

The Law Society of British Columbia



Agenda

Benchers

Date: Friday, October 30, 2015
 Time: **7:30 am** Continental breakfast
8:30 am Call to order
 Location: Bencher Room, 9th Floor, Law Society Building
 Recording: *Benchers, staff and guests should be aware that a digital audio recording is made at each Benchers meeting to ensure an accurate record of the proceedings.*

CONSENT AGENDA:

The Consent Agenda 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. Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Executive Support (Renee Collins Goult) prior to the meeting.

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
1	Consent Agenda <ul style="list-style-type: none"> • Minutes of September 25, 2015 meeting (regular session) • Minutes of September 25, 2015 meeting (<i>in camera</i> session) • 2016 Fee Schedules 	1	President	Tab 1.1 Tab 1.2 Tab 1.3	Approval Approval Approval

EXECUTIVE REPORTS

2	President's Report	35	President	Oral report (update on key issues)	Briefing
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The Law Society of British Columbia



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
3	CEO's Report	15	CEO	<i>(To be circulated electronically before the meeting)</i>	Briefing
4	Briefing by the Law Society's Member of the Federation Council <ul style="list-style-type: none"> • Federation President's Report to the Law Societies: Federation Meetings Oct. 1-3 	5	Gavin Hume, QC	Tab 4	Briefing

REPORTS

5	Report on Outstanding Hearing & Review Decisions	1	President	<i>(To be circulated at the meeting)</i>	Briefing
6	2015-2017 Strategic Plan Implementation Update <ul style="list-style-type: none"> • Report from the Equity and Diversity Committee 	20	President / Satwinder Bains		Briefing
7	Financial Report – September YTD 2015	20	Peter Lloyd, FCPA, FCA & CFO	Tab 7	Briefing

**The Law Society
of British Columbia**



Agenda

ITEM	TOPIC	TIME (min)	SPEAKER	MATERIALS	ACTION
FOR INFORMATION					
8	<ul style="list-style-type: none"> Memo from Alan Treleaven: Barreau du Québec Bar Admission Training Process Overview 			Tab 8	Information
9	<ul style="list-style-type: none"> Memo from Andrea Hilland: Truth and Reconciliation Commission Recommendations 			Tab 9	Information
IN CAMERA					
10	<i>In camera</i> <ul style="list-style-type: none"> Anti-money Laundering Legislation – Recent Developments Bencher concerns Other business 	10	CLO President/CEO President/CEO	Tab 10	Briefing Discussion/ Decision



Minutes

Benchers

Date: Friday, September 25, 2015

Present:	Ken Walker, QC, President David Crossin, QC, 1 st Vice-President Herman Van Ommen, QC, 2 nd Vice-President Satwinder Bains Edmund Caissie Pinder Cheema, QC David Corey Jeevyn Dhaliwal Lynal Doerksen Thomas Fellhauer Craig Ferris, QC Martin Finch, QC Miriam Kresivo, QC Dean Lawton	Peter Lloyd, FCA Jamie Maclaren Sharon Matthews, QC Nancy Merrill Maria Morellato, QC David Mossop, QC Lee Ongman Greg Petrisor Claude Richmond Phil Riddell Elizabeth Rowbotham Sarah Westwood Tony Wilson
Excused:	Haydn Acheson Joseph Arvay, QC Cameron Ward	
Staff Present:	Tim McGee, QC Deborah Armour Taylore Ashlie Renee Collins Goult Lance Cooke Su Forbes, QC Andrea Hilland Jeffrey Hoskins, QC	David Jordan Michael Lucas Jeanette McPhee Doug Munro Tim Travis Alan Treleaven Adam Whitcombe

Guests:	Hon. Suzanne Anton, QC	Minister of Justice and Attorney General
	Dom Bautista	Executive Director, Law Courts Center
	Mark Benton, QC	Executive Director, Legal Services Society
	Johanne Blenkin	CEO, Courthouse Libraries BC
	Kari Boyle	Director of Strategic Initiatives, Mediate BC Society
	Anne Chopra	Equity Ombudsperson, Law Society of BC
	Jennifer Chow	President, Canadian Bar Association, BC Branch
	Tom Christensen	Outgoing Chair, Legal Services Society
	Dr. Catherine Dauvergne	Dean of Law, University of British Columbia
	Ron Friesen	CEO, Continuing Legal Education Society of BC
	Richard Fyfe, QC	Deputy Attorney General of BC, Ministry of Justice, representing the Attorney General
	Gavin Hume, QC	Law Society of BC Member, Council of the Federation of Law Societies of Canada
	Jeff Locke	Law Society Member, Fulton & Company LLP
	Linda Michaluk	Law Society Tribunal Task Force Member
	Yves Moisan	President and Treasurer, BC Paralegal Association
	Prof. Bradford Morse	Dean of Law, Thompson Rivers University
	Suzette Narbonne	Incoming Chair, Legal Services Society
	Caroline Nevin	Executive Director, Canadian Bar Association, BC Branch
	Akash Sablok	President, The Society of Notaries Public of BC
	Monique Steensma	CEO, Mediate BC Society
	Laura Tennant	Executive Assistant, Office of the Attorney General and Minister of Justice
	Carla Terzariol	CEO, Trial Lawyers Association of BC
	Prof. Jeremy Webber	Dean of Law, University of Victoria

INTRODUCTION

Attorney General and Minister of Justice Suzanne Anton

Mr. Walker welcomed the Honourable Attorney General and Minister of Justice Suzanne Anton who attended to provide the Benchers with an update on areas of focus within her Ministry.

On access to justice, the Minister highlighted four elements of access to justice: the public's increasing awareness of rights, entitlements, obligations and responsibilities; awareness of ways to resolve legal problems; the ability to access resolutions systems; and, the ability to participate in the resolution process. To meet these needs, the Government is interested in innovative and collaborative solutions with a focus on front-end service delivery. To that end, it has helped facilitate out-of-court dispute resolution programs such as the sliding scale mediation program developed by Mediate BC in conjunction with Legal Services Society, and has opened three Justice Access Centres ("JAC's"), with the hope for more over time. It is also anticipating the launch of the Civil Resolution Tribunal which aims to resolve many small claims matters through an online platform, starting with strata disputes.

