



AGENDA

MEETING: Benchers
DATE: Friday, January 28, 2011
TIME: 7:30 a.m. Continental breakfast
8:30 a.m. Meeting begins
PLACE: Bencher Room

OATH OF OFFICE:

The Honourable Lance Finch, Chief Justice of BC, will administer an oath of office (in the form set out in Rule 1-1.2) to the Law Society's President, First Vice-President and Second Vice-President for 2011.

CONSENT AGENDA:

The following matters are proposed to be dealt with by unanimous consent and without debate. Benchers may seek clarification or ask questions without removing a matter from the consent agenda. If any Bencher wishes to debate or have a separate vote on an item on the consent agenda, he or she may request that the item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Bill McIntosh) prior to the meeting.

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| 1 | Minutes of December 10, 2010 meeting <ul style="list-style-type: none">• Minutes of the regular session• Minutes of the <i>in camera</i> session (Benchers only) | Tab 1
p. 1000 |
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| 2 | External Appointments <ul style="list-style-type: none">• Memorandum from the Executive Committee | Tab 2
p. 2000 |
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REGULAR AGENDA

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| 3 | President's Report <ul style="list-style-type: none">• Written report to be distributed electronically prior to meeting |
| 4 | CEO's Report <ul style="list-style-type: none">• Written report to be distributed electronically prior to meeting |
| 5 | Report on Outstanding Hearing & Review Reports <ul style="list-style-type: none">• Report to be distributed at the meeting |

GUEST PRESENTATION

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| 6 | Review of 2010 Employee Survey Results <ul style="list-style-type: none">• Presentation by Ryan Williams of TWI Surveys Inc. |
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2009-2011 STRATEGIC PLAN IMPLEMENTATION (FOR DISCUSSION AND/OR DECISION)		
7	2009-2011 Strategic Plan – Annual Review Mr. Hume and Mr. McGee to report <ul style="list-style-type: none">Memorandum from the Executive Committee	Tab 7 p. 7000
OTHER MATTERS (FOR DISCUSSION AND/OR DECISION)		
8	Dissolving the Delivery of Legal Services Task Force Mr. Vertlieb to report	
9	Dissolving the Unbundling Legal Services Task Force Ms. Hickman to report	
10	Nominations to 2011 Finance Committee Memorandum from Mr. McIntosh <ul style="list-style-type: none">Nomination of two Benchers-at-large and one appointed Bencher	Tab 10 p. 10000
FOR INFORMATION ONLY		
11	Thank-you Card From CBABC re Sponsorship of the Annual Branch Conference in Scottsdale	Tab 11 p. 11000
IN CAMERA SESSION		
12	LSBC Litigation Report to December 31, 2010 Mr. Cameron to report <ul style="list-style-type: none">LSBC Litigation Report	Tab 12 p. 12000
13	Bencher Concerns	

THE LAW SOCIETY OF BRITISH COLUMBIA
MINUTES

MEETING: Benchers

DATE: Friday, December 10, 2010

PRESENT:

Glen Ridgway, QC, President	Benjimen Meisner
Gavin Hume, QC, 1 st Vice-President	David Mossop, QC
Bruce LeRose, QC, 2 nd Vice-President	Suzette Narbonne
Haydn Acheson	Thelma O'Grady
Rita Andreone	Lee Ongman
Kathryn Berge, QC	Gregory Petrisor
Joost Blom, QC	David Renwick, QC
Patricia Bond	Claude Richmond
Robert Brun, QC	Alan Ross
E. David Crossin, QC	Catherine Sas, QC
Tom Fellhauer	Richard Stewart, QC
Leon Getz, QC	Herman Van Ommen
Stacy Kuiack	Art Vertlieb, QC
Jan Lindsay, QC	Kenneth Walker

ABSENT:

Satwinder Bains	Peter Lloyd, FCA
Carol Hickman, QC	

STAFF PRESENT:

Tim McGee	Michael Lucas
Deborah Armour	Jeffrey Hoskins, QC
Stuart Cameron	Bill McIntosh
Robyn Crisanti	Jeanette McPhee
Lance Cooke	Doug Munro
Charlotte Ensminger	Susanna Tam
Su Forbes, QC	Alan Treleaven
Kensi Gounden	Adam Whitcombe

GUESTS:

Dom Bautista, Executive Director, Law Courts Center
 Johanne Blenkin, Executive Director, BCCLS
 Mary Anne Bobinski, Faculty of Law Dean, UBC
 Ron Friesen, Acting Executive Director, CLEBE
 Donna Greschner, Faculty of Law Dean, UVIC
 Jeremy Hainsworth, Reporter, Lawyers Weekly
 Nick Hebeler, former Saskatchewan Roughrider and BC Lion
 Richard Lindsay, QC, Partner, Lindsay Kenney LLP
 Jamie Maclaren, Executive Director, Access Pro Bono Law
 Todd McKendrick, Board Chair, CLEBC
 Stephen McPhee, President, CBABC
 Sharon Matthews, Vice-President, CBABC
 Nancy Merrill
 Caroline Nevin, Executive Director, CBABC
 Wayne Robertson, QC, Executive Director, Law Foundation of BC

CONSENT AGENDA

1. Minutes

The minutes of the meeting held on November 5, 2010 were approved as circulated.

Consent Resolutions

The following resolutions were **passed unanimously and by consent**.

2. External Appointments: Nomination to Board of Directors of the Land Title & Survey Authority

BE IT RESOLVED:

- to re-appoint Geoff Plant, QC to the Board of Governors of the Land Title & Survey Authority for a second three year term, commencing April 1, 2011.

3. Amendment of Rule 5-13: Initiating a Review by the Benchers

BE IT RESOLVED to rescind Rule 5-13 and substitute the following:

Initiating a review

- 5-13** (1) Within 30 days after the decision of the panel in a credentials hearing, the applicant may deliver a Notice of Review under Rule 5-15 [Notice of Review] to the Executive Director and counsel representing the Society.
- (2) Within 30 days of a decision of the panel in a credentials hearing, the Credentials Committee may adopt a resolution to refer the decision to the Benchers for a review.
- (2.1) When a review is initiated under subrule (2), counsel representing the Society must promptly deliver a Notice of Review under Rule 5-15 [Notice of Review] to the Executive Director and the applicant.
- (2.2) Within 30 days after the decision of the panel under Rule 4-35 [Disciplinary action], the respondent may deliver a Notice of Review under Rule 5-15 [Notice of Review] to the Executive Director and discipline counsel.
- (3) Within 30 days of a decision of the panel in a hearing on a citation, the Discipline Committee may resolve to refer the decision to the Benchers for a review.
- (4) When a review is initiated under subrule (3), discipline counsel must promptly deliver a Notice of Review under Rule 5-15 [Notice of Review] to the Executive Director and the respondent.

4. 2011 Fee Schedules

BE IT RESOLVED to amend the Law Society Rules, effective January 1, 2011, as follows:

1. *In Schedule 1, by rescinding items A1 to A3 and substituting the following:*

A. Annual fee	\$
1. Practice fee set by members (Rule 2-70)	1729.14
2. Special Compensation Fund assessment (Rule 2-70)	5.00
3. Liability insurance base assessment (which may be increased or decreased in individual cases in accordance with Rule 3-22(1)):	
(a) member in full-time practice	1,750.00
(b) member in part-time practice	875.00

2. *In Schedule 2, by revising the prorated figures in each column accordingly; and*
3. *In the headings of schedules 1, 2, and 3, by striking the year “2010” and substituting “2011”.*

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

4.1 Consent Matters added to the Agenda after its Circulation

a. Proposed LSBC Policy on ICBC Electronic Billing and Recommendations for Considering Amendments to the Law Society Rules and the *Legal Profession Act* (Agenda Item 14)

BE IT RESOLVED to approve the four recommendations set out at page 14003 of the meeting materials:

1. The Act and Rules Subcommittee should make suggestions for revising Rule 3-57 in order to contemplate broader methods of delivering a bill than are covered at present. The revision should be principles-based and strive to avoid technology specific language in order to avoid become stale-dated.
2. The Law Society’s practice advisors should indicate to ICBC that its proposed electronic billing policy is an acceptable substitute for Rule 3-57 and the requirements of s. 69. While ICBC has an obligation not to store personal information in a foreign jurisdiction, we may wish to suggest that their web-based services be housed in British Columbia.
3. The Act and Rules Subcommittee, as part of its general consideration of modernizing the application of the Act and Rules, should consider whether to expand the definition of “written” to include electronic storage, and whether s. 69 of the Act needs to be amended to better align with the Electronic Transactions Act and the approach in Rule 3-57(3)(d).

4. The Benchers should direct staff to consider, either as part of the 2012-2015 Strategic Plan, or as part of a request for legislative amendment over that period, whether our requirements that a bill be signed and delivered need to be reconsidered in light of modern technology and to provide the Benchers with a policy analysis at that future time.

b. Proposed Minimum Number of Hours of Continuing Education Required for Practising Lawyers in 2011

BE IT RESOLVED to approve the following recommendation of the Legal Education Advisory Committee (the Committee):

The Committee recommends that practicing members be required to complete and report a minimum of 12 hours of accredited continuing education in 2011, including at least two hours pertaining to any combination of professional responsibility and ethics, client care and relations, and practice management.

