to a conduct review was introduced in 2005. The Benchers passed rules authorizing the Discipline Committee to order a "conduct meeting" with a lawyer. A conduct meeting is informal and intended to address problems that are not sufficiently serious to merit either a formal discipline hearing or a conduct review.

Vancouver Benchers Ian Donaldson, QC was Chair of the Task Force that presented this new approach to the Benchers, noting that it was used in Ontario with some success. Unlike a conduct review, a conduct meeting does not form part of a lawyer's professional conduct record. "If we think that a member might get a message a little bit better, and might correct their behaviour a little bit better, and we think maybe it deserves more than a letter from the Chair but it doesn't really require scheduling two Benchers' time, writing a report, bringing it back to Discipline, we're recommending that a Benchers chat ought to be injected into the rules so that Discipline now has an additional option." He noted it was an ideal opportunity for a Benchers to have a frank discussion with the lawyer about behaviour that is inappropriate.

## HEARINGS

If the Discipline Committee believes the lawyer's conduct warrants a formal discipline hearing, the Chair will authorize a citation against the lawyer. The citation is a public document setting out the allegations against the lawyer and details of the hearing.

Law Society discipline hearings are formal proceedings and usually take place at the Law Society office in Vancouver. These are open to the public, subject to a hearing panel's jurisdiction to order that portions of a hearing be held in camera to prevent the unauthorized disclosure of privileged or confidential client information. A full schedule of upcoming hearings is available on the Law Society website.

At a hearing, discipline counsel for the Law Society presents evidence to the hearing panel in support of the allegations in the citation. The lawyer who is the subject of the citation is usually represented by his or her own counsel.

Generally a hearing panel is composed of three Law Society Benchers or former Benchers who decide the facts, verdict and (if applicable) penalty in a case. Revised rules in 2005 provide that, in limited circumstances, with a lawyer's consent and at

the President's discretion, a hearing panel may consist of one Benchers, instead of three panel members. Life Benchers, including former Lay Benchers who have become Life Benchers, are also eligible to serve on a panel.

## FINDINGS OF FACT AND VERDICT

Discipline cases proceed in two stages. In the first stage, the panel hears evidence to decide the facts of the case and whether or not the allegations in the citation have been proven.

At the completion of this stage, the panel may dismiss the citation, which brings the proceedings to a close. Alternatively, the panel may find that the lawyer is guilty of professional misconduct, incompetence, conduct unbecoming or breach of the Law Society Rules. If the panel makes an adverse determination, a second hearing will be held to determine the appropriate penalty.

In some cases, the lawyer will admit to the allegations in the citation prior to the hearing and consent to a specific penalty. If both the Discipline Committee and hearing panel accept this admission, the panel will issue written reasons reflecting the facts, the admission and the penalty imposed.

## PENALTIES

When a panel makes an adverse determination, it imposes one or more sanctions, specifically to:

- reprimand the lawyer
- fine the lawyer an amount not exceeding \$20,000
- impose conditions on the lawyer's practice
- suspend the lawyer from the practice of law generally or from practice in one or more fields of law for a specified period of time
- disbar the lawyer

The Law Society also has disciplinary authority over articulated students. If there is an adverse determination about a student, the panel may impose a fine or conditions, extend the student's articles over a longer period or set aside the student's enrolment, which means he or she will be ineligible for call and admission.

All hearing panels issue written decisions and these are available on the Law Society website. The Law Society also began disclosing restrictions and conditions of practice imposed on lawyers via the online Lawyer Lookup in 2005 — a further commitment to the transparency of its process.

## REVIEWS AND APPEALS

There are rights of appeal to the Benchers as a whole. A lawyer also has the right to appeal either the verdict or penalty to the BC Court of Appeal.

## REGULATORY INFORMATION ONLINE

The Law Society publishes its regulatory information online. Visit [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca) for:

- The *Legal Profession Act*, Law Society Rules and *Professional Conduct Handbook*
- Discipline citations
- Upcoming hearing dates
- Discipline and credentials hearing reports, including database search features
- Discipline news releases and summaries
- Special Compensation Fund claim summaries (see *Benchers' Bulletin*)
- Unauthorized practice undertakings and injunctions (see *Benchers' Bulletin*)

## CUSTODIANSHIPS

For all BC lawyers, safeguarding client property is a high priority. On retiring or withdrawing from practice, lawyers are required to report to the Law Society on their disposition of open and closed client files, important documents and records, valuables and trust funds.

When a lawyer practises in a firm, other lawyers in the firm typically assume responsibility for client files and property. In the case of sole practitioners, they may return the files, transfer them to another firm, with client consent, or place them in storage.

On occasion, the Law Society will ask the Supreme Court to appoint a custodian of a lawyer's practice. This is sometimes necessary when a lawyer becomes ill, dies, resigns or terminates membership in the Law Society without having made arrangements for dealing with client property. A custodian is often appointed in those rare instances in which a lawyer neglects or abandons a practice or is disbarred or suspended from the practice of law.

A court-appointed custodian arranges for the temporary conduct of the practice or winds it up, depending on the terms of the order. Aiming at greater regulatory efficiency, the Benchers have approved a restructuring of the Law Society's custodianship program as one of the Law Society's operational priorities for 2006. The key change is that the Law Society will have staff lawyers, rather than outside counsel, seek court appointment as custodians of a practice when that is required.

The plan will help manage the increasing number of custodianships. The average cost of discipline-related custodianships has risen sharply, as has the associated cost of audit and investigation. To stabilize costs, to enhance custodianship procedures and to provide linkage internally between the custodianship, audit and investigation functions, the Society will begin in-house delivery of these programs in the year ahead.

# maintaining practice standards

## PRACTICE STANDARDS

Lawyers have a professional duty to be competent in the practice of law. The Practice Standards Committee, chaired in 2005 by David A. Zacks, QC, is committed to promoting and enhancing the competency of all BC lawyers.

When a lawyer comes before the Practice Standards Committee, it is usually because the Law Society has received complaints from clients or other people that raise concerns about the lawyer's quality of practice. The Professional Conduct Department handles the intake and assessment of complaints about lawyers and often makes the initial referral. In other cases, the referral comes from the Complainants' Review Committee, Discipline Committee or Credentials Committee or from a hearing panel.

Heavy workload, procrastination and inattention to detail can all make a lawyer vulnerable to complaints. Personal problems, medical conditions and financial difficulties may underlie these difficulties and need to be addressed through appropriate treatment or counselling.

The Practice Standards Committee may arrange for a senior practitioner to meet with the lawyer and review files. Alternatively, the Committee may decide to order a full practice review, in which an outside practitioner and a Law Society staff lawyer evaluate the lawyer's files, procedures and office systems and report back to the Committee.

Practice reviews identify problems and recommendations for change. These reviews, follow-up reviews, study assignments and practice recommendations are designed to assist the lawyer to practise law safely and effectively. Lawyers are responsible for paying the cost of remedial measures.

Jon Walsh is one of the lawyers in private practice who, with Law Society Practice Standards Counsel Kensi Gounden, carries out these reviews. Mr. Walsh enjoys the opportunity to meet and help lawyers throughout BC. "One of my goals is to assist them in improving their practices through the implementation of new ideas and initiatives," he says. One of the most satisfying things, in his experience, is seeing lawyers embrace recommendations for changes and become re-energized in their careers.

When lawyers understand that a practice review is intended as a constructive tool, their trepidation often turns to relief. "I must say that I was at first terrified and helpless when the Law Society stepped into my office," says one lawyer. "I thought I would have a very difficult time keeping my silence." Those concerns were allayed. "Mr. Gounden was very professional and courteous in dealing with me; he highlighted the strong points and the weak points about my practice," the lawyer observes. "The Committee members and Mr. Gounden offered me encouraging words and practical solutions."

Another lawyer echoed the comments. "All the criticism was insightful, constructive and delivered in a collegial manner. The recommendations were practical and achievable."

A pilot project was introduced mid-year to identify lawyers in early stages of difficulty and invite them to a practice review. Through this initiative, the Committee and staff were recently able to help a young lawyer who was practising alone bring his accounting and office systems under control.

The table *2005 referrals to the Practice Standards Committee* on page 33 shows there were 31 new matters referred to the Committee in 2005, more than double the number in 2004.

The Committee may make a number of recommendations to a lawyer, often based on the findings of a practice review. This includes having a lawyer restrict his or her practice to certain types of services or certain areas of law when in the public interest. In some cases, the lawyer may be asked to practise only under the supervision of another lawyer. Despite best efforts, a few lawyers find they cannot manage the demands of practice. In those cases, the Committee may counsel them toward a different career path.

Apart from the restrictions and conditions that it recommends to lawyers, the Committee also oversees many of those imposed on a lawyer by discipline or credentials hearing panels. To ensure transparency, the Benchers adopted a recommendation of the Law Society's Disclosure and Privacy Task Force in 2005 and began making various restrictions and conditions available on the Law Society website, as a feature of the Lawyer Lookup.

The Law Society is awaiting changes to the *Legal Profession Act* to allow the Practice Standards Committee to impose practice restrictions or conditions that have been recommended in a practice review — if the lawyer would otherwise refuse the recommendations or fail to comply with them. Clarity in this respect would allow for direct action by the Committee, rather than resorting to a referral to the Discipline Committee.