On legal aid, the Minister spoke of a collaboration with the Legal Services Society that has produced a successful expanded criminal duty counsel program in Port Coquitlam, as well as expanded family duty counsel and legal advice services at the JAC's, a family law phone line, the mediation referral service referred to above and a parents' legal centre focused on child protection matters. Across all programs, there is an emphasis on early innovative solutions.

The Minister also noted the upcoming Public Safety and Justice Summit on November 6 and 7 and thanked Tim McGee and Michael Lucas for their assistance with the summit and also noted that Chief Justice Bauman has taken the lead on establishing an Access to Justice Committee to move forward on the goals and recommendations of the National Action Committee and that Deputy Minister Richard Fyfe will be actively involved.

Regarding the Law Society's legislative proposals surrounding regulation of legal service providers, the Minister noted that the timing for consideration of amended legislation by the legislature was probably a couple of years away, given the current legislative calendar. The Minister did suggest that it would put the Law Society in a good position if it had its proposals ready by the end of the 2016.

Minister Anton expressed her appreciation for the Benchers' service and partnership which has contributed to a justice system that makes our province a better place for all British Columbians.

1. Legal Services Society Update

Mr. Walker also welcomed Tom Christensen and Suzette Narbonne, the outgoing and incoming Chairs of the Legal Services Society (LSS). Mr. Christensen provided the Benchers with an overview of LSS projects that have a strategic focus on justice innovation and early, stable and fair solutions to legal problems. He echoed the Attorney General's mention of specific projects such as family duty counsel, family mediation, a family law phone advice line, the Parents Legal Centre focused on child protection matters and expanded criminal duty counsel. These initiatives, set to expire in 2017, will be followed up by evaluation by an independent research firm to assess how they have impacted the justice system as a whole.

Ms. Narbonne then spoke of the challenges posed by the finite resources and competing demands on the LSS. She expanded on the initiatives mentioned by both the Attorney General and Mr. Christensen, emphasizing their potential savings and effectiveness through continuity of service and early resolution. Commenting on the Law Society Strategic Plan initiative to pursue alternative legal aid funding sources, she noted that LSS has conducted extensive research and been unable to find alternative sources that are predictable, stable or sufficient. Instead, she suggested focus elsewhere, and encouraged Benchers to work with LSS toward two goals in particular:

- aboriginal cultural competency training, to address the overrepresentation of aboriginal peoples in the justice system; and,
- 'economy of scale' resources to allow small firms and solo lawyers, who do the most legal aid, to optimize their resources.

Benchers congratulated the LSS on the implementation of innovative programs such as expanded criminal duty counsel and the Parents Legal Centre. Additionally, Benchers commented on the significant reductions to legal aid funding that, in some cases, drive users of the system to drastic measures such as fabricating family violence situations in order to qualify. Others commented on the alarming reduction in legal aid rates paid to lawyers, which effectively have fallen by approximately 27% since 1991 and will result in fewer lawyers being able to provide legal aid services.

CONSENT AGENDA

2. Minutes

a. Minutes

The minutes of the meeting held on July 10, 2015 were approved as circulated.

The *in camera* minutes of the meeting held on July 10, 2015 were approved as circulated.

b. Resolutions

The following resolution was passed unanimously and by consent.

- Law Society Rules 2015, corrections

BE IT RESOLVED to amend the Law Society Rules as follows:

1. ***In Rule 2-115 [Refund when lawyer does not practise law], by renumbering subrule (1.2) as subrule (1);***
 2. ***In Rule 3-66, by striking “Rule 3-58 (3) [Deposit of trust funds]” and substituting “Rule 3-58 (2) [Deposit of trust funds]”; and***
 3. ***In Rule 5-12 (4), by adding the following paragraphs:***
 - (a) the same panel that made the order;
 - (b) a new panel;
 - (c) the Discipline Committee;
 - (d) the Credentials Committee..
- 2015 QC Appointments Advisory Committee

BE IT RESOLVED that the Benchers appoint President Ken Walker, QC and First Vice-President David Crossin, QC as the Law Society’s representatives on the 2015 QC Appointments Advisory Committee.

- Capital Adequacy MCT Ratio – Executive Limitation C.5(a)

BE IT RESOLVED that Executive Limitation C.5(a) be amended to state the following:

Accordingly, the CEO must ensure that Law Society budgeting:

5. in the Insurance Fund:
 - (a) Maintains adequate capital, which shall be reviewed by an actuary and monitored by the Finance and Audit Committee annually, and shall not be less than the amount required to meet the Office of the Superintendent of Financial Institutions' supervisory target Minimum Capital Test ratio [...]

EXECUTIVE REPORTS

3. President's Report

Mr. Walker briefed the Benchers on various Law Society matters to which he has attended since the last meeting, including meeting with the Attorney General and the Society of Notaries Public BC regarding the possible merger, Magna Carta events in Vancouver and Victoria, welcome events for recent judicial appointees, and introductory sessions at both UBC and Thompson Rivers law schools. Added to this list were Call ceremonies, a meeting of the Deans' Advisory Committee and various Bar events.

At the September 8 Executive Committee meeting the Executive discussed privacy measures in place and proposed for the Law Society; Mr. Walker reminded the Benchers to be mindful of the contents of laptops and briefcases, and consider the risk involved with the loss of any of that material. He noted that staff is working toward encryption and password protection of Bencher material.

Mr. Walker also noted the upcoming Annual General Meeting on October 14 and the December 3 Benchers' seminar on governance, reminding Benchers of their expected attendance.

4. CEO's Report

Mr. McGee reported (attached as appendix 1) on his recent attendance at the International Institute of Law Association Chief Executives (IILACE) Conference, at which members discussed several topics including gender injustice, and the feminization of the profession globally, as well as changes in the legal marketplace and innovation in legal education.

On gender injustice, the Conference reviewed four international approaches to recruiting and retaining women in the profession, including affirmative action programs, empirical review of

women's practice preferences, projects promoting the business case for the recruitment of women, and systems to combat workplace harassment and promote safety for women as a threshold measure. It was recognized that the area provides a wealth of opportunity for international collaboration.

On developments in the legal marketplace, members discussed alternative regulatory models, with examples being given from the UK and Wales, in which new ownership models are allowing greater public access to legal services and simplification of regulation, and the US, where detractors are citing a lack of data supporting such regulatory changes. Two factions have emerged: some advocate that regulators should lead in promoting change and others support the concept of "forebearance of regulation" that is a minimalist approach. The view of the conference was that the optimum role of a regulator is likely somewhere in between those two extremes.