REGULAR AGENDA – for Discussion and Decision

5. President's Report

Mr. Ridgway referred the Benchers to his written report — circulated by email prior to the meeting — for an outline of his activities as President during the month of December 2010.

a. Access to Justice

Mr. Ridgway made reference to a speech (*Access – the Elephant in the Room*) delivered by Chief Justice Finch at last month's CBABC meeting in Scottsdale, Arizona. Mr. Ridgway expressed appreciation for the spirit of the Chief Justice's remarks and endorsed his call for examination of the Law Society's infrastructure and its effectiveness for enhancing access to legal services in BC. Mr. Ridgway noted the importance of the challenges and opportunities that will face the Access to Legal Services Advisory Committee in 2011.

b. Proposed Notaries Act Amendments

Mr. Ridgway briefed the Benchers on a recent meeting he and Mr. McGee attended on behalf of the Law Society. Also attending were senior representatives of the Ministry of Attorney General, the Canadian Bar Association and the Society of Notaries Public. Mr. Ridgway noted particularly the contribution of CBABC President Stephen McPhee in framing the enhancement of access to legal services as a central theme of the discussion.

c. 2011 Executive Committee Election

Mr. Ridgway congratulated Ms. Berge, Mr. Renwick and Richard Stewart on their election to the 2011 Executive Committee.

Mr. Acheson announced that Mr. Lloyd has been acclaimed as the appointed Benchers' member of the 2011 Executive Committee.

6. CEO's Report

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 1 to these minutes), including the following matters:

- a. Core Process Review – Report of Findings
- b. 2010 Employee Survey – Sneak Preview
- c. 2009 – 2011 Strategic Plan Annual Review
- d. Key Performance Measures – Update
- e. Other Items of Interest
 - Performance Management for 2010
 - New Practice Advisor
 - LSBC 2010 United Way Campaign

7. 2010 Core Process Review Project: Report of Findings

Mr. McGee briefed the Benchers on Management Board's recently completed *Core Process Review: Report of Findings* (at page 7000 of the meeting materials). He outlined four purposes of the Core Process Review project:

- to assess those processes which are essential to the Law Society mandate and to assure the public that we are regulating the legal profession in British Columbia effectively
- to address staff expectations for meaningful changes to allow them to work more effectively and efficiently
- to gain a more comprehensive understanding of the Law Society processes with a view to revisiting the key performance measures on which the Law Society reports
- to create a roadmap for continuous improvement in the future

Mr. McGee asked Kensi Gounden, Manager, Standards & Professional Development, and project manager for the Core Process Review, to highlight solutions and next steps identified in the report. Mr. Gounden reported that as a result of the process mapping and consideration by the departments, more than 900 suggestions and 350 potential solutions were developed. Those staff responses were consolidated into about 180 proposed solutions, organized by department into six categories:

- Access to Information
- Communications
- New processes
- Resourcing

- Policy
- Training

Just under a third of the proposed solutions related to better information management and greater access to information. The next most common theme was communication, which also comprised more than a third of provided solutions. There were also 37 suggestions for new processes and about 10% of the proposed solutions suggested that more resources were necessary. A small number of the proposed solutions recognized that a policy change, either in the form of a new or revised rule or a general statement, was necessary in order to be more effective. Finally, a small number of proposed solutions called for increased training.

Review indicated that the solutions fell into three broad categories:

- within department changes that could be implemented without additional resources or the involvement of others
- cross-departmental initiatives that require the cooperation or assistance of another department or utilization of resources in another department
- systemic solutions that involve either a significant number of departments and additional resources or that involve the entire organization

There were more than 40 within-department solutions that could be implemented without additional resources or the involvement of anyone outside the department that had proposed the solution. Many of these have already been implemented and most of the balance will be evaluated by year-end or shortly thereafter and implemented if appropriate. There were nearly 140 cross-departmental solutions that involve the interface between departments or require assistance from other departments. As all the cross-department solutions involved more than one department working together, managers have been asked to review the list of suggested solutions from their respective departments and develop implementation plans as appropriate.

Management Board has identified three systemic solutions for development:

- redeveloping information and document management across the organization
 - an Information Management Project Team has been established to retain the necessary expertise to evaluate our needs and identify solutions to address those needs
 - the Project Team expects to start the first phase of the needs analysis early in the new year and will develop and consult on the business case for any solutions that are identified
- redeveloping our regulatory processes
 - Chief Legal Officer Deborah Armour and her regulatory team will be working to develop a business case which will identify cost-effective solutions for changes to improve both the quality and timeliness of our discipline function
- redeveloping our delivery of practice advice to lawyers

- a Lawyer Advice and Support Assessment Project Team has been established to evaluate the mandate and priorities for delivery of practice advice and support
- the Project Team will report back at the beginning of March 2011 with recommendations regarding how best to deal with the issues identified in the core process review and with a business case for any recommended changes

Management Board expects that as we move into 2011, many of the within-department suggestions and some of the cross-departmental solutions will have been implemented. Management Board will also be working with the Audit Committee in 2011 to review and reconsider our key performance measures. The systemic solutions will require more development before they can be implemented but the roadmap is clear. While there will be resource implications, Management Board expects they will be addressed within the budget priorities for 2011 and beyond.

8. Report on Outstanding Hearing & Review Reports

The Benchers received and reviewed a report on outstanding hearing decisions.

STRATEGIC PLANNING AND PRIORITIES MATTERS – for Discussion and/or Decision

9. 2009-2011 Strategic Planning: Reports from the 2010 Advisory Committees

Mr. McGee reminded the Benchers that their review of the year-end reports from the Law Society's four advisory committees marks the first stage of updating the current 2009-2011 Strategic Plan. He then asked Mr. Lucas to outline the process to be followed in executing that update over the next two months, and in developing a post-2011 strategic plan for the Law Society over the coming year.

Mr. Lucas referred the Benchers to his memorandum at page 9000 of the meeting materials for a summary of the recommendations set out in the advisory committee reports. He noted that the Benchers' discussion of those recommendations will inform the Executive Committee in its consideration of the recommendations and their various priorities, helping the Committee to guide the discussion at the January Benchers meeting, at which time decisions will be made for updating the current Strategic Plan.

Mr. Mossop briefed the Benchers on the work of the Access to Legal Services Advisory Committee in 2010, outlining that Committee's recommendations for 2011. Discussion followed.

Mr. Brun briefed the Benchers on the work of the Equity and Diversity Advisory Committee in 2010, outlining that Committee's recommendations for 2011. Discussion followed.

Ms. Lindsay briefed the Benchers on the work of the Independence and Self-Governance Advisory Committee in 2010, outlining that Committee's recommendations for 2011. Discussion followed.

Ms. O'Grady briefed the Benchers on the work of the Lawyer Education Advisory Committee in 2010, outlining that Committee's recommendations for 2011. Discussion followed.

10. Lawyer Education Advisory Committee Reports

a. Advocacy Education

Ms. O'Grady briefed the Benchers on the issues considered by the Advocacy Education Working Group in assisting the Lawyer Education Advisory Committee to meet Strategy 3-3 of the Law

Society's Strategic Plan for 2009-2011. The objective of Strategy 3-3 is to *develop and implement initiatives to improve advocacy skills for lawyers.*

Ms. O'Grady referred to the Advisory Committee's report (page 10013 of the meeting materials) for a statement of the Working Group's recommendations:

Recommendation 1

That the Law Society endorse and encourage exploration of the establishment of an advocacy organization for BC lawyers with a mandate similar to Ontario's Advocates' Society

Recommendation 2

That the Law Society endorse the development of an online advocacy skills training "toolkit" as a consolidated resource and guide for supporting and enhancing the oral advocacy skills and performance of BC lawyers, and that Courthouse Libraries BC and the Continuing Legal Education Society of BC be approached to explore developing this initiative

Recommendation 3

That the Law Society expand the promotion of its CPD mentoring program, including the focus on advocacy skills

Recommendation 4

That the Law Society approach the Access Pro Bono Society of BC to discuss the feasibility of Access Pro Bono introducing a pro bono civil duty counsel program in Small Claims Court

Recommendation 5

That the Law Society encourage the development of a province-wide roster of senior counsel to be available by telephone to assist inexperienced lawyers with advocacy basics during a trial

Recommendation 6

That the Law Society contact the Crown and the Provincial Court judiciary to discuss their re-introducing the Crown Counsel advocacy training program

Recommendation 7

That the Law Society implement a communication strategy to encourage law firms and senior lawyers to "take a junior to court"

Ms. O'Grady reported that the Lawyer Education Advisory Committee supports all of the recommendations. She noted that the recommendations anticipate follow-up action by

Committee members and staff, but do not call for Law Society expenditure of funds or additional staffing resources.

In the ensuing discussion a number of questions were raised about Recommendation 1, relating to the nature and extent of any gap in the advocacy practice support presently provided to BC lawyers by existing organizations. Ms O'Grady advised that the Advisory Committee will re-consider Recommendation 1.

Ms. O’Grady moved (seconded by Professor Blom) that Recommendations 2 – 7 be approved by the Benchers for implementation.

The motion was carried.

b. Professionalism Education

Ms. O’Grady briefed the Benchers on the issues considered by the Professionalism Education Working Group in assisting the Lawyer Education Advisory Committee to meet Strategy 3-2 of the Law Society’s Strategic Plan for 2009-2011. The objective of Strategy 3-3 is to *develop and implement initiatives to more effectively educate lawyers on the topic of professionalism*. Ms. O’Grady referred the Benchers to page 10017 of the meeting materials for the recommendations of the Working Group:

Recommendation 1

That the Law Society provide the Proposed Content Guideline and the sample resources template on undertakings, together with information on how they might be employed, to the Continuing Legal Education Society of BC, the Trial Lawyers’ Association of BC, the BC branch of the Canadian Bar Association, and BC’s law schools;

Recommendation 2

That six months later the Law Society meet with the Continuing Legal Education Society of BC, the Trial Lawyers’ Association of BC, the BC branch of the Canadian Bar Association, and BC’s law schools, and again periodically, to evaluate how effective this approach is in promoting the development of courses and resources in professionalism and ethics, and to collaborate strategically on next steps.