## 2005 REFERRALS TO THE PRACTICE STANDARDS COMMITTEE

<b>New lawyers referred:*</b>	<b>31</b>
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\*includes 14 referrals from Professional Conduct

### Results of referrals:

Practice reviews	15
Meetings with senior lawyer	6
Referred to Discipline Committee	1
No further action	2
Held in abeyance / rolled in	6
	<b>31</b>

<b>Lawyers referred on existing files</b>	<b>1</b>
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### Disposition of ongoing files:

New practice restrictions	2
Practice supervision, mentorship, or monitoring program put in place or extended	14
Referred to Discipline Committee	2
Matter completed to satisfaction of Practice Standards Committee (file closed)	15

<b>Costs ordered:</b>	<b>\$39,500</b>
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Law Society staff lawyer Kensi Gounden (left) and Jon Walsh of Dumoulin & Boskovich carry out practice reviews in the firms of lawyers who are facing difficulties. This work is under the direction of the Practice Standards Committee. Lawyers who face a practice review may find the prospect daunting at first, but most quickly come around to see the value. One lawyer had this to say: "The review at my office was thorough and professional... The reviewers were well acquainted with my file and any past dealings I had with the Law Society. As would be expected, the questions were probing and sometimes pointed. They were also invariably relevant to the concerns raised and were focused squarely on practice matters."

# addressing unauthorized practice

## UNAUTHORIZED PRACTICE

It is understandable that some non-lawyers might try to offer legal services for profit. Those who have some exposure to legal transactions in a small business context, for example, might ask themselves: “Why not turn legal paperwork into a new source of income?”

But like so many things, people don’t know what they don’t know. Without legal training and a sound knowledge of the law, it is impossible to properly advise other people on their legal rights and options. Competent legal analysis and legal advice is at the heart of every legal service, and all procedural steps follow.

When people go for professional help, they expect and deserve expertise they themselves do not have. If they entrust their legal work to someone who pretends to have legal expertise, but does not, they may not realize the danger until things have gone sideways. Each year in BC a few people do rely on non-lawyers who are unqualified, uninsured and unregulated.

For public protection, the law restricts the practice of law — like the practice of other professions — to regulated professionals who can demonstrate competency and ethical integrity. The *Legal Profession Act* allows only lawyers to call themselves lawyers or offer legal services for a fee. The provision ensures that the public know the qualifications of the legal professionals they retain and that all legal services in the marketplaces meet regulatory standards.

The Law Society is responsible for upholding this legislation. The Unauthorized Practice Committee — chaired in 2005 by Glen Ridgway, QC — and the staff lawyers of the Policy and Legal Services Department investigate complaints of unauthorized practice that come from lawyers or members of the public. In most cases, the Society asks non-lawyers to provide undertakings not to engage in unauthorized practice. If they refuse, the Society can apply for an injunction in the BC Supreme Court. The Law Society has a high rate of success on these applications.

“We took steps against a non-lawyer assisting a widow on a residential tenancy, a will, a Small Claims Court matter and the sale of property,” Mr. Ridgway says of one case that came before the Committee during the year. “The non-lawyer had transferred the widow’s property into his name — with no security to the widow — and then mortgaged the property to his benefit.”

It’s not the only example. The Law Society shut down 37 cases of unauthorized practice by non-lawyers in 2005, obtaining 27 undertakings, six consent injunctions, one other court injunction and one contempt order.

In something of a departure, the Society took one individual to court to seek remedies over and above the usual injunction. “He was representing himself as a lawyer,” says Mr. Ridgway. “He appeared as counsel on several matters with unusual pleadings and process, and was originating class action lawsuits. This placed vulnerable people at risk and consumed a large amount of court time.” As it turned out, the Society obtained a Supreme Court order declaring this man a vexatious litigant who was prohibited from any further cases without the court’s permission.

To ensure transparency, the Law Society publicizes unauthorized practice undertakings and court actions, both in its communications to the profession and in the media. Through this publicity, the public can learn of the Society’s mandate to regulate the delivery of legal services and better understand the risk posed by unqualified people. Equally important, both lawyers and the public will know they can report new or recurring unauthorized practice.



Glen Ridgway, QC takes a break by the banks of the Cowichan River.

A litigation lawyer with Ridgway & Company in Duncan, Glen Ridgway is very involved in his community — he's been a councillor for the Municipality of North Cowichan for many years, as well a member of the Cowichan Valley Regional District. Since 2002 Glen has also been a Bencher of the Law Society. As Chair of the Law

Society's Unauthorized Practice Committee, he has seen some very troubling situations result from unqualified people trying to carry out legal work for others.

"Non-lawyers sometimes attempt to provide legal services and advertise their 'low cost alternative,'" he says. "Unfortunately, because of their lack of overall knowledge

of the law, this low-cost alternative often results in negative financial consequences, or a loss of rights for their clients."

The *Legal Profession Act* restricts the practice of law to lawyers, with limited exceptions. It is the Law Society's responsibility to ensure compliance, for protection of the public.

# our financial protections

## LAWYERS INSURANCE FUND

The Lawyers Insurance Fund (LIF) provides all BC lawyers in private practice with high quality professional liability insurance, which protects both the profession and the public from risks associated with the practice of law.

The group policy contains two types of coverage, and these are mandatory for lawyers in private practice:

- professional liability insurance for negligence (Part A of the policy)
- trust protection coverage to protect innocent members of the public from financial loss arising from theft of money or property by a BC lawyer (Part B of the policy).

Part A of the policy offers \$1 million of coverage per error or omission, to a maximum of \$2 million for all errors reported during the year. Part B (introduced May 1, 2004) has no limit per lawyer, claim, error or claimant, but is subject to a profession-wide annual aggregate limit of \$17.5 million.

Proactive claims management often spares lawyers, their clients and the Insurance Fund from the many negative consequences that can flow from just one mistake.

BC lawyers remain diligent about reporting potential claims early, and the Law Society's confidentiality policy encourages prompt, candid and complete reporting. Under the policy, claims information provided to the Lawyers Insurance Fund is kept confidential from other departments of the Law Society, except for evidence of dishonest appropriation, fraud or criminal activity. This is essential to ensure effective damage control, early and cost-effective settlement of meritorious claims, marshalling of evidence in defensible cases and accurate claims reserving. It also allows in-house Claims Counsel to take steps to protect or restore the position of a lawyer's client, so that the client does not suffer any financial loss or loss of legal rights. In 2005 Claims Counsel were successful in repairing 14% of files. The confidentiality policy is a key tool to effective management of the program, and 74% of all reports were closed during the year without payment of either settlement funds or defence costs.

When files are closed, the Lawyers Insurance Fund seeks service quality feedback from lawyers. 2005 survey results confirm that lawyers are extremely satisfied with LIF's claims handling. In 2005 94% of survey respondents gave a high approval rating (4 or 5 on a scale of 1 to 5) on the handling of their claims. 94% of respondents gave the same satisfaction rating on the outcome of their claims, 96% on the work of LIF Claims Counsel, including in-house defence, and 97% on the services provided by defence counsel. In response to an additional query on the survey, "What did you most appreciate about the service provided?", here are some of the comments:

> "Excellence in prompt, courteous service and in explaining matters to me. In short, the matter was very professionally handled from beginning to end. Top marks to Claims Counsel.

## SERVICE RECOGNITION

George E. Scott (right) was honoured by President Ralston Alexander, QC for his 50 years in the profession. Also receiving commemorative certificates at a special luncheon hosted by the Benchers were S. David Anfield, David Chong, Alfred T. Clarke, Alfred J. Eddy, Charles Flader, Terrence K. Guichon, Keith A.L. Hillman, F. Anthony Lloyd, J. Donald Mawhinney, QC, William H. Mulholland, QC, Ian Gordon Pyper, Brian C. Roberts, Philip Shier and David L. Youngson. Peter Ladner accepted a certificate honouring his father, Thomas E. Ladner, QC, who had served 65 years in the profession as of 2005.



## INSURANCE CLAIMS AND INCIDENTS REPORTS — 2001-2005

	Claims	Incidents
2001	310	640
2002	341	634
2003	317	702
2004	298	673
2005	268	613

## INSURANCE REPORTS BY AREA OF LAW — 2005

Civil litigation – plaintiff	19%
Motor vehicle – plaintiff	14%
Real estate – residential	11%
Commercial – other	9%
Family	7%
Civil litigation – defendant	6%
Wills and estates	6%
Corporate	4%
Real estate – commercial	4%
Creditors remedies – plaintiff	4%
Administrative	3%
Commercial lending – lender	3%
Tax	2%
Securities	2%
Intellectual property	2%
Motor vehicle – defendant	1%
Commercial lending – borrower	1%
Criminal	1%
Creditors remedies – defendant	1%

## LAWYERS INSURANCE FUND *continued*

- > "Brilliant representation. The issue was complex, yet Claims Counsel was quick to understand the issues and facts. Claims Counsel's strategy was prompt and well conceived. 10+ service!"
- > "Reporting a claim is a very traumatic matter. This was my only real claim in 25+ years. The service was supportive and never judgemental. I always felt encouraged and appreciated the open channel of communication between our firm's claims process and Claims Counsel. I can't say enough in this regard."
- > "Claims Counsel displayed her outstanding ability to quickly provide a thorough analysis of a potential claim. This is a great service to us as we know where we stand, pretty well from the outset."

In 2005 LIF received 881 reports from lawyers. Roughly one third of all reports over the past five years were categorized as actual insurance claims and the balance as incidents (potential claims): see *Insurance claims and incident reports — 2001-2005*.

For lawyers to avoid claims of negligence, they need to understand the risks. LIF is the primary source of information on professional liability losses. To help the profession avoid claims of negligence, the program co-sponsors the Law Society's practice advice program and publishes loss prevention information. To provide a more helpful answer to the question of what actually causes a loss, the Lawyers Insurance Fund introduced in 2000 a new system for categorizing the underlying causes of claims. The system provides more meaningful data than is generally kept by insurers tracking the causes of claims, and will help focus

risk management activities more effectively. Based on this system, reports to the Lawyers Insurance Fund over the past five years resulted primarily from simple oversights (30%), failures in managing the legal issues (24%), failures in effectively managing various aspects of the retainer (20%), and failures in communication (15%). Approximately 8% of the reports were unavoidable.

The table *Insurance reports by area of law — 2005* sets out the percentage of reports received in 2005, broken down by area of practice. Civil litigation (plaintiff) and motor vehicle (plaintiff) continue to be the areas of practice giving rise to the greatest number of insurance reports, followed by real estate and commercial law. Many of these reports arise from missed limitations and deadlines, accounting for 25% of all matters reported during the year.