On the topic of innovation in legal education, the Conference reviewed the University of Washington law school's new approach to combining the teaching of ethics and professional responsibility with leadership and social responsibility training. This broadening of the traditional approach to teaching ethics and professional responsibility has been very well received by the students resulting in high demand for those combined classes. This innovative approach was of great interest to many at the conference who have responsibility for legal education programs.

In addition to the IILACE Conference, Mr. McGee touched on the Federation National Admission Standards Project – National Assessment Proposal, noting that the report is on the Bencher Agenda for information, but that this will be a significant topic of discussion moving forward.

5. Briefing by the Law Society's Member of the Federation Council

Gavin Hume, QC briefed the Benchers as the Law Society's member of the FLSC Council, noting the upcoming Federation Council meeting and Conference in Winnipeg. The topic of the conference is the Truth and Reconciliation Commission's recommendations. The topics at the Federation meeting include Federation governance, National Admissions Standards, the National Requirement Review work plan, and anti-money laundering model regulations. The Model Code Committee is also meeting for a day. One of the topics is the ethical issues associated with judges returning to practice.

Regarding the Federation proposal on admission standards, the question was asked whether the Benchers have an opportunity to weigh in on the plan, or whether Law Societies are being asked simply whether they support the proposals or not. Mr. Walker confirmed that the Federation is seeking input; the Law Society of BC will take the position that it is not ready to commit one

way or the other, and may wish to provide input to the Federation following our own review of the program. In response to the question of what the Benchers are being asked to do by the end of the year, Mr. Hume and Mr. Walker confirmed we are unfettered in our approach to a review, and that questions of timing will be explored at the Federation meetings in October.

It was observed that the Barreau du Quebec appeared to be opting out of National Standards, with the Federation deferring to the Barreau's excellent program, but providing no details of the program itself. Mr. Walker confirmed that the Benchers would be provided with details of that program at the next Bencher meeting.

Dean Webber then expressed concern regarding possible underlying reasons for a drive toward national coordination of competencies by the Federation. Mr. Walker emphasized the value of the input from the law schools, particularly in this, their area of expertise; he also noted the drive toward change provided by increasing mobility, as reflected in the national discipline standards. The key question may not be whether to standardize, but what the appropriate standard should be.

DISCUSSION/DECISION

6. Tribunal Program Review Task Force Final Report

Mr. Crossin chaired this Agenda item to allow Mr. Walker to present the final report of the Tribunal Program Review Task Force as its Chair. The report provides recommendations for changes to the Tribunal Program model. Mr. Walker thanked the Task Force members individually and noted that the report itself was based in part on extensive consultation both within and outside of the Law Society of BC's tribunal program, as well as input received from the Benchers at the May meeting.

The report presents nine recommendations whose focus is to ensure better operation of the tribunal function of the Law Society. The report takes into consideration the value placed on adjudicative work by the Benchers.

The recommendations are:

1. Create of a code of conduct to guide adjudicators
2. Adjust criteria for appointment to hearing panel pool.
3. Reduce the size of public and non-Bencher lawyer pools to create experience.
4. Combine lawyer and Bencher pools to allow administrative flexibility in extraordinary circumstances

5. Appoint experienced lawyers as panel chairs, whether Bencher or not
6. Appoint an independent Tribunal Chair
7. Keep Life Benchers as “spares” for two years to be used in extraordinary circumstances
8. Appoint pool members to a four-year term, renewable only once.
9. Stagger terms of appointment to ensure continuity as well renewal.

Mr. Walker detailed each of the recommendations, together with the rationale for each. Following Mr. Walker’s summary, some Benchers expressed concern with recommendation 6, the appointment of an independent chair. Specifically noted was the potential loss of accountability and transparency, and the risk of the Benchers being unable to disagree with further recommendations they opposed. Also noted was a lack of detail concerning the structure of an independent chair. Others took issue with recommendations 4 through 6 combined; together they represent a further step along the continuum toward removal of Benchers’ adjudicative function, which many view as a key function of a governor of the Law Society. Suggestion was made that consideration be given to appointing an elected Bencher as tribunal chair, rather than an independent person; alternatively, it was suggested that the immediate past president be appointed tribunal chair.

Regarding recommendation 2, it was observed that nothing in the recommendation ensured that the lawyer pool was comprised of lawyers who have not been Benchers; the importance of ensuring non-Bencher participation was stressed.

Another suggested a more efficient and condensed training program that would allow faster integration of new members; also suggested was the reduction of the number of required hearings before qualifying as Chair of a panel. Others suggested that administrative changes could be made to increase efficiency, rather than changing the structure of the hearing panels. Still others requested more information about the administrative challenges be provided before any decisions are made.

A motion was made (Mr. Ferris, seconded by Mr. Mossop) to vote on the recommendations individually. It was noted that many of the recommendations are self-evident and don’t require further debate or information, while others may remain contentious. The motion was carried.

Mr. Crossin, called for votes on each recommendation:

- recommendations 1-3 were approved;
- recommendation 4 was not approved;

- there was a motion to amend recommendation 5 to reduce the previous experience required to char a panel from five hearings to 2 , which was accepted; the modified recommendation was approved;
- recommendation 6 was not approved;
- recommendation 7 was approved;
- recommendation 8 was approved;
- recommendation 9 was approved.

7. Presentation of 2016 Budget & Fees

Mr. Lloyd, Chair of the Finance and Audit Committee, presented recommendations for the 2016 Budget and fees (found at page 125 of the Agenda package). He thanked the Committee members, the management group and staff, and conveyed particular gratitude for all the hard work and guidance of Chief Financial Officer Jeanette McPhee and Controller Aaron Griffith.

Reviewing the recommendations, Mr. Lloyd confirmed that 2016 practice fee recommendation was \$2057, representing an increase of \$65 or 3.3%. In addition, it is recommended the insurance fee remain at the current \$1750.