Ms. O’Grady reported that the Lawyer Education Advisory Committee supports both recommendations. She noted that the recommendations anticipate follow-up action by

Committee members and staff, but do not call for Law Society expenditure of funds or additional staffing resources.

Ms. O’Grady moved (seconded by Mr. Meisner) that Recommendations 1 and 2 be approved by the Benchers for implementation.

The motion was carried.

11. Adoption of Criteria for Composition & Operation of Hearing Panels

Mr. Ridgway reviewed the background of this matter, reminding the Benchers that in July 2010 they adopted a resolution directing that the Law Society move to a three-pool system of selecting hearing panels, with current Benchers, non-Benchers lawyers and non-lawyers on each panel (subject to exception only in extraordinary circumstances). Mr. Ridgway noted that the resolution could not be implemented immediately because the latter two categories are subject to new criteria to be established by the Benchers. He also noted that the Executive Committee has developed recommendations for the Benchers in that regard, summarized in a draft resolution at page 11015 of the meeting materials, as follows:

SUGGESTED RESOLUTION -

HEARING PANEL POOL

BE IT RESOLVED

1. *to establish a pool of individuals who may be appointed to hearing panels;*
2. *to empower the Executive Committee to name individuals to the hearing panel pool on the advice of a Subcommittee that is established for that purpose and that includes non-lawyer representation;*
3. *that, in order to be named to the hearing panel pool, an individual must*
 - *not be a current employee of or contractor to the Society;*
 - *not be elected to political office or a declared candidate for office or nomination at the federal or provincial level of government;*
4. *that, in order to be named to the hearing panel pool, a lawyer must*
 - *be a member in good standing of the Society;*
 - *have been a member in good standing of the Society for at least seven years;*
 - *not be the subject of a complaint investigation or a claim under Part B of the professional liability insurance policy;*
 - *not act for any party in outstanding litigation involving the Society;*
 - *not be a current director, or the equivalent, of a lawyer advocacy group;*
5. *that, in order to be named to the hearing panel pool, a non-lawyer must*
 - *submit to a criminal record check;*
 - *not be the subject of a professional regulatory investigation or professional discipline within the last five years;*
 - *not be a complainant in an outstanding complaint about a lawyer in British Columbia;*
6. *to adopt as guidelines for appointments to the hearing panel pool:*
 - *appointment of all individuals to the hearing panel pool should*
 - *ensure appropriate representation of geographical areas of British Columbia;*
 - *promote gender equity; and*
 - *consider the representation of all cultural groups*

- *appointments of lawyers to the hearing panel pool should*
 - *ensure the appointment of both barristers and solicitors to the hearing panel pool, and*
 - *consider the appointment of lawyers who practise in a variety of areas of practice;*
- 7. *that individuals be named to the hearing panel pool for a term of three years and be eligible for re-appointment for one further three-year appointment;*
- 8. *that appropriate training courses be made available to all individuals named to the hearing panel pool;*
- 9. *that individuals named to the hearing panel pool be required to complete a basic course in administrative justice before being appointed to a hearing panel;*
- 10. *that all lawyer Benchers be required to complete a hearing skills workshop before chairing a hearing panel;*
- 11. *that all adjudicators be required to complete a decision-writing workshop before writing a majority decision on behalf of a tribunal;*
- 12. *that all adjudicators be encouraged to complete either or both of the hearing skills and decision-writing workshops, even if not required to do so;*
- 13. *that all members of hearing panels be reimbursed for reasonable expenses; and*
- 14. *that non-lawyer members of hearing panels be paid an honorarium on the same basis as is currently available to Appointed Benchers.*

Mr. Hume moved (seconded by Mr. LeRose) that the said draft resolution be adopted.

In their ensuing review of the provisions of draft resolution, the Benchers addressed the final bullet of Criterion 4:

4. that, in order to be named to the hearing panel pool, a lawyer must

...

- *not be a current director, or the equivalent, of a lawyer advocacy group;*

The key issues raised in the ensuing discussion were:

- the intended scope of “*director, or the equivalent*”
 - there was consensus that the scope of the limitation should be limited to those in positions of “directing mind” leadership responsibility and authority
- public service and public interest implications of including Criterion 4
- public confidence and public trust implications of removing Criterion 4

Mr. Brun moved (seconded by Ms. Sas) to remove Criterion 4 from the draft resolution.

The motion was carried.

The Benchers also addressed Criterion 5:

5. that, in order to be named to the hearing panel pool, a non-lawyer must

- *submit to a criminal record check;*
- *not be the subject of a professional regulatory investigation or professional discipline within the last five years;*
- *not be a complainant in an outstanding complaint about a lawyer in British Columbia;*

Following discussion, the Benchers accepted Mr. Hume's proposal that the draft resolution forming the subject of the main motion be revised by way of friendly amendment, such that the second bullet of Criterion 5 reads:

- *submit his or her professional regulatory or discipline record for the past five years to the Law Society for verification and review;*

The main motion was carried as amended.

OTHER MATTERS (FOR DISCUSSION AND/OR DECISION)

12. Act & Rules Subcommittee: Rule 4-43 (Mirror Imaging Rules)

Mr. Getz referred the Benchers to Mr. Hoskins's memorandum at page 12000 of the meeting materials for background to the Act and Rules Subcommittee's proposed Rules amendments and protocol "...to ensure that the Law Society continues to be able to do full investigations of a lawyer's practice in response to an order under Rule 4-43 [*Investigation of books and accounts*] while protecting the privacy interest of the lawyer or others in material not relevant to the investigation that might be caught in a forensic copying of the lawyer's computer records."

Mr. Getz moved (seconded by Mr. Hume) that the draft resolution and attached protocol set out at pages 12039-12042 of the meeting materials (Appendix 2 to these minutes) be adopted.

The motion was carried by a two-thirds majority of the Benchers present.

13. Proposed Revised Bencher Governance Policy H-5 – Accepting Appointments to Boards or Committees of Other Organizations

Ms. Lindsay briefed the Benchers on the background for the President's request that the Independence and Self-Governance Committee review and clarify the existing Law Society governance policy on Benchers accepting appointment to boards or committees of other organizations (Policy H5 of the Bencher Code of Conduct, in the Bencher Governance Policies).

Ms. Lindsay moved (seconded by Mr. Van Ommen) that the proposed revised version of Policy H5 set out at page 13006 of the meeting materials (Appendix 3 to these minutes) be adopted for immediate implementation.

The key issues raised in the ensuing discussion were:

- the importance of avoiding both the fact and the appearance of bias and conflict to maintain public confidence in the legal profession and its independent regulation by the Law Society
- the relevance to the Law Society of the current controversy surrounding the overlapping memberships of the BC Federation of Teachers and the BC College of Teachers and related concerns regarding whether the College is acting in the public interest
- whether the proposed revised version of Policy H5 may be *ultra vires* of the *Legal Profession Act*
- whether the scope of the operative provisions of the proposed revised version of Policy H5 is too vague or broad (i.e. ... *Benchers must not accept appointment or seek election to a board of directors or a committee of an organization the objective, purpose or vision of which is, or may reasonably be perceived to be, in conflict with the objectives of the Law Society.*)
- whether the approach and wording of Policy H5 should be guided by the Benchers' own sense of the best interests of the public, even if the resulting media and public response may lead to dissipation of public confidence in the legal profession and its independent regulation by the Law Society

The Benchers accepted Ms. Lindsay's request that the operative provision of the proposed revised version of Policy H5 be altered by friendly amendment to read: ... *Benchers must not accept appointment or seek election to a board of directors or an executive committee of an organization the objective, purpose or vision of which is, or may reasonably be perceived to be, in conflict with the objectives of the Law Society.*

The motion was defeated.

14. Proposed LSBC Policy on ICBC Electronic Billing and Recommendations for Considering Amendments to the Law Society Rules and the *Legal Profession Act*

The Benchers approved the proposed Law Society policy by consent (see page 3 of the minutes).

15. Dissolving the Unbundling Legal Services Task Force

This matter was put over to the January meeting, in light of the absence of the task force's chair, Ms. Hickman.

16. Election of Appointed Bencher Member of 2011 Executive Committee

Mr. Acheson announced that Peter Lloyd, FCA has been acclaimed as the appointed Benchers' member of the 2011 Executive Committee.

***IN CAMERA* SESSION**

The Benchers discussed other matters *in camera*.

2010-12-20/WKM



Chief Executive Officer's Monthly Report

A Report to the Benchers by

Timothy E. McGee

December 10, 2010

Introduction

This is my last report to the Benchers in 2010 and I am pleased to provide updates on a variety of items that we have been working on throughout the year, as well as to preview certain items that will be on the agenda in 2011.

On behalf of management and all staff, I would also like to take this opportunity to thank our outgoing President Glen Ridgway, QC for his efforts and support during the year. I think I speak for everyone when I say it has been a pleasure working with Glen and we have benefited greatly from his wisdom, commitment and, in no small measure, his sense of humour and fair play. I am looking forward to the Benchers' Welcome/Farewell Dinner on January 28, 2011 to expand on these sentiments, and others.