As of December 31, 2005, there were 24 reports of claims and potential claims made under Part B of the policy, 17 of which were made in 2005. As of year-end, there were no payments under Part B. For a summary of claims dispositions, see notes to the financial statements for the Fund.

The profession can have confidence in the stability and integrity of the Lawyers Insurance Fund to provide reasonable protection from the risks of malpractice and also to provide trust protection coverage to compensate the public in those rare instances of lawyer defalcation. For financial information, see the Lawyers Insurance Fund financial statements on pages 50 to 54 and also "Our financial summary" on page 44.

## SPECIAL COMPENSATION FUND

BC lawyers demonstrate the integrity of their profession in many ways — including the financial protections they have in place for clients.

Lawyers routinely handle large sums of money in all types of legal transactions, and they do so in compliance with high trust assurance standards. Yet it can take just one lawyer acting dishonestly to negatively impact on public confidence. Since 1949 the Law Society has maintained a fund, financed by the profession as a whole, to reimburse persons who have lost money or other property as a result of defalcation by a lawyer.

The Special Compensation Fund is responsible for all such claims discovered prior to May 1, 2004. Claims after that date fall under trust protection coverage, which is Part B of the group professional liability insurance policy of the Lawyers Insurance Fund.

The Special Compensation Fund Committee, chaired by Patricia L. Schmit, QC in 2005, assesses claims to the Fund. For several years, the majority of claims have related to the practice of former lawyer Martin Wirick. As has been widely publicized in the profession and the media, Mr. Wirick resigned in 2002. He was disbarred soon after for misappropriation

of trust funds in real estate transactions. In those transactions, he failed to discharge mortgages, but instead applied the funds to other purposes, in breach of his undertakings.

The Special Compensation Fund worked hard to assess and pay out valid claims, and to do so expeditiously, particularly the claims of innocent homeowners who suffered loss at the hands of Mr. Wirick. A highlight of 2005 is that the great majority of the innocent homeowner claims were completed by year-end.

A lawyer representing one of the homeowners says he is pleased that his client received payment and could bring her unhappy experience with Mr. Wirick to a close. "But for the generous time, effort and dedication applied by you and by your team (and the wisdom of creating such a fund), my client would simply have been unable to recover from her devastating loss, which had her reeling these past years," he wrote to the Law Society. "I wish to commend you for all your thorough professionalism and persistence in unravelling her story through the (oppressive) weight of documents and complex investigations just completed. Thank you!"

The Benchers have approved a plan for short-term financing of the Special Compensation Fund, which includes a loan

from the Lawyers Insurance Fund. A few financial points are worth noting. First, as reflected in the financial statements, the Special Compensation Fund was insured for \$15 million during the period of the Wirick claims, under a commercial insurance bond.

Second, although the total dollar amount originally claimed against Mr. Wirick for his misappropriations is close to \$80 million, the actual value of the claims was much less. The Law Society had asked that all potential claimants make claims early in the process, regardless of potential overlaps, to ensure the most complete information was available for review. There were also many duplicate claims because more than one party to the same transaction (such as an innocent purchaser and his or her private or institutional lender) made individual claims for one loss arising from Mr. Wirick's failure to discharge a mortgage from title. On many claims, once the loss was compensated, the other parties in the transaction were restored to their rightful positions on title, so their claims did not need separate payment.

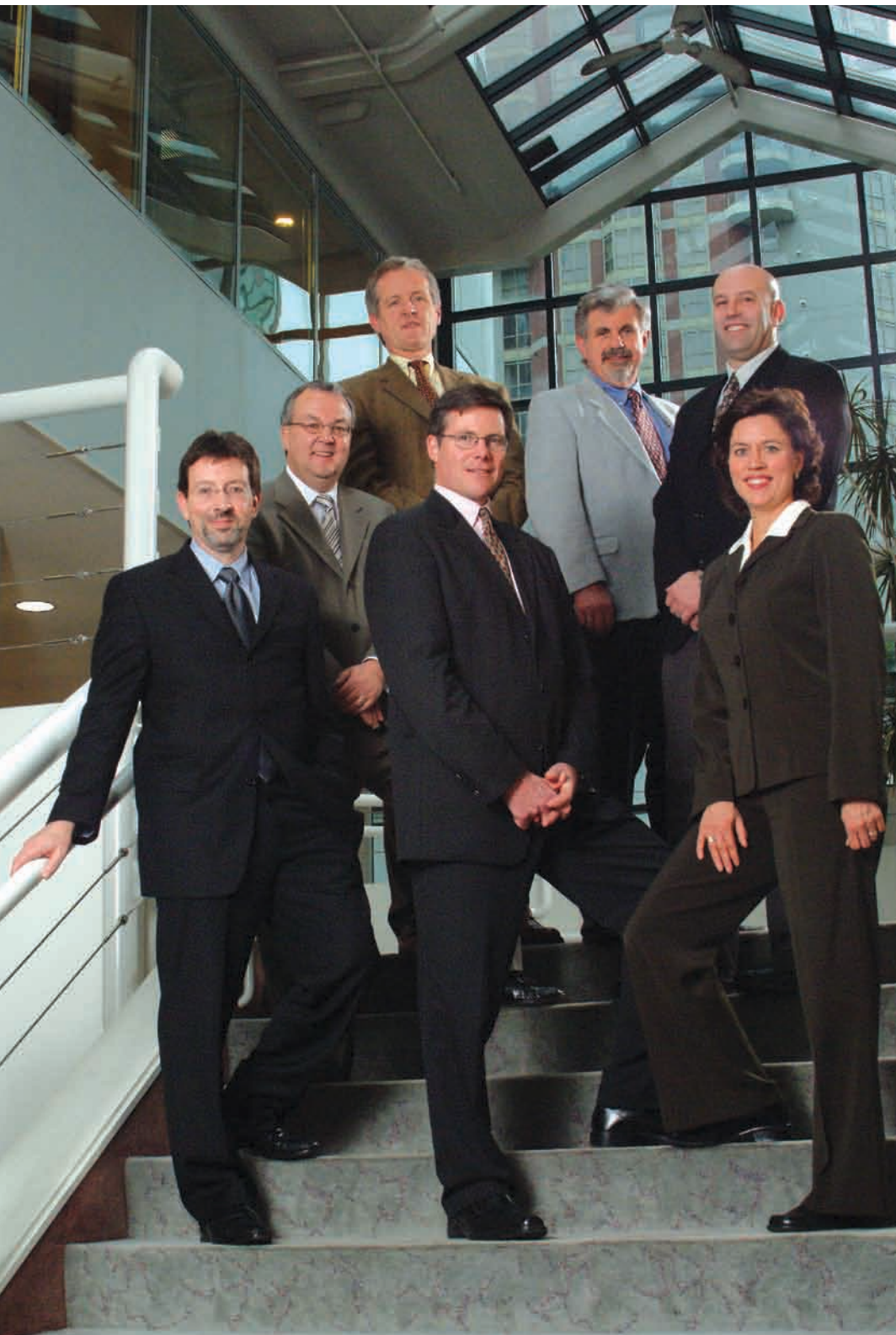
Details on Special Compensation Fund finances, including the payment of claims and claim costs in 2004 and 2005, are set out in the financial statements on pages 55 to 57.



*"I'm proud of the way the Law Society immediately stood up to assess the Wirick-related claims and make payments from the Special Compensation Fund, particularly for the many innocent homeowners who were caught in these transactions. The Benchers have been unwavering in their commitment to the public. Both the Special Compensation Fund Committee members and the staff have given their utmost to process the compensation claims. Most importantly, perhaps, the lawyers of BC have supported us through it all. Lawyers were not prepared to have a dishonest lawyer tarnish the reputation of this profession."*

Lawyer Mary Ann Cummings is the Law Society's Manager of Special Fund and Custodianships. She has dedicated many hours over the last several years to the work of the Special Compensation Fund, which is compensating people for losses caused by Martin Wirick, a former Vancouver lawyer.

# our people



## 2005 Management Board

[Photo centre front]:

**Timothy E. McGee**

Chief Executive Officer and Executive Director  
(June 2005 – )\*

[Photo left to right]:

**Adam Whitcombe**

Chief Information Officer

**Stuart Cameron**

Director, Professional Regulation

**Alan Treleaven**

Director, Education and Practice

**Jeffrey Hoskins**

Director, Policy and Legal Services/  
General Counsel

**Neil Stajkowski**

Chief Financial Officer

**Susan Forbes, QC**

Director, Lawyers Insurance Fund

\* The Society was honoured to have Sholto Heberton, QC serve as Acting Executive Director from January to May 2005, prior to Mr. McGee's appointment.

# our people



The Benchers discuss strategic priorities for 2006.