He reviewed the budgeting process, the focus of which is to deliver the core regulatory programs and to support the continuing initiatives under the Law Society's strategic plan and mandate. He also reviewed the major assumptions in the process, including anticipated income from new and returning members, as well as operating expenses. On the latter, while costs and expenses are tracked rigorously to help provide certainty, some factors remain subject to forces beyond control and are thus difficult to predict. Two areas that have proven unpredictable and have resulted in increased costs in recent years are external counsel fees and the amount of savings expected from staff vacancies. Factors contributing to increased external counsel costs are conflicts, workload, and the requirement of specialized expertise. There has also been an increase in the complexity of cases and correspondingly, the number of hearing days have increased. Going forward, the budget will reflect this new reality and the external counsel fees budgets have been increased to reflect recent trends. The Committee has also asked management to review the external counsel fee model to determine if changes could be made in the future.

Mr. Lloyd also reviewed the funding of external programs, which represents approximately 20% of the practice fee. The specific programs and amounts are found at page 16 of the Committee's report. Additionally, he noted that prior funding of the REAL initiative was funded from the reserve, but given the continuity of the program, has now been added to the practice fee.

Reviewing the Lawyers Insurance Fund, Mr. Lloyd noted that the insurance fee will remain the same in 2016. He also noted that the investment returns are projected at 5.9%, but that these projections are subject to market fluctuations. To address the potential volatility, the Committee has increased the diversity of assets within the fund by changing the asset mix, and adding a real estate fund and mortgage fund.

Mr. Lloyd moved (seconded by Ms. Kresivo) the following resolution:

Be it resolved that:

- Commencing January 1, 2016, the practice fee be set at \$2057.09, pursuant to Section 23(1)(a) of the Legal Profession Act;
- the insurance fee for 2016 pursuant to section 30(3) of the Legal Profession Act be set at \$1,750;
- the part-time insurance fee for 2016 pursuant to Rule 3-40(2) be set at \$875; and
- the insurance surcharge for 2016 pursuant to Rule 3-44(2) be set at \$1,000.

The resolution was approved unanimously.

8. Legal Aid Task Force

Mr. Crossin reviewed the memo from the Executive (found at page 177 of the Agenda package) and confirmed the Executive's recommendation that the Benchers strike the Task Force. He then moved (seconded by Ms. Merrill) the following resolution:

BE IT RESOLVED to create the Legal Aid Task Force, whose mandate is to:

1. develop a principled vision for the Law Society concerning publicly funded legal aid;
2. identify what sources of funding for legal aid programs might exist apart from government;
3. identify ways that the Law Society could promote and improve lawyer involvement in delivering legal services through legal aid plans;
4. identify ways to enhance Law Society leadership concerning legal aid; and
5. develop the best methods engagement with other organizations to coordinate the efficient use of resources in improving publicly funded legal aid.

Following Mr. Walker's call for discussion, it was observed that item 2 of the proposed mandate may signal an acquiescence to the government's inadequate funding, and assume a responsibility that should properly rest with the government. Mr. Crossin agreed that it was the government's responsibility to provide adequate legal aid funding, and noted that inclusion of item 2 was to ensure that the Task Force not lose sight of alternative funding sources that might arise in the course of its work. It was suggested that item 2 be amended to read "identify what sources of funding for legal aid programs might exist *in addition to* government". In response, others observed that, while it is indeed the responsibility of the government to provide adequate funding, historically the government's contributions have been inadequate; it would seem prudent to begin to seek alternative sources of funding elsewhere.

Mr. Crossin suggested amending the resolution by deleting item 2, on the understanding that on a practical level, the Task Force will remain alive to alternative funding sources. It was observed that LSS had earlier emphasized the need for stable, enduring funding, so any potential sources should be considered with these criteria in mind. Mr. Crossin's motion to amend was supported by Ms. Merrill and met with agreement around the table.

The resolution as amended was approved, with one abstention.

9. Law Firm Regulation Task Force: Briefing on Consultation Paper

Mr. Van Ommen updated the Benchers on the draft consultation report which should be finalized following the next meeting of the Task Force. Once finalized it will be circulated to the profession for feedback, and consultation around the province can begin.

10. Equity & Diversity Advisory Committee: Diversity & Inclusion Award Draft Criteria and Process

Satwinder Bains, acting Chair, introduced committee member Jamie McLaren to present the recommendations of the Equity and Diversity Advisory Committee on the selection criteria for the Diversity and Inclusion award. The award itself originated with the 2000 consideration of historical discrimination and exclusion of certain persons from the Bar of British Columbia by the Law Society. Rather than confer posthumous Call on one such person, the Benchers resolved to create an award to recognize diversity and inclusion and notable contributions to human rights. Recent inquiries of Benchers into the earlier discrimination revealed that no further work had been done in the development of the award.

Accordingly, the Equity and Diversity Committee was charged with the award's development; the Committee has now developed selection criteria for the Benchers' consideration and approval.

Ms. Bains moved (seconded by Ms. Merrill) that the Benchers accept the criteria of the award and start the implementation process. The motion was approved unanimously.

REPORTS

11. 2015-2017 Strategic Plan Implementation Update

This matter was carried over for presentation at the October 30 Bencher meeting.

12. Report on the Outstanding Hearing & Review Reports

Written reports on outstanding hearing decisions and conduct review reports were received and reviewed by the Benchers.

RCG
2015-09-25

The Law Society *of British Columbia*



CEO's Report to the Benches

September 2015

Prepared for: Benchers

Prepared by: Timothy E. McGee

2016 Budget and Fees Recommendation

The Budget and Fees planning process, which included an in-depth departmental review of all programs and three meetings with the Finance and Audit Committee, has culminated in the Finance and Audit Committee report to the Benchers recommending the fees for 2016 and presenting the underlying operational budgets.

The approach that has been taken again this year is to present recommendations to the Finance and Audit Committee reflecting balanced budgets, limited use of reserves and sufficient funding for the proper performance of our core regulatory responsibilities.

Peter Lloyd Chairman of the Finance and Audit Committee together with Jeanette McPhee, our Chief Financial Officer, and I will be at the meeting to address any specific questions you may have and to provide additional details as requested.

Events and Conferences

2015 International Institute of Law Association Chief Executives (IILACE) Annual Conference – Washington DC

I attended the annual IILACE Conference in Washington DC on September 9 – 12. I am currently serving the first of a 2 year term as the President of IILACE and in that capacity I acted as the conference chair. The business program covered 3 themes: “Ethics and Professional Responsibility”, “Management / Governance” and the “Legal Market”.