1. Core Process Review – Report of Findings

I am very pleased to report that because of the outstanding efforts of Kensi Gounden, management, and the participation of virtually all of our staff, we are able to present to the Benchers and staff the “Core Process Review: Report of Findings” on schedule. This is the culmination of the largest internal review and assessment project the Law Society has undertaken. Work began in January of this year and literally hundreds of staff hours were invested in the three main phases of the project.

I encourage you to read the report, which has been distributed separately to the Benchers in the meeting package for this month. We will have an opportunity to discuss it at the meeting and to review next steps.

Change management projects like the Core Process Review can fail for a number of reasons. The most common is that although there is a lot of fanfare at the launch of the project, there is a lack of follow-up and broad engagement among staff when the real work begins. We have resoundingly overcome that risk. The staff at LSBC has risen to the occasion and we have a comprehensive, credible report. The second most common failing is that organizations do not convert the findings into a plan of action. In other words, decisions need to be made about how to implement the recommendations. The report indicates that work will commence right away so that the Benchers can make decisions on the major transformational recommendations, such as a new information management system, in the spring of 2011. In the meantime, improvements to internal processes within the control of managers in their respective groups will be implemented right way.

2. 2010 Employee Survey – Sneak Preview

The 2010 Employee Survey marks the fifth consecutive year that we have surveyed all staff for the views in the areas described as Communication, Our Culture, Leadership, My Manager, My Work Unit, and Employee Satisfaction. The survey also asks employees to indicate the factors that most motivate them to stay at the Law Society. Management use the results of the annual survey to understand better how employees are engaged in the affairs of the Law Society, and to help create action plans to build on our strengths and to address areas of concern.

As we have done in past years, the Benchers will receive a presentation from TWI Surveys Inc., the administrators of the survey, at the Bencher meeting in January and will have an opportunity to discuss the results with management and TWI at that meeting.

By way of a sneak preview however, I am pleased to say that the overall survey results for 2010 are modestly more positive year over year with gains in virtually every category. In particular, our investment in leadership training for managers and skills training for staff seems to be paying off in the satisfaction levels on a number of fronts. As always, there continue to be some areas that lag others, and some that will require greater focus in 2011.

The ultimate purpose of the survey is to give everyone a voice on matters that are integral to a strong, well functioning organization. In this regard, I am most pleased that the participation rate in the 2010 Survey was 83%, the highest rate ever, an 11% increase year over year and over 20% higher than 2006, the first survey year. This willingness to participate in the survey underscores the importance of management's responsibility to use the results to help make the Law Society an even better place to work.

3. 2009 – 2011 Strategic Plan Annual Review - Update

The Bencher package for this meeting includes a report on the process for conducting the annual review of the 2009 - 2011 Strategic Plan. This is essentially a 2-stage process. At this meeting, the Benchers will have an opportunity to assess the progress that has been made on current strategic initiatives, and to consider the range of topics that the four Advisory Committees have outlined in their year-end reports. The second stage of the review is scheduled for the Bencher meeting in January when decisions will be taken on what modifications, if any, should be made to the current plan. As 2011 is the final year of the current 3-year strategic plan, in 2011 the Benchers will also be involved with the major task of restating the Law Society's strategic plan for the 2012 – 2015 period. This important work will commence next spring.

4. Key Performance Measures - Update

The Law Society measures the success of its core public interest operations based on a set of Key Performance Measures (KPMs) which were adopted by the Benchers in 2008. Compiling the results of the KPMs is an ongoing process throughout the year in some areas, such as the regular surveying of complainants on their satisfaction levels. In other areas, we require year-end information to determine results. We are working towards presenting the Audit Committee (the Benchers Committee charged with assisting the Benchers in overseeing the KPMs) with the final 2010 KPM results in January with a view to presenting those results to the Benchers at their meeting in March.

5. Other Items of Interest

Performance Management for 2010

We have completed the annual performance review process for all staff at the Law Society. The process involves all staff preparing a self-evaluation of their performance during the year and meeting with their respective managers to discuss accomplishments against stated goals and objectives. That conversation also helps managers and staff identify where things worked or did not work during the year, and agree on the priorities for 2011. Employees are also eligible for bonuses as part of our Employee Recognition Program, based upon the criteria set out in the program, which is designed to recognize outstanding contributions in the year.

New Practice Advisor

I am pleased to report that after a rigorous search and interviews with a number of qualified candidates, we have hired Warren Wilson, QC as a new Practice Advisor for the Law Society. Warren will be starting in January and he will work on a part time basis to fill the service gap resulting from Jack Olsen moving to a part time basis. We are very excited to have Warren on board and we are confident that his considerable experience, expertise and familiarity with Law Society operations will stand us all in good stead.

QC for Carol Hickman

On behalf of management and staff, I would like to take this opportunity to congratulate Carol Hickman on her recent QC designation. Carol has made many significant contributions to the work of the Law Society and we know she has a very busy practice as well. Congratulations Carol for this well deserved honour.

LSBC 2010 United Way Campaign

In the words of the United Way Vancouver campaign officials, the Law Society has always “punched above its weight” when it comes to giving to this very worthy cause. I am proud to say that this year was no exception. Staff of the Law Society raised over \$38,000 through donations and special events, an increase of more than 25% over last year. Special thanks go to our Co-Chairs Deborah Armour and Katherine Potter and to the enthusiastic team of staff volunteers at the Law Society who worked so hard to make this possible.

Timothy E. McGee
Chief Executive Officer

FORENSIC COPYING

SUGGESTED RESOLUTION:

BE IT RESOLVED to rescind Rule 4-43 and substitute the following:

Investigation of books and accounts

4-43 (1) If the chair of the Discipline Committee reasonably believes that a lawyer or former lawyer may have committed a discipline violation, the chair may order that an investigation be made of the books, records and accounts of the lawyer or former lawyer, including, if considered desirable in the opinion of the chair, all electronic records in the possession of the lawyer or former lawyer.

(1.1) An order under this Rule must provide for

- (a) the protection of the privacy interests of any person in electronic records produced or copied under this Rule that are not related to the matter under investigation, and
- (b) a method of resolving disputes related to an order made under this Rule.

(2) When an order is made under subrule (1),

- (a) the Executive Director must designate one or more persons to conduct the investigation, and
- (b) the lawyer or former lawyer concerned must
 - (i) immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence regardless of the form in which they are kept,
 - (ii) provide any explanations that the persons designated under paragraph (a) require for the purpose of the investigation,
 - (iii) assist the persons designated under paragraph (a) to access, in a comprehensible form, records in the lawyer's possession or control that may contain information related to the lawyer's practice by providing all information necessary for that purpose, including but not limited to
 - (A) passwords, and
 - (B) encryption keys, and
 - (iv) not alter, delete, destroy, remove or otherwise interfere with any book, record or account within the scope of the investigation without the written consent of the Executive Director.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

Attachment 1
[policy/process document to attach to 4-43 orders]

This document forms part of the 4-43 order.

This 4-43 order permits the Law Society investigator to make forensic copies of records regardless of the storage medium. This part of the 4-43 order sets out the procedure the Law Society will take to ensure that it is not accessing personal information that is not relevant to the investigation, or information over which you may properly assert privilege, while ensuring that relevant records are preserved and are available to the Law Society for the purpose of its investigation.

Pursuant to this 4-43 order the investigator may copy all files and records. If the investigator needs to make a forensic copy of an electronic record, the Law Society uses the following process to balance your reasonable expectation of privacy with the Law Society's authority to copy and inspect a lawyer's records.

If the investigator needs to copy electronic records, two forensic copies will be made. One copy will be preserved to reflect the state of your records at the time they were copied and the other copy will be used as a working copy from which to abstract information required for the investigation.

You are encouraged to instruct counsel to assist in working through this process.

A. *The investigative process for forensic copying*

1. A forensic expert will make the forensic copies at the time the order is presented, or as soon thereafter as is practicable.
2. The forensic expert will be the custodian of the forensic copies, save as otherwise agreed to by you and Law Society staff or as detailed below.
3. Law Society staff will attempt to come to an agreement with you as to the terms of Law Society's access to content of the forensic copies, and the retention of the forensic copies.
4. If an agreement cannot be reached regarding access to the content of the forensic copies and/or retention issues, an independent supervising solicitor will be used to resolve the dispute.
5. The independent supervising solicitor will be chosen in one of the following ways:
 - a. Law Society staff will provide you a list of Law Society approved independent supervising solicitors for you to choose from;
 - b. If you do not agree to any of the independent supervising solicitors approved by the Law Society, the President of the Law Society may appoint an independent supervising solicitor.
6. If an independent supervising solicitor is appointed, he or she may have custody of the forensic copies as required.

7. If you are unable to come to an agreement with Law Society staff regarding the scope of access to a record, you and your counsel (if any) will be advised in writing of the search parameters the Law Society will submit to the independent supervising solicitor.
8. You will have [#] days from delivery [*other mode of service?*] of the search parameters to provide the Law Society and the independent supervising solicitor your written list of any proposed amendments to the search parameters.
9. The independent supervising solicitor will consider the Law Society's search parameters as well as any written submissions you may have regarding the scope of the search parameters. The independent supervising solicitor will then make a determination as to what information the Law Society may access, and will communicate that decision to you and the Law Society in writing.
10. You and the Law Society have [#] days to dispute the findings of the independent supervising solicitor. If either you or the Law Society disputes the decision of the independent supervising solicitor, either party may seek a review as to jurisdiction and on the merits by a retired judge who has been appointed for this function by the Law Society.
11. A retired judge who reviews a decision of an independent supervising solicitor may confirm or alter the decision of the independent supervising solicitor regarding what content may be accessed.
12. The Law Society will be provided a copy of the information it is allowed to access, subject to the timing of the processes set out above, but will not be provided a copy of the information the independent supervising solicitor, or retired judge on appeal, deems the Law Society is not allowed to access.
13. If the investigation reveals that further search parameters are required, the process in steps 3-12 will be repeated as required.