## 2005 Benchers

### CHIEF ELECTED OFFICERS

Ralston S. Alexander, QC  
President  
Robert W. McDiarmid, QC  
First Vice-President  
Anna K. Fung, QC  
Second Vice-President

### ELECTED BENCHERS

Joost Blom, QC  
Robert C. Brun, QC  
Ian Donaldson, QC  
Carol W. Hickman  
Gavin H.G. Hume, QC  
John J.L. Hunter, QC  
William Jackson  
Terence E. La Liberté, QC  
Bruce A. LeRose  
Darrell J. O'Byrne, QC<sup>1</sup>  
Margaret Ostrowski, QC  
Gregory M. Rideout<sup>2</sup>  
G. Glen Ridgway, QC  
Patricia L. Schmit, QC  
Dirk J. Sigalet, QC  
Grant C. Taylor, QC<sup>3</sup>  
Ross D. Tunnicliffe  
Gordon Turriff, QC  
Arthur E. Vertlieb, QC  
James D. Vilvang, QC  
Anne K. Wallace, QC<sup>1</sup>  
David A. Zacks, QC

### LAY BENCHERS

Michael J. Falkins  
Patrick Kelly  
Patrick Nagle  
June Preston  
Lilian To<sup>4</sup>  
Dr. Maelor Vallance

### EX OFFICIO BENCHER

The Hon. Wally Oppal,  
Attorney General and Minister Responsible  
for Multiculturalism

### LIFE BENCHERS

R. Paul Beckmann, QC  
Howard R. Berge, QC  
P. Michael Bolton, QC  
Robert W. Bonner, QC<sup>4</sup>  
Darrell T.B. Braidwood, QC  
Hon. Mr. Justice  
Thomas R. Braidwood  
Cecil O.D. Branson, QC  
Trudi L. Brown, QC  
Hon. Mr. Justice  
Grant D. Burnyeat  
Hon. A. Brian B.  
Carrothers, QC  
Hon. Mr. Justice  
Bruce I. Cohen  
Robert M. Dick, QC  
Robert D. Diebolt, QC  
Hon. Ujjal Dosanjh, QC  
Leonard T. Doust, QC  
Hon. Jack L.T. Edwards, QC  
William M. Everett, QC  
Richard C. Gibbs, QC  
Robert W. Gourlay, QC<sup>4</sup>  
Hon. Dr. James J. Gow, QC  
Arthur M. Harper, QC  
John M. Hogg, QC  
H. Allan Hope, QC  
Ann Howard  
Hon. Mr. Justice  
Robert T.C. Johnston  
Gerald J. Kambeitz, QC  
Master Peter J. Keighley  
Hon. Mr. Justice Peter Leask  
Gerald J. Lecovin, QC

### LIFE BENCHERS *continued*

Hon. Hugh P. Legg, QC  
Hon. Charles C. Locke, QC  
James M. MacIntyre, QC  
Richard S. Margetts, QC  
Marjorie Martin  
Allan McEachern  
Hon. Meredith M.  
McFarlane, QC  
Hon. Lloyd G. McKenzie, QC<sup>4</sup>  
Brian W.F. McLoughlin, QC  
Colin D. McQuarrie, QC  
Hon. Kenneth E. Meredith  
Hon. Peter J. Millward, QC  
Dennis J. Mitchell, QC  
Karen F. Nordlinger, QC  
Richard C.C. Peck, QC  
Emily M. Reid, QC  
Norman Severide, QC  
Jane S. Shackell, QC  
Donald A. Silversides, QC  
Gary L.F. Somers, QC  
Hon. Madam Justice  
Mary F. Southin  
Marvin R.V. Storrow, QC  
William J. Sullivan, QC  
G. Ronald Toews, QC  
Russell S. Tretiak, QC  
Benjamin B. Trevino, QC  
William M. Trotter, QC  
Alan E. Vanderburgh, QC  
Brian J. Wallace, QC  
Karl F. Warner, QC  
Warren T. Wilson, QC

<sup>1</sup> Appointed a Provincial Court judge in August 2005

<sup>2</sup> Appointed a Provincial Court judge in November 2005

<sup>3</sup> Appointed a BC Supreme Court master effective in July 2005

<sup>4</sup> Passed away in 2005

## 2005 Committees

### EXECUTIVE

#### Benchers

R.S. Alexander, QC  
(Chair)  
M.J. Falkins  
A.K. Fung, QC  
J.J.L. Hunter, QC  
R.W. McDiarmid, QC  
G.G. Ridgway, QC  
G. Turriff, QC  
A.K. Wallace, QC

#### Staff

T. McGee  
S. Heberton, QC  
J. Hoskins  
D. Newell  
S. Cameron  
S. Forbes, QC  
N. Stajkowski  
A. Treleaven  
A. Whitcombe

### ACCESS TO JUSTICE

#### Benchers

M. Ostrowski, QC  
(Chair)  
W. Jackson  
P. Nagle  
D.J. O'Byrne, QC  
J. Preston  
G.C. Taylor, QC  
G.J. Lecovin, QC  
(Life Bencher)

#### Non-Benchers

Ian Caldwell  
David Mossop, QC  
Perry Shawana

#### Staff

C. Ensminger  
K. Foo  
I. Reynolds

### AUDIT

#### Benchers

D.A. Zacks, QC  
(Chair)  
G.H.G. Hume, QC  
G.M. Rideout  
R.W. Gourlay, QC  
(Life Bencher)

#### Non-Bencher:

Ted Strocel

#### Staff

T. McGee  
S. Heberton, QC  
N. Stajkowski  
D. Terrillon

### COMPLAINANTS' REVIEW

#### Benchers

M. Vallance  
(Chair)  
I. Donaldson, QC  
P. Nagle

J.D. Vilvang, QC

A.K. Wallace, QC

#### Non-Benchers

Peter Gorgopa

#### Staff

J. Boyce

### CREDENTIALS

#### Benchers

A.K. Fung, QC  
(Chair)  
C.W. Hickman  
D.J. O'Byrne, QC  
G.G. Ridgway, QC  
G.C. Taylor, QC  
G. Turriff, QC  
M. Vallance

#### Non-Benchers

Myron Claridge  
Laura Donaldson  
Bruce Kulla  
John Leathley, QC  
Stephen Richards  
Richard Stewart

#### Staff

A. Treleaven  
L. Burns  
L. Small  
M. Lucas  
P. Scheller

### DISCIPLINE

#### Benchers

R.W. McDiarmid QC  
(Chair)  
I. Donaldson, QC  
J.J.L. Hunter, QC  
W. Jackson  
T.E. La Liberté, QC

P. Nagle

J. Preston

A.E. Vertlieb, QC

J.D. Vilvang, QC

J.S. Shackell, QC  
(Life Bencher)

#### Non-Benchers

Rita Andreone  
Dan Bennett  
Jo Ann Carmichael, QC  
Jan Lindsay

#### Staff

S. Cameron  
H. Caldwell  
L. Cooke  
M. Currie  
J. Dent  
A. Driessen  
T. Follett  
G. Gill  
T. Holmes  
K. Kim  
R. Long  
B. McKinley  
G. Myers  
M. Robertson  
E. van Eck  
A. Winograd

### EQUITY AND DIVERSITY

#### Benchers

A.E. Vertlieb, QC  
(Chair)  
R.C. Brun, QC  
P. Kelly  
J. Preston  
L. To  
A.K. Wallace, QC

#### Non-Benchers

Aleem Bharmal  
Halldor Bjarnason  
Lisa Fong  
Elizabeth Hunt  
Wynn Lewis  
Lila Quastel  
Baldwin Wong

#### Staff

K. Foo

### ETHICS

#### Benchers

A.K. Wallace, QC  
(Chair, Jan-Aug)  
G.H.G. Hume, QC  
(Chair, Sept-Dec)  
J. Blom, QC  
G.M. Rideout  
R.D. Tunnicliffe  
W.J. Sullivan, QC  
(Life Bencher)  
G.R. Toews, QC  
(Life Bencher)  
W.M. Trotter, QC  
(Life Bencher)

#### Non-Benchers

Patricia Bond  
John Smith  
Anne Stewart, QC  
Peter Voith, QC

#### Staff

J. Olsen  
J. Hoskins

### FUTURES

#### Benchers

A.K. Fung, QC  
(Chair)  
R.S. Alexander, QC  
J. Blom, QC  
J.J.L. Hunter, QC  
B.A. LeRose  
R.W. McDiarmid, QC  
M. Ostrowski, QC  
J. Preston  
G. Turriff, QC  
W.M. Everett, QC  
(Life Bencher)

#### Non-Benchers

Stan Lanyon, QC

#### Staff

T. McGee  
S. Heberton  
J. Hoskins  
D. Newell

### INDEPENDENCE AND SELF-GOVERNANCE

#### Benchers

G. Turriff, QC  
(Chair)  
R.S. Alexander, QC  
J. Preston  
D.A. Zacks, QC  
W.M. Everett, QC  
(Life Bencher)  
R.C.C. Peck, QC  
(Life Bencher)

#### Non-Benchers

John Baigent  
Hamar Foster  
Byran Gibson  
Jack Giles, QC  
Josiah Wood, QC

#### Staff

M. Lucas  
J. Hoskins  
D. Newell  
C. Ensminger

### LEGAL INFORMATION

#### Benchers

R.D. Tunnicliffe  
(Chair)  
P.L. Schmit, QC

#### Non-Benchers

Catherine Best  
Johanne Blenkin  
Neil Campbell

#### Staff

A. Treleaven

### PRACTICE STANDARDS

#### Benchers

D.A. Zacks, QC  
(Chair)  
M.J. Falkins  
B.A. LeRose  
M. Ostrowski, QC  
P.L. Schmit, QC  
D.J. Sigalet, QC  
G.J. Kambeitz, QC  
(Life Bencher)

#### Non-Benchers

Jeffrey Hayes  
Charlotte Morganti  
Dale Sanderson, QC  
Mark Skwarok

#### Staff

A. Treleaven  
K. Gounden  
D. DeGaut  
D. Bilinsky

## 2005 Committees *continued*

### **SPECIAL COMPENSATION FUND**

#### **Benchers**

P.L. Schmit, QC  
(Chair)  
M.J. Falkins  
P. Kelly  
B.A. LeRose  
R.W. McDiarmid, QC