The stated purpose of IILACE is to create a forum for a small group of executives to discuss important topics for the regulation and representation of the profession and to compare notes on operational and governance matters. This year we had a record number of delegates (47) from over 35 countries. Among those participating were the CEOs of the Law Society of England and Wales, the Solicitors Regulation Authority, all the major state jurisdictions in Australia, the ABA and several US state bar regulatory and representative organizations, and the heads of similar organizations from Germany, Scandinavia, Japan, China, Hong Kong and Africa, as well as several of my Canadian colleagues.

We also had the very special opportunity to be hosted by the Canadian Embassy in Washington for a reception and dinner. The Canadian Embassy occupies a unique

and very dramatic location between the White House and the Capitol building, the latter being in full view from the expansive terraces where we were situated. This was a proud moment for those of us Canadians in attendance and I alluded to this in my address at the dinner. Similarly moving and inspiring was the reception and dinner held inside the United States Supreme Court. We were the official guests of the Chief Justice of the United States John Roberts courtesy of contacts made through the office of Chief Justice Beverley McLachlin. In my dinner remarks I acknowledged the very special nature of our setting noting that decisions of the Court made over time have been instrumental in shaping one of the world's great democracies.

Judging by the level of engagement during the business sessions and the feedback to date this was one of the most successful conferences yet. Topics covered included many of those which are currently part of our LSBC Strategic Plan, including entity / firm regulation, ABS's, and gender and diversity challenges for the profession. A good portion of the program was also dedicated to personal CEOs discussion of organizational governance and management issues, which we all find particularly valuable. I will prepare a complete briefing on the topics and the take-aways for LSBC for the next Bencher meeting. In the meantime, I am attaching a copy of the Conference Program to this report for your information and I would be happy to discuss any of the topics in greater detail.

Fifth British Columbia Justice Summit – November 6-7, 2015

The Law Society has supported the Ministry of Justice and Attorney General in organizing and participating in a series of justice summits since their inception in 2013. The summits have focused on bringing together key participants in the justice system including the judiciary, the justice ministry, lawyers, community agencies, municipalities, police agencies, legal service organizations and members of the academic community to address the most pressing issues within the justice system. I have acted as the Moderator in several of the previous summits and have been invited to do so again for the next summit being held in Vancouver on November 6 -7. The Summit Steering Committee is presently working on the specifics of the summit topic and program and I will have more to report in October.

Kootenay Bar Association Meeting – September 19 to 20 – Kaslo, BC

President Walker and I attended the fall meeting of the Kootenay Bar Association in Kaslo this past weekend. We were warmly welcomed to the business sessions and the social events by our Kootenay Bencher Lynal Doerksen and by Lilina Lysenko, President of the KBA and the others members in attendance. We were invited to give a report from the Law Society and Lynal, Ken and I covered a number of topics including the discussions with the Notaries and the related working groups, the review of our bar admission program and PLTC, the expansion and improvement of our Lawyer Advice services and the work of the Entity Regulation Task Force. We also took the opportunity to talk about the trend of increasing length and complexity of discipline hearings and the budget pressures that presents. We also had a good discussion about the concept of a national exam as reflected in the Federation's National Admissions Standards Project and how that may affect choices the Benchers will be making about the future of our own bar admissions program.

Federation of Law Societies of Canada Bi Annual Conference and Business Meetings – September 30 to October 3 – Winnipeg, Manitoba

The Federation's fall conference this year is being held in Winnipeg and in addition to the regular business program which includes meetings of the CEO's Forum, the Presidents Forum, and the Council of the Federation, there is also a conference portion entitled "A Call to Action: Responding to the Truth and Reconciliation Commission Recommendations". The business agenda will include a presentation of the next version of the report of the Governance Review Task Force and updates regarding the National Admissions Standards Project and the National Requirement Task Force. Benchers who are planning to attend in Winnipeg in addition to Ken and Gavin are Miriam Kresivo QC, Maria Morellato QC and Tony Wilson.

University of Victoria Law School – Legal Ethics and Professional Responsibility Class – September 23

Once again I am presenting to the UVIC Law School Legal Ethics and Professional Responsibility course run by Professor Martha O'Brien. My presentation is entitled

“Law, Lawyers and the Public Interest – Modern Dilemmas”. I set the context for the role of the Law Society as a regulator and then examine the sometimes not easily reconciled obligations of lawyers to clients, the courts and increasingly to society at large. Using two case studies we examine some of the boundaries of these issues and identify how certain ethical, moral and / or professional dilemmas may arise.

PLTC Thank You

Thank you to the following Benchers, Life Benchers and Law Society Staff Lawyers who volunteered their time and expertise to teach Professional Responsibility to the PLTC students on September 10.

Craig Ferris, QC, Bencher

Sharon Matthews, QC, Bencher

Carol Hickman, QC, Life Bencher

Gordon Turriff, QC, Life Bencher

Mark Bussanich, Staff Lawyer, Professional Conduct

Kieron Grady, Staff Lawyer, Discipline Counsel

Kurt Wedel, Staff Lawyer, Investigations, Monitoring & Enforcement

Timothy E. McGee

Chief Executive Officer



IILACE Annual Conference 2015

Washington, D.C. | September 9-12
Presented by LexisNexis and Willis



National Mall Skyline at Dusk | Photo by: Destination DC

Supported by

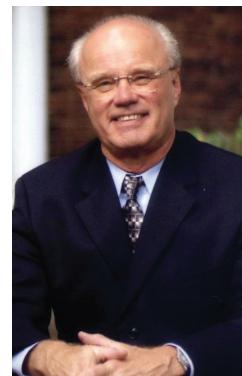
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Invitation to the Largest Gathering of CEOs of Law Societies and Bar Associations



Tim McGee
CEO of the
Law Society of BC



Paul Carlin
CEO of the
State Bar of Maryland

Dear Colleagues,

We are very pleased to provide you with the IILACE 2015 program for our conference in Washington, D.C., the Capitol of the United States.

IILACE is unique in that it brings together chief executives of law regulators and bar associations from around the world to exchange views on strategic and executive issues. At our last conference, we had CEO's from organizations in over 35 countries collectively regulating and/or representing over 1.5 million lawyers.