B. Retention of the forensic copies

Unless you and Law Society staff come to an alternate agreement regarding the retention of the forensic copies, the following apply:

1. If the investigation results in a disposition by the Benchers you have 60 days from the day on which the final appeal period from disposition expires to make a request in writing to the Law Society for the return of the forensic copies. In circumstances where you fail to make the application in time the Law Society may destroy the forensic copies or return them to you as it sees fit;
2. If the investigation is closed you have 60 days from the date of notice from the Law Society that the investigation is closed to make a request in writing to the Law Society for the return of the forensic copies. In circumstances where you fail to make the application in time the Law Society may destroy the forensic copies or return them to you as it sees fit;

3. If you voluntarily resign, retire, cease practicing, or go on non-practising status prior to conclusion of the investigation or disposition of any proceeding resulting from the investigation, the Law Society will advise you that the Society will maintain the forensic copies as the Law Society may require them in the event you reapply for admission.

Bencher Governance Policies – Part H Bencher Code of Conduct

*(Proposed Revised Version)***5. Accepting appointment to boards or committees of other organizations**

The object and duty of the Society is to uphold and protect the public interest in the administration of justice. From time to time, a Bencher is asked to join, or run for election to, the board of directors or a committee of an organization whose objective, purpose or vision, in whole or in part, is to represent, lobby for or otherwise promote the interests of lawyers. Such organizations might, or might be perceived to, take a position that is contrary to or conflicts with the object and duty of the Society or decisions of the Benchers. The Benchers govern and administer the affairs of the Society in the public interest and it is important for the promotion, protection, interest and welfare of the Society that the Benchers be, and be seen to be, independent of any organization described above.

Accordingly, Benchers must not accept appointment or seek election to a board of directors or a committee of an organization the objective, purpose or vision of which is, or may reasonably be perceived to be, in conflict with the objectives of the Law Society. For the purposes of clarification, organizations whose objective, purpose or vision is to serve or represent, in whole or in part, the interests of lawyers will be organizations to whom this policy is addressed. The Benchers have concluded that such organizations include, but are not limited to, the provincial and national branches of the Canadian Bar Association, the British Columbia Crown Counsel Association, the Canadian Defence Lawyers, and the Trial Lawyers' Association of British Columbia.

If a Bencher who is considering seeking election, or an appointment, to any organization has any doubt about whether the organization falls within the terms of this policy, the Bencher is urged to bring the question to the attention of the Executive Committee for determination.

To Benchers
From Executive Committee
Date January 18, 2011
Subject **Canadian Bar Association Councils (National and Provincial): Recommendations for Law Society Representation**

Background

A CBA by-law permits each provincial law society to appoint a Benchers to the CBA National Council. A CBABC Provincial Council resolution provides for the automatic appointment of the Law Society's National Council member to the Provincial Council, and permits the Law Society to appoint a second Benchers to that Council. Traditionally the Benchers review both CBA Council appointments annually.

Victoria Benchers Kathryn Berge, QC is the Law Society's current appointee to the Provincial Council. Ms. Berge was appointed for a one-year term commencing April 1, 2010. Ms. Berge has advised that she is prepared to continue to serve in that role.

In November 2010 the Executive Committee accepted the Appointments Subcommittee's recommendation that Ms. Berge also represent the Law Society on the CBA National Council, to replace Mr. LeRose when his term expired on January 14, 2011. By an oversight that recommendation was presented at the December 2010 Benchers meeting as an Executive Committee decision, rather than as the Committee's recommendation to the Benchers.

The need to rectify that oversight presents the Benchers with an opportunity to adjust the timing of these two appointments to align with the CBA annual cycle (September 1 – August 31). The CBA National and Provincial Councils are large, complex bodies: it is both challenging and inefficient for a Benchers to join their deliberations in mid-cycle. A practical difficulty with calendar year appointments to the CBA National Council: travel arrangements for attending the CBA's national mid-winter meeting should be made well before calendar year-end.

Ms. Berge advises that she is prepared to continue to serve in both roles through August 31, 2012, on the understanding that unless she is re-elected in this fall's general Benchers election, she will be ineligible to serve beyond December 31, 2011 and will step down from both roles as at that date.

Recommendations

We recommend that the Benchers:

1. appoint Kathryn Berge, QC to the CBA National Council, effective immediately through August 31, 2011, and then for a one-year term commencing September 1, 2011 and concluding August 31, 2012.

2. appoint Kathryn Berge, QC to the CBABC Provincial Council, effective April 1, 2011 through August 31, 2011, and then for a one-year term commencing September 1, 2011 and concluding August 31, 2012.
3. make their future appointments to the CBA National Council and the CBABC Provincial Council for a term not exceeding one year and concluding on August 31.

Suggested Resolution

BE IT RESOLVED:

1. to appoint Kathryn Berge, QC to the CBA National Council, effective immediately through August 31, 2011, and then for a one-year term commencing September 1, 2011 and concluding August 31, 2012.
2. to appoint Kathryn Berge, QC to the CBABC Provincial Council, effective April 1, 2011 through August 31, 2011, and then for a one-year term commencing September 1, 2011 and concluding August 31, 2012.
3. to make future appointments to the CBA National Council and the CBABC Provincial Council for a term not exceeding one year and concluding on August 31.

To The Benchers
From The Executive Committee
Date January 19, 2011
Subject **2009 - 2011 Strategic Plan - Annual Review**

INTRODUCTION

At their December 10th meeting, the Benchers reviewed the Strategic Plan and heard from the Advisory Committees about various issues that those Committees had identified as matters that should be considered as priorities as the Plan moves into its final year. Following that meeting, the Executive Committee met to review the discussion from that meeting together with those items identified by the Advisory Committees as possible priorities, and consider what recommendations the Committee might make to the benchers concerning any revisions to the Strategic Plan. At the same time, the Committee debated whether there were any other issues that should be considered when determining priorities in connection with the review of the current Strategic Plan at this time.

The issues for consideration by the Benchers are:

- (a) which, if any, recommendations need to be incorporated into the current Strategic Plan; and
- (b) whether there are any other priorities that need to be included in the current Strategic Plan.

To assist, the Executive Committee has, after considerable discussion, made recommendations to the Benchers and these are set out below.

The current Strategic Plan is moving into its third and final year. A full review of the Law Society's strategic priorities and goals will begin mid-2011 with a view to creating the next strategic plan.

PROGRESS IN 2010

As reported to the Benchers in December, a considerable amount of the work contemplated in the current Strategic Plan has either been completed or is well underway. A copy of the current Plan updated to December 2010, on which is marked the progress to date, is attached. During 2010, the following work was addressed:

- The Benchers approved the Delivery of Legal Services Task Force Report (Strategy 1-1);

- A discussion paper prepared by staff concerning possible options for oversight or review of Law Society core functions in a manner that does not run contrary to the fundamental constitutional principle of, and public right to, lawyer independence was considered by the Executive Committee (Strategy 2-2);
- The Benchers approved the Report of the Separation of Adjudicative and Investigative Functions Task Force and rule changes were made and criteria were adopted to implement the changes proposed (Strategy 2-3);
- The Equity and Diversity Advisory Committee has gathered the census data required to develop initiatives to promote equity and diversity in the profession (Strategy 2-4);
- Legislative amendments designed to improve lawyer regulation were debated by the Benchers and a request for changes as agreed to by the Benchers has been made to the Provincial Government (Strategy 2-5);
- Rules implementing Multi-Disciplinary Partnerships came into effect in July, 2010 (Strategy 2-6a);
- Rules to enhance lawyer mobility between members of the Barreau du Québec and the common law societies were approved and came into effect in British Columbia in July 2010 (Strategy 2-6b);
- The work of the Discipline Guidelines Task Force has continued with periodic reports to the Benchers (Strategy 2-7);
- A report from the Lawyer Education Advisory Committee examining initiatives relating to the teaching of advocacy skills has been completed, with six of its seven recommendations approved by the Benchers (Strategy 3-3).

ADVISORY COMMITTEE REPORTS AND COMMENTS

To assist the Benchers in considering the relative priority of the recommendations made by the Advisory Committees in their 2010 year-end reports and the resourcing available to address them within our current commitments, some observations concerning each recommendation, based on the Bencher discussions that have taken place to date, are set out below. The recommendation of the Executive Committee is also included

1. Access to Legal Services Advisory Committee Recommendations

- (a) The Law Society should approach the Attorney General to discuss potential supplemental funding for legal aid and the justice system through amendments to the *Class Proceedings Act*, the *Civil Forfeiture Act*, and the *Unclaimed Property Act*.

This recommendation, consistent with Strategy 1-2, would be relatively easy to accomplish within existing resources because it simply requires a letter to or, perhaps, a meeting with government. If implemented, it could improve access to legal services through increased funding, thereby addressing an important public interest issue. The actual implementation of the proposal, however, is dependent on the government. Whether the changes could actually be accomplished is therefore open to debate. However, it would make considerable sense for the Law Society to raise this issue with the government as part of its Access to Legal Services strategies.