#### **Non-Benchers**

Azim Dato, QC  
Peter Ramsay, QC  
David Renwick  
Ron Skolrood

#### **Staff**

M.A. Cummings  
S. Cameron  
G. Keirstead  
S. Rozen  
L. Shore

### **TECHNOLOGY**

#### **Benchers**

J.J.L. Hunter, QC  
(Chair)  
R.C. Brun, QC  
D.J. Sigalet, QC

#### **Non-Benchers**

Todd McKendrick  
Ross McLarty  
Leo Raffin  
Alexander Szibbo

#### **Staff**

A. Whitcombe  
N. Stajkowski  
R. Usher

### **UNAUTHORIZED PRACTICE**

#### **Benchers**

G.G. Ridgway, QC  
(Chair)  
C.W. Hickman  
T.E. La Liberté, QC  
L. To

#### **Non-Benchers**

Fred Hansford, QC  
James Herperger  
Ken Kramer  
Joseph Zak

#### **Staff**

C. Wiseman  
J. Hoskins  
M. Lucas  
A. Lin

## 2005 Task Forces

### **ALTERNATIVE DISPUTE RESOLUTION**

#### **Benchers**

R.S. Alexander, QC  
(Chair, Dec)  
J.J.L. Hunter, QC

#### **Non-Benchers**

Deborah Zutter  
(Chair, Jan-Nov)  
Jerry McHale, QC  
Stan Lanyon, QC

#### **Staff**

J. Hoskins

### **CONDUCT REVIEW**

#### **Benchers**

I. Donaldson, QC  
(Chair)  
M.J. Falkins  
R.W. McDiarmid, QC  
J.S. Shackell, QC  
(Life Bencher)  
R.S. Tretiak, QC  
(Life Bencher)

#### **Non-Benchers**

Ian Sisett

#### **Staff**

T. Holmes  
M. Lucas  
K. Copak

### **CONVEYANCING PRACTICES**

#### **Benchers**

R.S. Alexander, QC  
(Chair)  
D.A. Zacks, QC  
G.J. Kambeitz, QC  
(Life Bencher)

#### **Non-Benchers**

Paul Bradley  
Kenneth Jacques  
James Mooney  
Franco Trasolini

#### **Staff**

T. McGee  
R. Usher

### **DISCLOSURE AND PRIVACY**

#### **Benchers**

J.J.L. Hunter, QC  
(Chair)  
J. Preston

#### **Non-Benchers**

Maureen Baird  
Jean Whittow, QC

#### **Staff**

C. Wiseman  
B. Daisley  
T. Follett  
T. Holmes  
J. Hoskins  
D. Newell  
D. Palmer  
C. Picard

### **LAWYER EDUCATION**

#### **Benchers**

P.L. Schmit, QC  
(Chair)  
J.J.L. Hunter, QC  
B.A. LeRose  
D.J. Sigalet, QC  
R.D. Tunnicliffe  
G. Turriff, QC  
M. Vallance

#### **Non-Benchers**

Mary Childs  
Thelma O'Grady  
Susan Sangha

#### **Staff**

A. Treleaven  
M. Lucas

### **OMBUDSPERSON**

#### **Benchers**

A.K. Wallace, QC  
(Chair)  
M.J. Falkins,  
G.H.G. Hume, QC

#### **Non-Benchers**

Wynn Lewis

#### **Staff**

K. Foo

### **PARALEGAL**

#### **Benchers**

B.J. Wallace, QC  
(Chair, Life Bencher)  
R.S. Alexander, QC  
W.J. Sullivan, QC  
(Life Bencher)

#### **Non-Benchers**

Jaynie Clark

#### **Staff**

C. Wiseman

### **SMALL FIRM**

#### **Benchers**

B.A. LeRose  
(Chair)  
P.L. Schmit, QC  
A.E. Vertlieb, QC

#### **Non-Benchers**

Christine Elliott  
Robert Ellis

#### **Staff**

A. Treleaven

### **TITLE INSURANCE**

#### **Benchers**

R.S. Alexander, QC  
(Chair)  
W.T. Wilson, QC  
(Life Bencher)

#### **Non-Benchers**

Leon Getz, QC  
Albert McClean, QC  
Ian Smith

#### **Staff**

D. Newell

### **UNBUNDLING LEGAL SERVICES**

#### **Benchers**

G.C. Taylor, QC  
(Chair, Jan-Aug)  
C.W. Hickman  
(Chair, Sept-Dec)  
D.J. O'Byrne, QC  
P.L. Schmit, QC  
M. Martin  
(Life Bencher)

#### **Non-Benchers**

Mark Benton  
Ian Caldwell  
Christine Elliott  
David Mossop, QC

#### **Staff**

C. Ensminger  
I. Reynolds

### **WOMEN IN THE LEGAL PROFESSION**

#### **Benchers**

G.H.G. Hume, QC  
(Chair)  
M. Ostrowski, QC  
J. Preston  
W.T. Wilson, QC  
(Life Bencher)

#### **Non-Benchers**

Wynn Lewis

#### **Staff**

K. Foo

# our financial summary

## LAW SOCIETY FINANCES

BC lawyers fund the work of the Law Society through annual membership fees and other assessments, which are accounted for in three separate funds: the General Fund, Lawyers Insurance Fund and Special Compensation Fund.

The 2005 audited financial statements for these funds are set out on pages 45 to 57 of this report. The statements are presented in accordance with the presentation and disclosure standards of the Canadian Institute of Chartered Accountants respecting not-for-profit organizations.

The Audit Committee, chaired in 2005 and 2006 by Vancouver Benchers David Zacks, QC, assists the Benchers in determining that Law Society staff properly manage the financial affairs of the Society. This includes:

- reviewing periodic financial statements of the General, Lawyers Insurance and Special Compensation Funds
- reviewing investment performance as managed by investment counsellors Phillips Hager and North
- providing an annual Audit Committee report to the Benchers
- reviewing with the Law Society auditors their approach, scope and audit results.

## GENERAL FUND

In 2005 BC lawyers paid \$775 for the Law Society's general operations. The balance of the practice fee funded the BC Courthouse Library Society, the Lawyers Assistance Program and the provision of *The Advocate* to all lawyers.

The Law Society component of the 2005 practice fee was \$50 lower than in 2004. This followed on a similar reduction of \$78 from 2003 to 2004. The Benchers were able to recommend the further fee reduction because of a surplus in the General Fund.

Although the reduction in the practice fee meant that revenue from this source was less in 2005 than in 2004, total revenues were higher because of increased revenue from other sources, specifically enrolment fees, fines and penalties, e-filing and the trust administration fee (TAF). Revenue from the Law Society's participation in the e-filing initiative of the Land Title and Survey Authority was \$258,000 in 2005, reflecting the significantly increased use of this service during the year. Revenue from the TAF was just over

\$3 million during 2005. In accordance with directions from the Benchers regarding the permitted uses for TAF revenue, \$1.9 million was allocated to cover expenses in the General Fund for trust review, audit and investigations and custodianship costs (not related to Martin Wirick) and \$1.1 million was allocated to the Lawyers Insurance Fund to cover present and future defalcation claims under trust protection coverage, which is Part B of the group insurance policy.

Total expenses accounted for in the General Fund in 2005 were higher than in 2004. This was largely attributable to the reallocation of expenses for trust reviews, audit and investigations and custodianships that had formerly been accounted for in the Special Compensation Fund. This reallocation of expense to the General Fund was approved by the Benchers in 2005 to ensure that all trust assurance related expense can be more easily identified and accounted for in one fund. The balance of the increase in General Fund expense in 2005 was attributable to a number of other programs, including governance expenses, member services, discipline and complaints, policy and planning, practice advice and practice standards. Most of these increases were planned and budgeted; however, there were some unexpected costs in the year due to the greater than expected complexity of discipline files and costs associated with the restructuring of the professional regulation area.

Overall, increased revenues were offset by the budget deficit planned for the General Fund in 2005 and by the reallocation of expenses during the year, such that the General Fund recorded a budget deficit of just under \$2.4 million in 2005. At the end of 2005, the General Fund reserve was just over \$1.6 million.

## SPECIAL COMPENSATION FUND

The Special Compensation Fund exists to reimburse those who suffer a loss as a result of lawyer theft prior to May 1, 2004. Defalcation claims discovered after May 1, 2004 are covered under Part B of the group insurance policy.

The Special Compensation Fund was funded through a \$600 assessment of each practising lawyer in 2005. The assessment was used to pay claims and to cover the direct costs associated with the administration of the Special Compensation Fund. Costs for custodianships

and certain audit and investigation costs that were funded from the Special Compensation Fund assessment in prior years were allocated to the General Fund in 2005.

Unlike the Lawyers Insurance Fund, this Fund does not set a claims reserve. All claim expenses are shown as an expense, net of any recoveries from the insurer or the lawyer with respect to whom a claim is made.

The Special Compensation Fund Committee continued to deal with the significant number of claims arising from the activities of former lawyer Martin Wirick. The commercial insurance policy that applied to the Wirick claims was exhausted during 2005. The balance of the claims paid in 2005 were funded by the Special Compensation Fund assessment and by \$3,956,000 borrowed from the Lawyers Insurance Fund.

## LAWYERS INSURANCE FUND

The Lawyers Insurance Fund (LIF) provides liability insurance for BC lawyers in the event they are negligent in the delivery of professional services. Through Part B of the insurance policy, LIF also provides trust protection coverage, which protects the public in cases of defalcation by a lawyer.

In 2005 the net expenses of LIF were \$10.6 million against revenue of \$17.8 million (including \$1.1 million from TAF). LIF ended the year with a claims provision of \$62.3 million and a fund reserve of just over \$36.1 million, an increase of \$6.4 million from 2004.

The commercial building at 750 Cambie Street, Vancouver, acquired by LIF as an investment in 2004, was renovated and tenanted in 2005, with full occupancy occurring in early 2006. This investment, including 2005 building improvements, makes up approximately 15% of the book value (13% of market value) of the Fund's investments overall.

The financial strength of the Lawyers Insurance Fund is reflected both in its strong surplus and in the fact that, for a sixth year running, the Benchers have been able to hold the insurance premium at \$1,500, the lowest since 1986. This financial strength also permitted the Lawyers Insurance Fund to assist in managing the impact of claims against the Special Compensation Fund by providing interim financing of claims payments.