The program committee, chaired by Cord Brügmann, has put together a wonderful substantive program which takes place over 3 days with 3 corresponding themes: "Ethics and Professional Responsibility", "Management and Governance" and "The Legal Market". We are certain this will be of great interest to IILACE members from all parts of the world.

The social program begins with an opening reception on Wednesday evening at Loews Madison Hotel, our conference headquarters. Thursday night's dinner will be at the Canadian Embassy where you will enjoy an amazing view up and down Pennsylvania Ave, which has the Capitol Building at one end, and the White House at the other end. We are very honoured to have the Closing Gala dinner at the U.S. Supreme Court. You will enjoy the historic ambiance of this wonderful building and feel very much part of U.S. legal history.

There are a host of exciting sites and venues for you to visit which are only a few blocks for the conference hotel. The list of world class museums is extensive, such as the National Air & Space Museum and the Smithsonian Institute. Most are clustered close to each other on the Federal Mall between the Washington Monument (the obelisk) and the US Capital, and admission to all of them is free.

There are also numerous impressive memorials close by such as the Lincoln Memorial, the Jefferson Memorial and the Martin Luther King Memorial. Plus, of course, the White House, the US Capital Building, the US Supreme Court and the Library of Congress are all world famous landmarks.

All in all a very exciting program indeed, and we encourage you to register as soon as possible. Please note that as well, there is a side trip to historic Annapolis, home of the U.S. Naval Academy and the State Capitol of Maryland. The trip will include a dinner cruise on Chesapeake Bay, as well as a tour of the U.S. Naval Academy. We depart Saturday afternoon at 2:00 pm and return Sunday afternoon at 3:00 pm. The deadlines for both reserving your hotel room and reserving the side trip to Annapolis is July 24, 2015. We urge you to make your reservation as soon as possible.

We are looking forward to welcoming you to Washington, D.C.

Safe travels!

Tim McGee
President of IILACE

Paul Carlin
CEO of the State Bar of Maryland



IILACE Annual Conference 2015

Business Program

All sessions take place at Loews Madison

Wednesday, September 9

- 17:30 - 19:00 **Opening Reception**
Sponsored by the State Bar of Maryland
 Loews - Potomac Room

Thursday, September 10 - Ethics and Professional Responsibility day

- 7:30 – 8:30 **Breakfast** (open to all Delegates, Spouses and Guests)
 Hamilton Room
- 8:30 – 8:45 **Welcome**
 Tim McGee, Paul Carlin
- 8:45 – 10:05 **Session #1: Gender in Justice – an insight into the worldwide profession from the perspective of gender**
Sponsored by the Law Society of Northern Ireland
Chair: Christine Grice
 Panelists: Tadashi Ara, Hope Ndhlovu-Chanda
 The legal profession becomes more and more female. More women than ever attend law school; we have more female lawyers than before. Does this change the profession, and if so: What do these changes look like? How do bar associations and law societies support this change?
- 10:05 – 10:25 **Break**
- 10:25 – 11:45 **Session #2: The fine line between protecting members' interests, promoting and protecting public interest and regulating the affairs of members – which cap to wear, when and why?**
Sponsored by the Law Society of British Columbia (Canada)
Chair: Paula Littlewood
 Panelists: Paul Philip, Janet Neville, Rampela Mokoena
 Following our discussion in Berlin 2013, we want to look at the role of regulators and representative organizations again. Is there still pressure on organizations that appear to have trouble keeping representative and regulatory duties separate? Does the inclusion of non-professionals in regulatory bodies have any ramifications? Has a best practice system evolved?



IILACE Annual Conference 2015

Thursday, September 10 - Ethics and Professional Responsibility day (cont'd)

11:45 – 12:05 **Business for the Rule of Law**

Presentation by Nigel Roberts, LexisNexis

12:05 – 12:50 **Lunch Break**

Sponsored by ASI

12:50 – 15:00 **Session #3: Ethics and professional responsibility of lawyers (cont. of Robben Island 2014 discussion)**

Sponsored by the Law Society of New South Wales (Australia)

Chair: Lorna Jack

Panelists: Ken Murphy, Nic Swart

From the 2014 program: "... We will have a provocative panel discussion focusing on the ethical behavior and professional responsibility demonstrated or lacking in legal practice today ..."

The discussion on this topic began on Robben Island and is very much worth continuing.

15:00 – 15:20 **Break**

15:20 – 16:30 **Session #4: Rapid response mechanisms for managing failing / collapsing law firms**

Sponsored by the Law Society of Ireland

Chair: Edward Mapara

Panelists: Heidi Chu, Jack Rives, Thinus Grobler

There are many issues that can pose threats to law firms: Outside factors such as bad press, or inside factors like mismanagement. How can bar associations and societies react? Should we have a toolbox ready to help members who face existential dangers?

18:30 **Thursday Night Dinner**

Sponsored by LexisNexis

Canadian Embassy

Dress: Business attire

Buses depart at 6:40 pm from the Loews Madison

Reception 7:00 pm to 7:45 pm

Dinner 7:45 pm to 9:45 pm

Washington, D.C.

Friday, September 11 - Management / Governance day

7:30 – 8:30	Breakfast (open to all Delegates, Spouses and Guests) Hamilton Room
8:30 – 9:45	Session #5: Challenges in working with your board <i>Chair: John Hoyles</i> <i>Sponsored by the Canadian Bar Association</i> Panelists: Paul Carlin, Catherine Dixon, Joe Dunn <p>This topic is one of the ongoing themes for IILACE conferences. There are manifold challenges for CEOs in working with a board, and coping with these challenges effectively can be the key to a smooth running organization.</p>
9:45 – 10:05	Break <i>Sponsored by the State Bar of Wisconsin</i>
10:05 – 12:00	Session #6: Corporate governance in professional associations / self-regulation bodies <i>Sponsored by the Federation of Law Societies of Canada</i> <i>Chair: Tim McGee</i> Panelists: Lorna Jack, Cord Brügmann, Makanatsa Makonese <p>We want our members to work to the highest standard. Can we promote these standards without being role models ourselves? In this session we will explore how our organizations can have a reputation for using best practices.</p>
12:00 – 12:20	Presentation by Fastcase
12:20 – 13:30	Lunch Break <i>Sponsored by Fastcase</i>
13:30 – 14:40	Session #7: The use of social media in promotion of the profession – pros and cons <i>Sponsored by Fastcase</i> <i>Chair: Merete Smith</i> Panelists: Megan Lawton, Ciara Murphy Guest speaker: Reid F. Trautz <p>Social media has become indispensable for a number of law firms. Do we use social media? If so, what can we achieve with it, whom can we reach? Is the use of social media only interesting for large organizations, or is it a good tool for the smaller ones as well? (<i>Continued on page 6</i>)</p>



IILACE Annual Conference 2015

Friday, September 11 - Management / Governance day (cont'd)

We will discuss with and learn from Reid F. Trautz, Director of the American Immigration Lawyers Association's Practice & Professionalism Centre.