The Executive Committee recommends that this initiative be undertaken in 2011 as a strategy under the goal of Enhancing Access to Legal Services.

- (b) Initiative 1-2 should be removed from the Strategic Plan as a stand-alone initiative.

Initiative 1-2 focuses on the issue of costs in the legal system, and was aimed at looking to determine ways to reduce the impact of financial barriers to accessing legal services by reducing those costs. However, that question is at the heart of most, if not all, of the deliberations of the Advisory Committee. Removing it from the Plan would simply remove it as a stand-alone initiative, and subsume it into every other initiative under the heading of “Enhancing Access to Legal Services.” It would probably be advisable to reflect the language of this strategy, however, in the other strategies.

The Executive Committee recommends that Initiative 1-2 be removed from the Strategic Plan as a stand-alone initiative on the understanding that the other strategies under the goal of Enhancing Access to Legal Services be amended to reflect the intent of the initiative.

- (c) The Law Society should approach the law schools in British Columbia about establishing a program in which a presentation/event takes place early in the school year at which a Benchers and Law Society staff lawyer informs the students about access to justice issues and opportunities in order to promote engagement by future lawyers in criminal, family, and poverty law as well as working in smaller communities.

With limited resources, other issues identified may have a higher priority than this one. It may be advisable to complete the strategies identified on the current Plan and consider this initiative for the next Plan. If time permits, some groundwork could be laid for it now.

The Executive Committee recommends that this initiative be deferred and considered for the next strategic plan.

2. Equity and Diversity Advisory Committee Recommendations

- (a) The Law Society should focus on developing and delivering initiatives to support Aboriginal lawyers and students. These initiatives should be developed to address specific barriers to lawyer retention as identified by research, including the lack of access to mentors, networks and role models. The Law Society should also consider what additional resources are needed in order to advance the strategic objective of enhancing the retention of Aboriginal lawyers, particularly in light of the resolutions passed at the 2009 Annual General Meeting related to the participation of Aboriginal lawyers, and given the need to advance other objectives in the strategic plan.

This initiative is key to the Law Society and requires attention. It is currently reflected in Strategy 1-3, but is not directly reflected in the initiatives under that Strategy. The Advisory Committee's report identifies some methods by which this initiative might be realized, which will require some additional resources to those that have been budgeted for 2011. However, the importance of the recommendations needs to be addressed, and serious consideration needs to be given to including it specifically in the Strategic Plan, with resources devoted to its implementation in 2011.

The Executive Committee recommends that this initiative be specifically included in the current Strategic Plan and that additional resources, as required, be identified to allow this initiative to proceed.

- (b) The Law Society should conduct a feasibility assessment of a *Justicia BC* project to work with firms to develop resources to retain and advance women lawyers in private practice. This initiative should be added to the strategic plan to advance the existing strategy to improve the retention rate of lawyers in the profession.

The Justicia project was identified as a recommendation by the Retention of Women in Law Task Force, and therefore forms a part of Initiative 1-3 in the current Plan. Whether a Justicia-like program can be developed and implemented depends on many parameters outside the Law Society's control, but determining and reporting on the feasibility of such a project in 2011 is feasible within the available resources and should be a priority.

The Executive Committee recommends that this initiative be specifically included in the current Strategic Plan.

- (c) A staff working group should be created to review all relevant data related to aging of the profession and to identify organizational concerns for

review from policy and regulatory perspectives, including the impact on access to legal services. The Committee considers that this is the most effective way to act on Strategy 1-3b of the current Strategic Plan.

Aging of the legal profession was identified as an issue to which attention should be given as a priority in 2008 when the Strategic Plan was being created. However, the gathering and analysis of the census data has taken more time than anticipated. After some consideration, the Equity and Diversity Advisory Committee concluded that a staff working group should be formed to advance the issue which would allow the initiative to develop in a realistic manner under the current Plan. A staff report on what is needed to deal with the issue, which could be done within the existing resources, could lay the groundwork for developing a plan to address the issue to be included on the next Strategic Plan.

While aging of the legal profession continues to be an issue of concern, it is not realistic to expect the issue to be analysed by the end of 2011. The Executive Committee recommends that it be taken off the current Plan and that it be considered as a priority in the planning process for the next strategic plan.

3. Independence and Self Governance Advisory Committee Recommendations

- (a) The Law Society should create a Task Force to examine alternate business structures, and to develop a Law Society position with respect to such structures.

The Independence and Self-Governance Advisory Committee has identified alternate business structures (“ABSs”) as an issue of priority because ABSs seem to have some popular appeal in other Commonwealth countries as a way of reducing the cost of legal services, thereby increasing access to legal services. However, some concerns have been raised about whether ABSs adversely affect core values of the legal profession. The Committee has recommended that the Law Society develop a position on ABSs to be prepared in the event they are proposed in Canada. The issue could be subsumed into the debate by the Access to Legal Services Advisory Committee expected over the next year.

The Executive Committee believes that it would be prudent to address this issue. The Committee recommends it be included on the current Strategic Plan and that the Independence and Self-Governance Advisory Committee be tasked with preparing a position for consideration by the Benchers later in 2011.

- (b) The Law Society should create a task force to examine the dual functions of the Law Society as a regulator and insurer of lawyers, and to make

recommendations as to whether some form of separation of the functions is advisable.

This initiative has been identified by the Independence and Self-Governance Advisory Committee as a priority issue each year since 2008, but it has not yet made it to the Strategic Plan. The concern is that the function and mandate of the insurance program compromises the public interest mandate of the Law Society. Whether it needs to be addressed now or can wait for the next iteration of the Strategic Plan is open for debate. The Committee's consistent recommendation that this be addressed indicates how the Committee views the importance of the issue.

This issue is an important one to the confidence that the public must have in the Law Society being able to act in the public interest. It is not on the current Plan, however, and it is unrealistic to expect a completed strategy addressing this issue will be done by the end of 2011. The Executive Committee recommends that serious consideration be given to including it as a strategy for the next strategic plan.

- (c) The Law Society should identify and set aside resources that would allow it to commission an academic study analyzing the benefits of the public right to an independent lawyer.

This recommendation is consistent with the current Strategy 3-4 of educating the public regarding the legal system on a variety of levels. However, it is not an initiative contemplated under our current plan. If approved, it would require allocation of some of the resources available to the advisory committees.

While consistent with a current strategy on the Strategic Plan, the recommendation is not actually part of the current Plan. The Executive Committee recommends that this initiative be considered during the planning process for the next strategic plan.

4. Lawyer Education Advisory Committee Recommendations

- (a) The Committee has presented a package of recommendations to the Benchers regarding the Law Society's continued development of professional education and advocacy education initiatives.

These recommendations were approved by the Benchers on December 10, 2010, except for one that has been referred back to the Advocacy Working Group. Given the work that has been invested in the recommendations, it would make little sense not to have the Committee oversee their implementation, and would be consistent with the strategy already identified on the Strategic Plan.

As these recommendations have been substantially approved by the Benchers, the Executive Committee recommends that the initiative remain on the current Plan and that the Lawyer Education Advisory Committee be tasked to oversee their implementation.

- (b) A review of the continuing professional development program should continue with a view to assessing the many recommendations and feedback received from lawyers regarding the current delivery model, course content and qualifying criteria.

The Benchers have already committed to undertake a review of the CPD program after a couple of years of operation. It can be debated whether it needs to remain part of the Strategic Plan. On the one hand, the implementation of the program itself was the strategic initiative, and it has been completed. On the other hand, leaving it as part of the Plan identifies the issue as a continuing priority for the Law Society, allowing the Law Society to ensure that both the public and lawyers recognize the organization's commitment to perfecting the operation of the program.

The Executive Committee believes that this review is essential to the success of the CPD program, and that the Advisory Committee should undertake the review as contemplated. The Executive Committee considers that the review is operational, not strategic, and therefore need not be included in the Strategic Plan.

OTHER MATTERS

The Executive Committee considered several other items that had been identified as possible priorities to be considered for the Strategic Plan. The Committee sets out the items and makes recommendations as follows:

- (a) A review of Disclosure and Privacy Policies within the Law Society

This is an issue that has been raised by staff, and particularly by Mr. Hoskins and Ms. Crisanti. The Disclosure and Privacy Task Force recommendations as adopted by the Benchers in the early 2000s could usefully be reviewed and rationalized. While the rule changes and new practices adopted at that time moved things ahead considerably, the world is changing rapidly and there are still situations where current restrictions belie the transparency and accountability of the Law Society, and cause problems for Law Society spokespersons and Communications staff.

The Executive Committee debated whether this item was a strategic or operational issue. The Committee ultimately concluded that it was primarily operational, and that therefore the Committee would monitor the item while staff undertakes an analysis of the current rules and makes determinations as to whether changes can be made at

an operational level. If strategic issues arise, they can be considered at a later time.

- (b) Examination of the rationale/purpose of the Admission Program

This issue was identified by Credentials Committee in the 2008 Priorities briefing materials. Part of the rationale for raising the issue arose from the Competition Bureau Report recommending that law societies justify the duration of the bar admission course, hinting strongly that the Bureau preferred shorter periods of training, and noting the provinces' uneven approach to admission standards. Some aspects of this issue are currently being addressed through the Federation of Law Societies. The subject has, however, also been raised by some benchers in various discussions during Benchers or Committee meetings.