May 5, 2006

**AUDITORS' REPORT  
TO THE MEMBERS OF THE LAW  
SOCIETY OF BRITISH COLUMBIA  
— GENERAL FUND**

We have audited the consolidated statement of financial position of **The Law Society of British Columbia — General Fund** as at December 31, 2005 and the consolidated 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 Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit 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 consolidated financial statements present fairly, in all material respects, the financial position of the Fund as at December 31, 2005 and the results of its operations, the changes in its net assets and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*  
Chartered Accountants

## The Law Society of British Columbia – General Fund

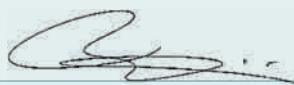
### CONSOLIDATED STATEMENT OF FINANCIAL POSITION

AS AT DECEMBER 31, 2005

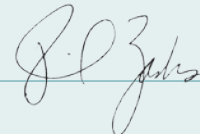
	2005 \$	2004 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	4,320,220	655,444
Unclaimed trust funds	833,232	650,723
Accounts receivable and prepaid expenses	1,579,753	348,247
B.C. Courthouse Library Fund (note 2)	301,555	236,859
Due from Lawyers Insurance Fund (note 6)	1,704,261	7,443,808
Due from Special Compensation Fund (note 6)	351,526	651,379
	9,090,547	9,986,460
<b>Property, plant and equipment</b>		
Cambie Street property - net (note 3)	12,519,765	12,886,512
Other - net (note 3)	1,222,181	1,345,096
	22,832,493	24,218,068
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable and accrued liabilities	3,502,674	3,022,230
Liability for unclaimed trust funds	833,232	650,723
Current portion of building loan payable (note 5)	500,000	500,000
Deferred revenue	8,386,517	7,668,678
B.C. Courthouse Library Grant (note 2)	301,555	236,859
Due to Captive Fund	8,096	-
Deposits	54,000	34,500
	13,586,074	12,112,990
<b>Long-term debt</b>		
Building loan payable (note 5)	7,600,000	8,100,000
	21,186,074	20,212,990
<b>Net Assets</b>		
Invested in property, plant and equipment – net	5,641,946	5,631,605
Unrestricted	(3,995,527)	(1,626,527)
	1,646,419	4,005,078
	22,832,493	24,218,068

Approved by

President



Chair of Audit Committee



## The Law Society of British Columbia – General Fund

### CONSOLIDATED STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED DECEMBER 31, 2005

			2005	2004
	Invested in property, plant & equipment – net of associated debt \$	Unrestricted \$	Total \$	Total \$
Net assets - Beginning of year	5,631,605	(1,626,527)	4,005,078	3,523,867
Net (deficiency) excess of revenue over expense for the year	(803,927)	(1,554,732)	(2,358,659)	481,211
Repayment of associated debt	500,000	(500,000)	-	-
Purchase of property, plant and equipment	314,268	(314,268)	-	-
Net assets - End of year	5,641,946	(3,995,527)	1,646,419	4,005,078

### CONSOLIDATED STATEMENT OF REVENUE AND EXPENSE FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Revenue</b>		
Practice fees	7,713,630	8,077,811
Trust administration fees	3,020,045	-
Enrolment fees	869,065	797,557
Interest and other income	625,063	694,565
Application fees	339,964	387,542
E-filing revenue	257,905	25,155
Fines and penalties	226,594	124,389
	13,052,266	10,107,019
<b>Expense</b>		
Amortization of other property, plant and equipment	359,364	363,174
Annual report and meeting	69,211	52,038
Audit and investigation	874,884	736,783
Benchers and other committee meetings	1,248,959	1,147,749
Communications and publications	655,268	711,465
Credentials	386,336	449,025
Custodianship costs	1,746,107	-
Discipline and complaints	3,892,694	2,727,311
Equity and diversity	64,325	66,521
Ethics	92,571	100,443
Federation of Law Societies' contribution	73,871	103,457
General office administration	3,323,801	3,304,098
Member services	743,442	664,880
Membership assistance programs	166,775	149,675
Non-program legal	316,336	293,442
Policy and planning	724,559	557,122
Practice advice	472,542	437,805
Practice standards	235,840	201,104
Professional Legal Training Course	1,427,745	1,421,082
Unauthorized practice	176,401	165,910
	17,051,031	13,653,084
Contribution to Lawyers Insurance Fund for Part B defalcation coverage from Trust Administration Fee	1,116,067	-
Costs recovered from Special Compensation and Lawyers Insurance Funds		
Co-sponsored program costs	(610,266)	(1,622,176)
Administrative	(1,994,984)	(2,028,238)
	15,561,848	10,002,670
(Deficiency) excess of revenue over expense before the following	(2,509,582)	104,349
845 Cambie operating revenue - net (note 4)	150,923	376,862
Net (deficiency) excess of revenue over expense for the year	(2,358,659)	481,211

# The Law Society of British Columbia – General Fund

## CONSOLIDATED STATEMENT OF CASH FLOWS FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Cash flows from operating activities</b>		
Net (deficiency) excess of revenue over expense for the year	(2,358,659)	481,211
Items not affecting cash		
Amortization of Cambie Street building and tenant improvements	444,566	451,133
Amortization of other property, plant and equipment	359,364	363,174
	(1,554,729)	1,295,518
<b>Decrease (increase) in current assets</b>		
Unclaimed trust funds	(182,509)	(128,303)
Accounts receivable and prepaid expenses	(1,231,506)	175,658
B.C. Courthouse Library Fund	(64,696)	74,818
Due from Lawyers Insurance Fund	5,739,547	(746,310)
Due from Special Compensation Fund	299,853	1,107,650
<b>Increase (decrease) in current liabilities</b>		
Accounts payable and accrued liabilities	480,444	(4,011,286)
Liability for unclaimed trust funds	182,509	128,303
Deferred revenue	717,839	3,390,880
Due from Captive Fund	8,096	-
B.C. Courthouse Library Grant	64,696	(74,818)
Deposits	19,500	(48,966)
	4,479,044	1,163,144
<b>Cash flows from financing activities</b>		
Decrease in long-term debt - net	(500,000)	(500,000)
<b>Cash flows from investing activities</b>		
Property, plant and equipment additions - net	(314,268)	(987,404)
<b>Increase (decrease) in cash and cash equivalents</b>	3,664,776	(324,260)
<b>Cash and cash equivalents - Beginning of year</b>	655,444	979,704
<b>Cash and cash equivalents - End of year</b>	4,320,220	655,444
<b>Represented by</b>		
Cash	4,320,220	655,444

## 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 Fund and Lawyers Insurance Fund. 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, 2005, the Society remained the sole shareholder of Juricert.

#### Basis of presentation

These financial statements include the accounts of the Society'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 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	2-1/2% 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. Beginning 2003, the Society grants money to the B.C. Courthouse Library by fees per lawyer assessment.

## The Law Society of British Columbia – General Fund

### 2 Significant accounting policies *continued*

#### 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

			2005	2004
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Land	4,189,450	-	4,189,450	4,189,450
Buildings	11,370,988	3,880,344	7,490,644	7,752,854
Leasehold improvements	3,896,877	3,124,645	772,232	837,720
Tenant improvements	1,086,207	1,018,768	67,439	106,488
	20,543,522	8,023,757	12,519,765	12,886,512

#### Other Property, Plant And Equipment

			2005	2004
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Furniture and fixtures	2,122,191	1,548,074	574,117	624,164
Computer hardware	1,400,681	1,199,770	200,911	208,823
Computer software	1,532,878	1,085,726	447,152	512,108
Law libraries - at nominal value	1	-	1	1
	5,055,751	3,833,570	1,222,181	1,345,096

## The Law Society of British Columbia – General Fund

### 4 845 Cambie operating revenue - net

	2005 \$	2004 \$
Rental revenue	336,743	392,787
Allocated rental revenue	1,143,110	1,139,440
	1,479,853	1,532,227
Expense		
Amortization	444,563	451,133
Insurance	74,927	81,564
Net loan interest (note 5)	239,590	94,175
Property management salaries	168,265	139,595
Property taxes	282,086	260,347
Repairs and maintenance	256,242	278,835
Utilities	115,337	120,572
Recovery from tenants	(252,080)	(270,856)
	1,328,930	1,155,365
Net operating revenue	150,923	376,862

### 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 investment portfolio. It is the intention of the Fund to repay a minimum of \$500,000 of the principal each year. During 2005, principal of \$500,000 (2004 - \$500,000) was repaid.

	2005 %	2004 %
Weighted average rate of interest	4.11	2.13

### 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 \$239,590 (2004 - \$94,175) after deduction of approximately \$113,870 (2004 - \$99,175) of interest revenue received from Fund cash balances held by the Lawyers Insurance Fund.

Other interfund transactions are disclosed elsewhere in these financial statements.

### 7 Related parties

The Benchers are drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business.