14:40 – 15:00 **Break**

Sponsored by the Law Society of Saskatchewan (Canada)

15:00 – 16:30 **Session #8: Alternate sources of fundraising / of generating revenue for our organization's financial sustainability**

Sponsored by the Law Society of Upper Canada (Ontario)

Chair: Retha Steinmann

Panelists: Kaleb Lameck Gamaya, Caroline Nevin

Organizations with mandatory membership have the power of taxation. Voluntary bodies can lose members who are not satisfied with the job their association does. Is it important to generate revenue besides membership dues? Or does that threaten the independence of associations?

18:30 **Friday Night Dinner**

Sponsored by Willis

U.S. Supreme Court

Dress: Black tie or national dress optional

Reception at the U.S. Supreme Court

Buses depart at 6:30 pm

Reception 6:50 pm to 7:30 pm

Dinner 7:30 pm to 9:30 pm

Saturday, September 12 - Legal Market day

7:30 – 8:30 **Breakfast** (open to all Delegates, Spouses and Guests)
Hamilton Room

8:30 – 8:55 **Presentation by ASI**

8:55 – 9:30 **Results of the IILACE strategic planning project**
Tim McGee, Cord Brügmann

9:30 – 10:00 **IILACE AGM**

Washington, D.C.

10:00 – 10:15 **Break**

10:15 – 11:30 **Session #9: External ownership of law firms, new developments**

Sponsored by the Law Society of Hong Kong

Chair: Paul Mollerup

Panelists: Paul Philip, Robert Lapper

Guest speaker: Nick Robinson

Another ongoing topic for IILACE conferences, we want to explore which new developments we see worldwide. In this session we will share experiences and have an interesting outside view from an eminent academic, Nick Robinson of the Harvard Law School Program on the Legal Profession.

11:30 – 11:45 **Presentation by Willis**

11:45 – 13:00 **Session #10: International mobility in global legal markets**

Sponsored by the Law Society of Manitoba

Chair: Jack Rives

Guest speaker: Laurel Terry

Boxed lunches will be available

Some decades ago, law was a rather narrow-minded subject. Lawyers were able to thrive without knowing anything about the world outside national borders. Today, not only large international law firms deal with international law. Young lawyers want to gain experience abroad. Continents grow together with the law being a driver of that development. In this session we will explore how we regulate and represent in global legal markets, and we will learn from a well-known and excellent Guest speaker Laurel Terry of Penn State's Dickinson Schools of Law.

13:00 **Conference Concludes**

14:00 Post-conference trip to Annapolis. Bus departs from the Loews Madison.

Post-conference trip returns to Loews Madison at 3:00 pm Sunday.

Historic Annapolis



The post-conference trip will take folks to the historic town of Annapolis, home of the US Naval Academy and the Capital for the State of Maryland.

The excursion will involve arriving at our hotel in Annapolis at about 2:30 pm on Saturday, September 12. The afternoon will be available for people to walk the beautiful historic streets of Annapolis and to sightsee as they wish. In the early evening we will depart by bus to the harbor for a wonderful dinner cruise on the Severn River and Chesapeake Bay. After the cruise we will return to the hotel which has a wonderful indoor/outdoor bar where we can celebrate the end of the day.

On Sunday morning after breakfast, we will travel to the historic US Naval Academy for a tour and then on to the very interesting Fort McHenry. We will proceed from there to the Inner Harbor in Baltimore where we will have lunch and we will return to the Loews Madison Hotel in Washington for 3:00 pm.

It will be an opportunity to enjoy a slice of American history.



Photos courtesy of www.visitannapolis.com



Registration Form

Washington, D.C. | September 9 - 12

Name of Chief Executive _____ Title _____

Name of Law Association _____ E-Mail _____

Address _____ Telephone _____

Conference Registration

- I will attend the IILACE Washington 2015 Conference _____
US \$895 registration fee. Includes all meetings and educational sessions, breakfasts and lunches, reception on Wednesday and dinners on Thursday and Friday.
- I will be accompanied. The name of my guest is _____
US \$495 guest registration fee. Includes reception and dinners on Thursday and Friday, and breakfast on Thursday, Friday and Saturday.

Post-Conference Trip Registration (must be registered by July 24th)

- I will attend the tour of Annapolis
US \$865 Single occupancy registration fee.
 Includes return bus transportation, accommodation, dinner on Saturday, and breakfast and lunch on Sunday.
- I will attend the tour of Annapolis
US \$890 Double occupancy registration fee.
 I will be accompanied. The name of my guest is _____
 Includes return bus transportation, accommodation, dinner on Saturday, and breakfast and lunch on Sunday.

Historic IILACE Conference Photo Books

I would like to purchase the following Commemorative IILACE Conference Photo Books, at US \$30 each:

- Vancouver, Canada Adelaide, Australia Hong Kong, China Berlin, Germany
 Cape Town, South Africa

TOTAL PAYMENT: Conference Registration Fee: \$ _____ USD
 IILACE Annapolis Trip Registration Fee: \$ _____ USD
 Purchase of Photo Books: \$ _____ USD
 GRAND TOTAL: \$ _____ USD

Payment Information

Pay in one of three ways:

1. Send a cheque to: John Hoyles, Chief Executive Officer
 Canadian Bar Association
 865 Carling Avenue, Suite 500
 Ottawa, ON, K1S 5S8 Canada
 Please make cheques payable to IILACE

NEW! 2. Pay Online Now

3. Pay by Credit Card: VISA MasterCard American Express

Name on card: _____

Card Number: _____ Expiry: _____

Cardholder Signature: _____

3. Wire your money to: IILACE Account
 Bank Account number: 400 181 4 Royal Bank of Canada
 Bank Transit number: 01326 Westgate Shopping Centre
 Bank Number: #003 1309 1309 Carling Avenue
 Bank Swift Code: ROYCCAT2 Ottawa, ON H1Z 7L3

IMPORTANT: Once you have wired your money, please send an email to info@iilace.org confirming the day the money was wired for our tracking purposes.