- (c) Reconciling the qualifications required in order to provide different types of legal services

This is an issue that arises in part from the Futures Committee's work leading to its 2008 Report. Are there some legal services that require a general background legal education, but may not require a full Bachelor of Laws (or Juris Doctor) degree? The Committee concluded in 2008 that it is in the public interest to expand the range of service providers who are adequately regulated concerning training, accreditation and conduct. The work done to date concerning paralegals is one aspect of the Future Committee's recommendation, but there are other things that could be considered concerning reconciling the level of qualification required to provide differing types of legal services. This issue may intersect with item (d) above.

- (d) Notaries

The Notaries' request for an expansion of the legal services they are authorised by statute to provide, and the Law Society's response and interaction with the Notaries is not really addressed in the current Strategic Plan. This may be an aspect of item (c) above.

The Executive Committee debated items (b), (c) and (d) together. Combined, the issues raised important questions about whether the Law Society should consider the level of qualification needed to provide various levels of legal services. While the issue of qualification standards for lawyers is being addressed at a national level by the Federation of Law Societies of Canada, standards for other service providers aside from notaries is a new issue. The Executive Committee recommends that this item be included in the current Plan under the third goal of "effective education," and that the Lawyer Education Advisory Committee be tasked with preparing

a preliminary report by the end of 2011 so that some direction can be provided for this issue in the next strategic plan.

(e) Public Outreach and Public Forums

Reaching out to the public about the work of lawyers, about the Law Society as a regulator of lawyers, and about the importance of law in society is an issue that the Law Society has addressed in part on an ad hoc basis (public forums) and in part through the Strategic Plan (the instructional video for use in high schools that focused on lawyer independence), and should be given some consideration to it as stand-alone priority. Public forums have been undertaken in the past. As well, a suggestion has been made that the Law Society identify high school level education on law as a strategic priority. It is understood that the current focus in Law 12 is on criminal law. The Law Society should consider addressing and, if possible, working toward implementing a broadening of the focus of the curriculum.

The Executive Committee discussed this item and agreed that some debate needed to take place how to institutionalize public outreach and legal education.

(f) Governance

A suggestion was made that governance principles be included as a strategic priority. The current Benchers Governance principles have not been reviewed for some time

The Executive Committee recommends that this item be deferred for consideration in the next Strategic Plan as it is doubtful that there are sufficient resources to dedicate to this analysis within the framework of the current Plan.

CONCLUSION

The Benchers are asked to review and debate the issues and recommendations made as set out above for the purpose of revising the Strategic Plan for 2011.

MDL/al

Attachment

0104b-strategicplan(final)



2009 – 2011 Strategic Plan Progress Report – December 2010

For: The Benchers

Date: December 2010

Purpose of Report: Information
Prepared on behalf of: Executive Committee

INTRODUCTION

The principal aim of the Law Society is a public well-served by a competent, honourable and independent legal profession. The Law Society's mandate described in s. 3 of the *Legal Profession Act* is to uphold and protect the public interest in the administration of justice.

In order to develop strategies to discharge the Law Society's mission and mandate, the Benchers have created a process to plan for and prioritize strategic policy development. This process was created to enhance the ability of the Benchers to focus on policy development that would best ensure proper fulfillment of the mandate of the Society, and to optimize staff resources in the development of those policies and strategies.

Through this process, the Benchers have identified three principal goals, and a number of policy initiatives that will achieve those goals. In identifying these goals and strategies, the Benchers have been mindful not only of what the role of the Law Society is in relation to its mandate, but also of what may be achievable within that mandate.

This Strategic Plan is aimed at achieving concrete results that will improve the public interest in the administration of justice. The process has tried to avoid simply identifying issues on which the only action would be to make general comments on matters within the mandate of the Society.

The strategic policy setting process is also to be distinguished from the operation of the Law Society's core regulatory programs, such as discipline, credentials, and practice standards. These programs are fundamental to fulfilling the Law Society's mandate and will always be priorities for the Law Society. The Benchers have established a set of Key Performance Measures against which the performance of the core regulatory programs will continue to be measured on an annual basis.

PRINCIPAL GOALS

The three principal goals of the 2009 - 2011 Strategic Plan are:

1. Enhancing access to legal services.
2. Enhancing public confidence in the legal profession through appropriate and effective regulation of legal professionals.
3. Effective education, both of legal professionals and those wishing to become legal professionals, and of the public.

PROGRESS REPORT AS OF December 2010

GOAL 1: Enhancing access to legal services.

Strategy 1-1

Increase the public's access to legal services by developing a new regulatory paradigm that may broaden the range of persons permitted to provide certain legal services.

Initiative 1-1

The Delivery of Legal Services Task Force will work in 2010 toward making recommendations about whether and how the delivery of competent legal services might be improved in a number of ways.

Status – December 2010

The Benchers approved the Task Force's Final report in October 2010. The Task Force has been continued to monitor and advance the following aspects of the report: 1) the issue of expanded roles for articulated students has been referred to the Credentials Committee; 2) the issue of Expanded roles for Paralegals needs to be fleshed out, particularly to determine alongside the Ethics Committee what changes need to be made to the Professional Conduct Handbook; 3) with respect to expanded advocacy roles, the Task Force is in communication with the BC Supreme Court regarding a working group on that topic.

Strategy 1-2

Find ways to reduce the impact of financial barriers to accessing justice.

Initiative 1-2

The Access to Legal Services Advisory Committee is currently analysing issues relating to costs in the legal system. The deliberations of that Committee and their research and findings will be passed on to the Delivery of Legal Services Task Force for consideration when addressing the substantive mandate of that Task Force.

Status – December 2010

The Access to Legal Services Advisory Committee is recommending that Initiative 1-2 be removed from the plan, as detailed in its year end report.

Strategy 1-3

Improve the retention rate of lawyers in the legal profession including, in particular, Aboriginal lawyers.

Initiative 1-3a

Preparing a business case for the retention of female lawyers in private practice.

Status – December 2010

The business case was adopted by the Benchers in July 2009. Staff continues to follow up with former Task Force recommendations aimed at improving the retention of women in the profession. . Some of these recommendations have been implemented or substantially implemented (Recommendations 1 and 2) while others require further consideration (Recommendations 3 and 5). The Advisory Committee has recommended that a feasibility assessment be conducted regarding the possible development of a “Think Tank” for British Columbia (Recommendation 4).

Initiative 1-3b

Developing a plan to deal with the aging of the legal profession and the potential regulatory and access to legal services issues that might result.

Status – December 2010

The Equity and Diversity Advisory Committee continues to monitor this issue. Census data related to aging of the profession has been gathered and needs to be analyzed. The Advisory Committee has recommended

that a staff working group be created to identify organizational concerns for review from policy and regulatory perspectives, including the impact on access to legal services.

Initiative 1-3c

Prepare a business case for enhancing diversity in the legal profession and retaining Aboriginal lawyers in particular.

The Equity and Diversity Advisory Committee will review recent research regarding retention of lawyers from diverse communities, and Aboriginal lawyers in particular, and develop a business case for diversity and the retention of Aboriginal lawyers in British Columbia.

Status – December 2010

The Advisory Committee is currently reviewing demographic data which indicates that Aboriginal lawyers are significantly underrepresented in the profession. This data will serve as the foundation of the business case for enhancing diversity and retaining Aboriginal lawyers. This initiative will be carried forward into 2011.

Strategy 1-4

Developing in collaboration with interested parties a research project, through a suitable agency, of an economic analysis of the justice system in British Columbia in order to better understand in empirical terms the economic benefit of funding justice and the systems that support the rule of law.

Status – December 2010

The Sauder School of Business at the University of British Columbia has been approached in connection with this initiative and has expressed an interest in it. The Access to Legal Services Advisory Committee has identified professors who are interested in a cost benefit analysis of the justice system. The discussion has revealed that the topic is too complex as originally envisioned, however, and the Committee is in dialogue to try and determine how the project might be more narrowly defined while not losing the intended benefit. The Committee will report back to the Benchers once it has identified a more feasible scope to determine if the Benchers are still interested in pursuing the project.



GOAL 2: Enhancing public confidence in the legal profession through appropriate and effective regulation of legal professionals.

Strategy 2-1

Effectively regulate those lawyers who have received or who receive a significant number of complaints, but which complaints, individually, are not sufficiently serious to result in formal disciplinary action or referral to the Practice Standards Committee.

Initiative 2-1

A staff group has been created to examine a series of projects to reduce the number of complaints that complaints-prone lawyers receive.

Status – December 2010

The staff group has identified and is currently working on several projects aimed at reducing the number of complaints that complaint-prone lawyers receive.

The Benchers considered “ungovernability” and referred to the Act and Rules Subcommittee consideration and development of rules and possible Professional Conduct Handbook amendments. Rule 4-35(5) has been passed by the Benchers, but changes to the Handbook have not yet been approved and remain with the Subcommittee.

The staff group has underway the early intervention project in conjunction with the Discipline Committee. A Report on that project was made to the Benchers at the July 9, 2010 meeting. The complaint rates of the lawyers in the groups will be compared periodically with the complaint rates of a historically comparable group to determine whether the interventions had any impact on the target groups.

The staff group is also working on developing criteria for referral of lawyers to the Discipline Committee on the basis of their complaints history and referring lawyers who are Practice Standards graduates to the Discipline Committee if the lawyer repeats conduct of concern. The staff group has identified several other projects for consideration when resources allow and several other projects that do not look promising although sufficient consideration has not yet been given to rule them out definitively.