## The Law Society of British Columbia – Lawyers Insurance Fund

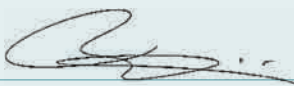
### CONSOLIDATED STATEMENT OF FINANCIAL POSITION AS AT DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Assets</b>		
Cash and cash equivalents	5,398,673	11,166,198
Accounts receivable	161,818	57,790
Income taxes receivable	13,737	-
Prepaid expense	253,783	84,376
Accrued interest receivable	66	2,070
Reinsurers' share of provision for claims (note 3)	4,813,717	4,572,644
Due from members	2,096,775	1,892,496
General Fund building loan (note 4)	8,100,000	8,600,000
Due from Special Compensation Fund (note 7)	3,956,410	-
Investments (note 2)	92,964,715	92,997,707
	117,759,694	119,373,281
<b>Liabilities</b>		
Accounts payable and accrued liabilities	811,869	823,188
Income taxes payable	-	2,384
Deferred revenue	5,291,513	5,158,410
Due to General Fund (note 7)	1,696,165	7,443,808
Provision for claims (note 5)	62,338,012	64,440,011
Provision for ULAE (note 5)	7,347,988	7,508,236
Mortgage debt - 750 Cambie Street (note 2)	4,124,684	4,262,707
	81,610,231	89,638,744
<b>Net assets</b>		
Unrestricted net assets	36,149,463	29,734,537
	117,759,694	119,373,281

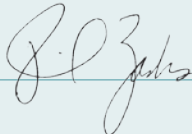
#### Commitments and contingencies (note 6)

Approved by

President



Chair of Audit Committee



### CONSOLIDATED STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
Unrestricted net assets - Beginning of year	29,734,537	16,989,625
Excess of revenue over expense for the year	6,414,926	12,744,912
Unrestricted net assets - End of year	36,149,463	29,734,537

### CONSOLIDATED STATEMENT OF REVENUE AND EXPENSE FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Revenue</b>		
Annual assessments	10,411,359	10,232,989
Investment income (note 2)	6,275,463	4,059,336
Other income	41,394	36,391
Contribution from General Fund for Part B defalcation coverage from Trust Administration Fee	1,116,067	-
	17,844,283	14,328,716

May 5, 2006

### AUDITORS' REPORT TO THE MEMBERS OF THE LAW SOCIETY OF BRITISH COLUMBIA — LAWYERS INSURANCE FUND

We have audited the consolidated statement of financial position of The Law Society of British Columbia — Lawyers Insurance Fund as at December 31, 2005 and the consolidated 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 Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit 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 consolidated financial statements present fairly, in all material respects, the financial position of the Fund as at December 31, 2005 and the results of its operations, the changes in its net assets and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

Chartered Accountants

## The Law Society of British Columbia – Lawyers Insurance Fund

### Insurance expense

Actuary, consultant and investment broker fees	252,379	252,043
Allocated office rent	122,120	122,120
Audit	38,000	36,000
Contribution to costs of General Fund		
Administrative	1,110,169	1,107,199
Office	462,509	355,730
Premium taxes	8,938	8,935
Provision for settlement of claims (note 5)	6,739,667	(3,316,000)
Provision for ULAE (note 5)	(160,248)	594,236
Salaries, wages and benefits	1,424,244	1,390,277
	9,997,778	550,540

### Loss prevention expense

Contribution to costs of General Fund		
Co-sponsored program costs	610,266	655,044
	10,608,044	1,205,584
Excess of revenue over expense before the following	7,236,239	13,123,132
Provision for income taxes	(13)	(11,384)
Building loss (750 Cambie Street) (note 2)	(821,300)	(366,836)
Excess of revenue over expense for the year	6,414,926	12,744,912

### CONSOLIDATED STATEMENT OF CASH FLOWS FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Cash flows from operating activities</b>		
Excess of revenue over expense for the year	6,414,926	12,744,912
Item not affecting cash		
Writedown of investments	1,038,934	-
Realized gain on disposal of investments	(3,622,152)	(894,113)
Amortization of 750 Cambie Street building	199,654	62,071
	4,031,362	11,912,870
Decrease (increase) in assets		
Accounts receivable	(104,028)	(7,308)
Accrued interest receivable	2,005	(1,727)
Prepaid expense	(169,407)	(84,376)
Reinsurers' share of provision for claims	(241,074)	316,006
Due from members	(204,279)	16,077
Due to/from General Fund	(5,747,643)	746,309
Income taxes (recoverable) payable	(16,121)	7,293
Increase (decrease) in liabilities		
Accounts payable and accrued liabilities	(11,319)	202,120
Deferred revenue	133,103	2,357,650
Provision for claims	(2,101,999)	(13,755,374)
Provision for ULAE	(160,248)	594,236
	(4,589,648)	2,303,776
<b>Cash flows from investing activities</b>		
Sale of investments - net	7,050,730	5,912,907
Decrease in General Fund building loan	500,000	500,000
Increase in 750 Cambie Street asset	(4,634,174)	(9,388,820)
Increase in (mortgage debt) long-term debt	(138,023)	4,262,707
Increase in Special Compensation Fund loan	(3,956,410)	-
	(1,177,877)	1,286,794
<b>(Decrease) increase in cash and cash equivalents</b>	<b>(5,767,525)</b>	<b>3,590,570</b>
<b>Cash and cash equivalents - Beginning of year</b>	<b>11,166,198</b>	<b>7,575,628</b>
<b>Cash and cash equivalents - End of year</b>	<b>5,398,673</b>	<b>11,166,198</b>

### 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.

At the December 2003 meeting, the Benchers approved, to be effective May 1, 2004, a Part B amendment to the B.C. Lawyers' Compulsory Professional Liability Insurance Policy that provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity of barrister and solicitor and in relation to the provision of professional services.

##### 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 of revenue over expense for the year.

In 2004, the Fund purchased a building at 750 Cambie Street. This building was purchased as an investment for the Fund. The building was purchased for \$9,388,820 and a \$4,339,383 mortgage was assumed for this purchase.

# The Law Society of British Columbia – Lawyers Insurance Fund

## 1 Significant accounting policies and description of the Fund *continued*

### Investment income

Investment income is recorded on an accrual basis. Dividends are recorded on the date of record. Gains and losses realized on the disposal of investments are taken into income on the date of disposal.

### Provision for claims

The provision for claims represents an estimate for all costs of investigating and settling claims incurred prior to the balance sheet date. The provision is adjusted as additional information on the estimated amounts becomes known during the course of claims settlement. All changes in estimates are expensed in the current period. The Society presents its claims on a discounted basis.

### 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

	2005 \$	2004 \$
Investments - at book value		
(market value - \$89,543,232; 2004 - \$92,687,035)	79,203,446	83,670,958
750 Cambie Street Building	13,761,269	9,326,749
	92,964,715	92,997,707

The effective yield to maturity on the total portfolio is 1.88% (2004 - 2.535%).

	Carrying Value \$	Gross unrealized gains \$	Gross unrealized losses \$	2005 Estimated fair value \$
Bonds				
Pooled Funds	38,593,273	1,070,589	-	39,663,862
Equity				
Canadian Pooled Funds	12,252,756	8,109,841	-	20,362,597
U.S. Pooled Funds	15,468,262	-	-	15,468,262
Non-North America Pooled Funds	13,554,445	1,265,815	-	14,820,260
	41,275,463	9,375,656	-	50,651,119
Short-term investments	373,643	-	-	373,643
	80,242,379	10,446,245	-	90,688,624

	Carrying Value \$	Gross unrealized gains \$	Gross unrealized losses \$	2004 Estimated fair value \$
Bonds				
Pooled Funds	39,091,398	1,092,828	-	40,184,226
Equity				
Canadian Pooled Funds	18,792,370	7,762,279	-	26,554,649
U.S. Pooled Funds	12,172,508	-	(640,869)	11,531,639
Non-North America Pooled Funds	13,240,927	801,839	-	14,042,766
	44,205,805	8,564,118	(640,869)	52,129,054
Short-term investments	373,755	-	-	373,755
	83,670,958	9,656,946	(640,869)	92,687,035

The estimated fair value of equity share and debt securities is based on quoted market value.

Management has reviewed currently available information regarding investments whose estimated fair value is less than carrying value, and ascertained that the carrying values are expected to be recovered. Debt securities whose carrying value exceeds market value can be held until maturity.

## The Law Society of British Columbia – Lawyers Insurance Fund

### Liquidity and interest rate risk

The maturity profile based on the market value as at December 31, 2005 and 2004 is as follows:

	Within 1 year \$	1 to 5 years \$	5 to 10 years \$	Over 10 years \$	Total \$
Bonds Pooled					
2005	1,903,865	16,976,133	9,439,999	11,343,865	39,663,862
2004	9,081,635	9,081,635	9,523,662	12,497,294	40,184,226
				<b>2005</b> \$	<b>2004</b> \$
Investment income					
Cash and treasury bills				25	18
PH&N Pooled Distribution Income				3,331,620	3,071,030
Net interfund loan interest (note 7)				360,600	94,175
Gain on sale of investments				3,622,152	894,113
Writedown of investments				(1,038,934)	-
Net investment income				6,275,463	4,059,336

### 750 Cambie street building

	Cost \$	Accumulated amortization \$	2005 Net \$	2004 Net \$
Land	4,299,850	-	4,299,850	4,299,850
Building	4,971,376	186,355	4,785,021	4,903,650
Base building improvements	3,174,318	88,648	3,085,670	123,249
Tenant improvements	1,577,451	-	1,577,451	-
	14,022,995	275,003	13,747,992	9,326,749

The Cambie Street Building is held as an investment by the Fund.

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

Building	2-1/2% per annum
Building - improvements	2-1/2% per annum

As part of the terms of purchase, the Fund assumed the existing mortgage which had an interest rate of 6.95%. The mortgage matured May 1, 2006 and has been repaid. During 2005, the Fund paid \$287,050 of interest and as at December 31, 2005, the balance remaining was \$4,124,684.

See note 6 for the commitments relating to the 750 Cambie Street building.

### 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:

	\$	2005 \$	\$	2004 \$
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		1,000,000		1,000,000
Annual aggregate per member		2,000,000		2,000,000

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.

### 3 Errors and omissions insurance claims *continued*

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.

Effective May 1, 2004, the Captive's B.C. Lawyers' Compulsory Professional Liability Insurance Policy was amended to include Part B defalcation coverage. For the 2005 policy period, there is a \$17,500,000 profession wide aggregate limit. The Lawyers Insurance Fund has obtained insurance in the amount of \$5,000,000 to cover a portion of the annual aggregate limit. This insurance is subject to a \$3,000,000 deductible and is co-insured 30/70.

### 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 Benchers to require the General Fund to repay a minimum of \$500,000 on the principal each year. During 2005, principal of \$500,000 (2004 - \$500,000) was repaid.

	2005 %	2004 %
Weighted average rate of return	4.11	2.13

## The Law Society of British Columbia – Lawyers Insurance Fund

### 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, 2005 and 2004 and their impact on claims for the year are as follows:

	2005 \$	2004 \$
<b>Part A insurance coverage</b>		
Provision for claims - Beginning of year	64,440,011	78,195,385
Provision for losses and expenses for claims occurring in the current year	15,962,142	12,990,000
Decrease in estimated losses and expenses for losses occurring in prior years	(9,622,000)	(16,235,138)
Provision for claims liability	70,780,153	74,950,247
<b>Less:</b>		
Payments on claims incurred in the current year	(760,335)	(579,763)
Payments on claims incurred in prior years	(9,411,743)	(10,917,835)
Recoveries on claims	478,413	751,362
Change in reinsurers' share of provision for claims	637,000	199,000
Change in due from members	215,000	37,000
Claim payments - net of recoveries	(8,841,665)	(10,510,236)
Provision for claims - End of year	61,938,488	64,440,011
<b>Part B insurance coverage</b>	399,524	-
<b>Total provision for Part A and B insurance coverage</b>	<b>62,338,012</b>	<b>64,440,011</b>

The determination of the provision for unpaid claims, and adjustment expenses and the related reinsurers' share requires the estimation of three major variables or quanta, being development of claims, reinsurance recoveries and the effects of discounting, to establish a best estimate of the value of the respective liability or asset.

The provision for unpaid claims and adjustment expenses and related reinsurers' share is an estimate subject to variability, and the variability, as with any insurance company, could be material in the near term. The variability 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 receipt of additional claim information, changes in judicial interpretation of contracts, significant changes in severity or frequency of claims from historical trends, the timing of claims payments, the recoverability of reinsurance, and future rates of investment return. The estimates are principally based on the Society's historical experience. Methods of estimation have been used that the Society believes produce reasonable results given current information.

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 Society discounts its best estimate of claims provisions at a rate of interest of 5%. The Society determines the discount rate based upon the expected return on its investment portfolio of assets with appropriate assumptions for

interest rates relating to reinvestment of maturing investments.

To recognize the uncertainty in establishing these best estimates, to allow for possible deterioration in experience and to provide greater comfort that the actuarial liabilities are adequate to pay future benefits, the Society includes Provisions for Adverse Deviations (PFADs) in some assumptions relating to claims development, reinsurance recoveries and future investment income. The PFADs selected are in the mid range of those recommended by the Canadian Institute of Actuaries.

#### Part B (Trust Protection Coverage)

Part B, trust protection coverage, was introduced on May 1, 2004. As of December 31, 2005, there were 24 reports of claims and potential claims under Part B. Seven of these claims were made in 2004. Four claims were denied (one in 2004 and three in 2005) because they did not fall within the terms and conditions of coverage for Part B. Three claims were withdrawn or abandoned by claimants in 2005. In the remaining reports the claimants are not actively pursuing a Part B claim or the Lawyer's Insurance Fund is not in a position to determine if a claim is properly payable. As at December 31, 2005 no claims have been paid. The actuarial provision for current claims is \$399,524. Management believes that it is prudent to make some provision for the Part B coverage \$17.5 million in annual aggregate exposure and has allocated a portion of the 2005 Trust Administration Fee revenue to Lawyers Insurance Fund Part B coverage as part of this provision.

### 6 Commitments and contingencies

#### 750 Cambie Street building

The Fund entered into several lease agreements in 2005 with the 750 Cambie Street building tenants. The Fund is committed to paying \$682,000 of tenant improvement allowance and 12 months of free rent including common costs and taxes which is estimated to be \$385,000 to a tenant commencing January 1, 2006.

### 7 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 and Special Compensation 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, other operating balances with the General Fund and the loan with the Special Compensation Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund and the Fund to finance ongoing operations.

Total interest received by the Fund totalled \$360,600 (2004 - \$94,175) after deduction of approximately \$113,870 (2004 - \$99,175) 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.

### 8 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, 2005.

May 5, 2006

**AUDITORS' REPORT  
TO THE MEMBERS OF THE LAW  
SOCIETY OF BRITISH COLUMBIA  
— SPECIAL COMPENSATION FUND**

We have audited the statement of financial position of **The Law Society of British Columbia — Special Compensation Fund** as at December 31, 2005 and 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 Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit 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 Fund as at December 31, 2005 and the results of its operations, the changes in its net assets and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

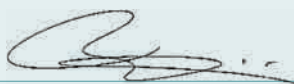
Chartered Accountants

## The Law Society of British Columbia – Special Compensation Fund

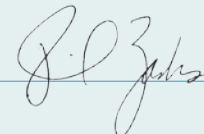
### STATEMENT OF FINANCIAL POSITION AS AT DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	4,008,726	4,662,989
Insurance recoverable (note 4)	-	1,261,480
	4,008,726	5,924,469
<b>Investments (note 2)</b>	-	1,336,684
	4,008,726	7,261,153
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable and accrued liabilities	15,428	14,000
Deferred revenue	5,526,600	5,400,000
Due to General Fund (note 3)	351,526	651,379
Due to Insurance Fund (note 3)	3,956,410	-
	9,849,964	6,065,379
<b>Net Assets</b>		
<b>Unrestricted net (deficit) assets</b>	(5,841,238)	1,195,774
	4,008,726	7,261,153
<b>Claims (note 4)</b>		

Approved by  
President



Chair of Audit Committee



### STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
Unrestricted net assets - Beginning of year	1,195,774	4,086,834
Deficiency of revenue over expense for the year	(7,037,012)	(2,891,060)
Unrestricted net (deficit) assets - End of year	(5,841,238)	1,195,774

### STATEMENT OF REVENUE AND EXPENSE FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Revenue</b>		
Annual assessments	5,692,400	5,581,350
Investment and interest income	161,022	59,175
	5,853,422	5,640,525
<b>Expense</b>		
Allocated office rent	33,150	50,008
Audit	14,000	14,000
Claims and costs (note 4)	11,125,365	2,824,886
Contribution to costs of General Fund		
Administrative	887,759	923,705
Co-sponsored program costs	-	967,132
Counsel costs	2,159	73,084
Custodians' fees - net of recoveries	1,278	1,494,811
Insurance premium	28,706	28,713
Investment brokers' fee	906	4,573
Loan interest to Insurance Fund (note 3)	121,010	-
Miscellaneous	51,539	94,966
Salaries, wages and benefits	420,505	1,025,686
Spot audits and related costs	204,057	1,030,021
	12,890,434	8,531,585
Deficiency of revenue over expense for the year	(7,037,012)	(2,891,060)

## The Law Society of British Columbia – Special Compensation Fund

### STATEMENT OF CASH FLOWS FOR THE YEAR ENDED DECEMBER 31, 2005

	2005 \$	2004 \$
<b>Cash flows from operating activities</b>		
Deficiency of revenue over expense for the year	(7,037,012)	(2,891,060)
Decrease in current assets		
Insurance recoverable	1,261,480	4,716,896
Assets held for resale	-	346,751
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	1,428	4,021
Deferred revenue	126,600	2,639,400
Due to General Fund	(299,853)	(1,107,650)
	(5,947,357)	3,708,358
<b>Cash flows from investing activities</b>		
Sale (purchase) of investments - net	1,336,684	(22,772)
<b>Cash flow from financing activities</b>		
Loan from Insurance Fund	3,956,410	-
<b>(Decrease) increase in cash and cash equivalents</b>	(654,263)	3,685,586
<b>Cash and cash equivalents - Beginning of year</b>	4,662,989	977,403
<b>Cash and cash equivalents - End of year</b>	4,008,726	4,662,989

### 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 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.

##### Financial instruments

The carrying values of cash and cash equivalents, accounts payable and accrued liabilities and deferred revenue approximate their fair values due to their short-term nature.

##### 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.

## The Law Society of British Columbia – Special Compensation Fund

### 2 Investments

	2005	2004
	\$	\$
Investments		
(market rate: \$nil;		
2004 - \$1,470,785)	-	1,336,684

Investments historically 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 nil% (2004 - 2.53%).

### 3 Interfund balances

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

Amounts due to the Insurance Fund are current and bear interest at bond yield (2005 average rate - 4.12%) of the Insurance Fund. The maximum financing available is \$8 million.

### 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, 2005, 285 claims or potential claims (2004 - 381 claims) were known but not yet determined. These claims amounted to approximately \$49,745,896 (2004 - \$72,493,866). If all claims were approved for payment, \$44,287,498 (2004 - \$45,464,841) would be payable by the Fund and \$5,458,398 (2004 - \$27,029,025) by the Fund's insurers. These amounts do not include an estimate for claims attributable that have not as yet been filed. In addition, these amounts include potential duplicate claims with respect to the Wirick case.

### 4 Special Compensation Fund claims *continued*

For claims reported prior to May 1, 2004, the insurance 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.

At the December 2003 meeting, the Benchers approved, to be effective May 1, 2004, a Part B amendment to the B.C. Lawyers' Compulsory Professional Liability Insurance Policy that provides defined insurance coverage for dishonest appropriation of money or other property entrusted to and received by insured lawyers in their capacity of barrister and solicitor and in relation to the provision of professional services.

#### 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.

	2005	2004
Number of open claims	163	248
	\$	\$
Amount claimed	19,000,000	33,000,000
Amount reviewed (number of claims - 132; 2004 - 383)	25,000,000	57,000,000
Amount denied due to duplication (number of claims - 38; 2004 - 177)	6,000,000	23,000,000
Amount adjourned (number of claims - 150; 2004 - 90)	15,000,000	10,000,000
Total approved for payment	4,000,000	12,000,000
Total paid - net of recoveries	11,000,000	2,000,000

Until May, 1, 2004, the Fund carried 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.

The Insurer's coverage for the 2002 bond period is \$15,000,000. In early 2005, the final proof of loss that reached this limit was filed.

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 and accepted by the claimant.

For additional copies of the Annual Report, please contact the Communications Department.  
The report is also available online at [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca).

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