Strategy 2-2

Assess possible roles of an oversight or review board for Law Society core functions.

Initiative 2-2

Is there a method to enhance the public confidence in the Law Society's decision making processes that does not run contrary to the fundamental constitutional principle of, and public right to, lawyer independence?

Status – December 2010

The Benchers considered this subject at the 2009 retreat in Whistler. Guests at the retreat presented the nature of oversight as it exists in some other jurisdictions, and the Benchers heard from the Ombudsman's office in British Columbia about the Ombudsman's oversight function of regulatory bodies in this province. The Executive Committee discussed this topic at its September 2009 meeting and determined that the Law Society would best focus on regulatory oversight models that incorporated voluntary external review or review incorporating the Ombudsman's processes should be developed further. Staff presented a further report to the Executive Committee in May 2010, and were instructed to include a policy analysis of a third model similar to the organizational audit or peer review process the accounting profession utilizes to ensure best practices. A Report to the Benchers examining the models was presented to the Executive Committee in November 2010, from which a report will be made to the Benchers' consideration in 2011.

Strategy 2-3

Enhance public confidence in hearing panels by examining the separation of adjudicative and investigative functions of the Law Society.

Initiative 2-3

The Benchers have created a Task Force to develop models by which the separation of the adjudicative and investigative functions of the Law Society could be accomplished and to make recommendations about which model to adopt.

Status – December 2010

The recommendations made by the Task Force Examining the Separation of Adjudicative and Investigative Functions of the Benchers were adopted at the July Benchers meeting. Rule changes are currently under consideration by the Act and rules Subcommittee, and further policy

decisions concerning the process of appointments are being considered by the Executive Committee.

Strategy 2-4

Effective data gathering to inform equity and diversity issues.

Initiative 2-4

Through the Equity and Diversity Advisory Committee, the Law Society will develop strategies for gathering appropriate demographic data on the profession and assess such data to inform the development of initiatives to promote equity and diversity.

Status – December 2010

The Equity and Diversity Advisory Committee is currently working with a statistics analyst who is examining 2006 Census data to develop an accurate demographic picture of the profession in BC, particularly regarding the participation of Aboriginal lawyers. This initiative will be carried forward into 2011 and will serve as the foundation for the business case for enhancing diversity and retaining Aboriginal lawyers in the profession.

Strategy 2-5

Develop and propose legislative amendments to improve lawyer regulation.

Initiative 2-5

The *Legal Profession Act* has not been substantively amended for a decade. Given the particular legislative cycle, the Law Society should consider if any amendments to legislation are needed to improve the Law Society's ability to meet its objects and duties.

Status – December 2010. The Benchers approved amendments to the Act as recommended by the Act and Rules Subcommittee. A request for amendments has been made to the Attorney General's Ministry

Strategy 2-6

Prepare a considered response to the Competition Bureau's "Study on Self-Regulated Professions."

Initiative 2-6a

Reconsidering rules relating to multi-disciplinary partnerships. The Ethics



Committee will consider the issue and present its conclusions to the Benchers.

Status – December 2010

The Ethics Committee has completed its analysis. The issue was considered by the Benchers in July 2009 at which time the Benchers resolved in principle to permit multi-disciplinary partnerships on the Ontario model subject to the preparation of draft Rules to ensure that important values of the legal profession are not compromised, as well as liability insurance issues. Rules to implement the decision came into effect on July 1, 2010.

Initiative 2-6b

Enhancing lawyer mobility by adopting rules to finalize and implement agreements made through the Federation of Law Societies to permit mobility between members of the Barreau du Québec and the common-law law societies.

Status – December 2010

The Barreau du Québec has implemented provisions permitting the mobility of common law lawyers to practise the law of their home province and federal law as members of the Barreau du Québec in Québec, and through the Federation of Law Societies, the rest of the provinces are finalizing reciprocal arrangements with Québec and the preparation of model rules through which to implement that arrangement. The Benchers passed rules to implement this arrangement on April 23, 2010 and they came in to effect July 1, 2010.

Initiative 2-6c

Modernising provisions relating to lawyers' advertising.

Status – December 2010

The Ethics Committee presented its recommendations on this subject to the Benchers, and the Benchers approved changes to provisions relating to advertising in the Professional Conduct Handbook in May 2009.

Initiative 2-6d

Reconsidering policies regarding referral fees.

Status – December 2010

The Ethics Committee has had this matter on its agenda for consideration, and has debated and made recommendations on fee sharing in the context of multi-disciplinary partnerships. Other policy considerations relating to referral fees are on the Committee's agenda, but no substantive reconsideration of the policies has occurred. Further examination is anticipated later in 2010.

Strategy 2-7

Re-examine the rules and internal processes of the Law Society relating to complaints, investigations and dispositions of professional conduct and competence matters in order to identify methods to improve the timely, thorough, fair and appropriate disposition of complaints and hearings.

Initiative 2-7

A task force will re-examine Law Society rules and processes for handling complaints and discipline hearings to determine if there are methods by which to improve the timely, thorough, fair and appropriate disposition of professional conduct concerns, including the consistency of decisions and sanctions.

Status – December 2010

The Discipline Guidelines Task Force presented its interim report to the Benchers on July 9, 2010 in connection with its review and recommendations concerning holding in abeyance the investigation of a complaint.

In September the Benchers adopted the abeyance policy first presented in the Discipline Guidelines Task Force's interim report to the Benchers on July 9, 2010. In November the Benchers adopted the Task Force's recommendations regarding the publication of Conduct Review summaries. The Task Force is continuing to work on a set of Guidelines to assist the Discipline Committee with its task of evaluating professional conduct matters and directing appropriate disciplinary responses.

GOAL 3: Effective public and lawyer education.

Strategy 3-1

Design and implement a plan to support the mentoring of lawyers.

Initiative 3-1

A mentoring program is to be presented to the Benchers for consideration.

Status – December 2010

The Lawyer Education Advisory Committee developed and presented a mentoring program to the Benchers, which the Benchers adopted at their May 2009 meeting. Rules necessary to implement the program were approved by the Benchers in November 2009. The program was implemented commencing January 1, 2010.

Strategy 3-2

Develop and implement initiatives to more effectively educate lawyers on the topic of professionalism.

Initiative 3-2

An examination of programs available in other jurisdictions, together with the development of options for such programs in British Columbia, for consideration by the Benchers.

Status – December 2010

The Report of the Professionalism Working Group was presented to the Benchers in December 2010 and the recommendations were approved. The Lawyer Education Advisory Committee will follow up to ensure the implementation of the recommendations as required.

Strategy 3-3

Develop and implement initiatives to improve advocacy skills for lawyers.

Initiative 3-3

The Lawyer Education Advisory Committee will examine initiatives relating to the teaching of advocacy skills and present options to the Benchers for consideration.

Status – December 2010.

The report of the Advocacy Working Group was presented to the Benchers with recommendations in December 2010, six of which were accepted. The Lawyer Education Advisory Committee will follow up to ensure the implementation of the recommendations as required. One recommendation was referred back to the working group for further consideration, and the Lawyer Education Advisory Committee will address that issue in 2011.

Strategy 3–4

Educate the public regarding the legal system on a variety of levels.

Initiative 3–4a

The Law Society is developing an instructional video for use in high schools.

Status – December 2010

The instructional video has been completed (and was shown to the Benchers in April 2009), as has the Teachers' Guide that accompanies the instructional video. The complete program has been delivered to high schools around the province.

Initiative 3–4b

The President of the Law Society – Gordon Turriff, QC – is undertaking a speaking tour across the province during 2009 to commemorate the 125th anniversary of the Law Society. He will address a variety of topics relating to the legal profession and its regulation.

Status – December 2010

Mr. Turriff has now completed his tour.

To Benchers
From Bill McIntosh
Date January 17, 2011
Subject **Nominations to the 2011 Finance Committee**

At the first Benchers meeting of the year two Benchers-at-large (at least one of whom is not a member of the Executive Committee) and one appointed Bencher are to be nominated to the 2011 Finance Committee. If more than two Benchers-at-large or more than one appointed Bencher put their names forward, selection of the nominees is by secret ballot at the meeting ([Rule 1-39\(11\)\(a\)](#)).

Article F-9 (b) of the BENCHERS GOVERNANCE POLICIES prescribes the Finance Committee's composition:

- (b) The Committee is composed of the following Benchers: the First Vice-president and Second Vice-president, and
- two Benchers nominated by the Benchers, at least one of whom is not a member of the Executive Committee
 - the Chair of the Audit Committee
 - an appointed Bencher nominated by the appointed Benchers.

(Authority: Bencher resolution, December, 2007)

The Finance Committee normally meets three or four times during the fee and budget preparation process (late May/first three weeks of June), and holds quarterly investment review meetings.

The Law Society of BC

We write to express our appreciation for your sponsorship of the CBABC Annual Branch Conference in Scottsdale.

The feedback from the attendees on their experiences at the Conference was very positive. In addition to participating in the scheduled presentations, the relaxed environment provided great opportunities for the delegates to network with each other and learn more about the services that your company provides.

We have had a number of delegates indicate that they are looking forward to next year's conference. The success of this year's sold out conference and this type of enthusiastic response simply would not occur without your support.

Thank you again for your contribution to the CBABC and this event.

Regards,

*Robert McDiarmid, QC, Co-Chair
Lisa Ridgedale, Co-Chair*



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