Send your registration form by email to info@iilace.org or by fax to +1-613-237-0185 (Canada), attention of John Hoyles



Accommodation Reservation Form

Washington, D.C.
September 9 - 12



LOEWS

MADISON HOTEL
WASHINGTON DC

THE ROOM YOU NEED

1177 15th St. NW
Washington, D.C. 20005
Phone: 202-862-1600
Fax: 615-340-2001

When making your booking, please quote the reference:

Name: _____

Address: _____

Tel. No: _____ Fax: _____

Cell No: _____ Email: _____

Please select your requirements

Single/double room occupancy US \$219 + taxes

Number of nights _____ at _____ Total _____

Date of arrival: _____ Date of Departure: _____

To confirm the booking, at least one night's accommodation must be paid:

Method of payment

Credit Card

Name of Card Holder

Type of Credit Card

Credit Card Number

Expiry Date

Signature

Date

Direct Link for Registration:

Please make your room reservation by using the following link
www.loewshotels.com/madison/Canadian-Bar-Association?corpcode=MDB909

If you need to extend your stay pre- or post-conference, please contact the hotel directly at 1-855-325-6397.

REDACTED

MATERIALS

REDACTED

MATERIALS



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC
Date: October 1, 2015
Subject: **2016 Fee Schedules**

1. Before the end of each calendar year, the Benchers must revise the fee schedules, which appear as schedules to the Law Society Rules, to reflect changes taking effect on the following January 1.
2. Under section 23(1)(a) of the *Legal Profession Act*, the Benchers have approved a practice fee of \$2,057.09 for 2016. The insurance fee was also approved at \$1,750 for lawyers in full-time practice and \$875 for those in part-time practice, both of which are unchanged from 2015.
3. In addition, the enrolment fee for PLTC was increased from \$2,250 to \$2,500 effective September 1, 2015. Since that change is now in effect, the transitional provisions in the 2015 schedule can be removed.
4. I attach a suggested resolution that will give effect to the changes.

JGH

Attachments: resolution

2016 FEE SCHEDULES**SUGGESTED RESOLUTION:**

BE IT RESOLVED to amend the Law Society Rules, effective January 1, 2016, as follows:

1. *In Schedule 1,*
 - (a) *by striking “\$1,992.00” at the end of item A 1 and substituting “\$2,057.09”, and*
 - (b) *by rescinding items D 4 and 5 and substituting the following:*
 4. Training course registration (Rule 2-72(4)(a) [Training Course] 2,500.00
 5. Remedial work (Rule 2-74(8)):

(a) for each piece of work	50.00
(b) for repeating the training course	3,900.00
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 “2015” and substituting “2016”.*

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



President's Report to the Law Societies

October 2015

From: Thomas G. Conway, President
Federation of Law Societies of Canada

To: All Law Societies

Date: October 21, 2015

INTRODUCTION

1. In a few short weeks, I will complete my term as President of the Federation of Law Societies of Canada. While the work of the Federation has continued apace, as I report below, this year has been marked by reflection and introspection about its role and how that role is accomplished. I am more convinced than ever, after the many consultations, conversations, meetings and workshops that punctuated this year's governance review process, that if the Federation did not exist, somebody would have to invent it. For there is no better way for the diverse array of provincial and territorial regulators of the legal profession in Canada to come together and collaborate nationally on the common objectives that transcend our borders.
2. I am immensely proud of the Federation and the people from every corner of the country who breathe life into its work every day, whether they are elected or serve as staff members. It has been an honour to have been at the head of this important national organization for the past year and I am confident that it will be in sure and steady hands when my successor, Jeff Hirsch of Manitoba, takes the reins on November 15th.
3. This is my report of the Annual Conference and Council meeting that was held in Winnipeg on October 1-3, 2015.

ANNUAL CONFERENCE

4. The Federation's Annual Conference marked the beginning of a national dialogue on the Calls to Action issued by the Truth and Reconciliation Commission. The conference brought together representatives of all Canadian law societies, Aboriginal leaders, and other key stakeholders to explore the path to reconciliation and the role that regulators and members of the legal profession can play on this important issue.
5. Following a welcome by Dakota Knowledge Keeper Henry Skywater, Justice Murray Sinclair, Chair of the Truth and Reconciliation Commission ("TRC") spoke about the important role to be played by lawyers and regulators of the legal profession in achieving reconciliation with indigenous peoples. Noting that law is essential to reconciliation, he cautioned that indigenous people view lawyers and the legal system with significant mistrust, a feeling aggravated by the handling by some lawyers of residential school settlement agreement claims. Justice Sinclair emphasized the need for greater cultural awareness by lawyers, including recognition of the existence of indigenous legal orders. A dialogue based on respect is central to reconciliation, he said.

6. Other speakers at the conference also addressed the importance of awareness of and respect for indigenous laws and the need for lawyers and others to acquire a deeper understanding of our shared history. Speakers identified the need to change our collective sense of what is important as one of the biggest challenges to getting law societies and other institutions engaged in work on cultural competence.

7. Most of the second day of the conference was focused on how the Federation and the law societies might respond to the TRC recommendations. There was a consensus amongst participants that responding to the calls to action must be meaningful and prompt and must include direct collaboration with indigenous peoples from the outset. There was also a general consensus on the value of working collaboratively through a national working group to both maximize resources and send a message that the regulators are serious about responding to the TRC recommendations. Possible initiatives considered included the development of model national standards for cultural competence training and the development of a training module. Participants also highlighted the implications of responding to the TRC recommendations for both the common law program approval process and the national admission standards project and the need to collaborate with the law deans.

8. The final session of the conference provided an opportunity for law society leaders to identify and share ideas about local initiatives to respond to the calls to action.

9. Conference participants were enthusiastic about continuing this conversation and exploring how we can respond to the TRC's calls to action working collaboratively with Indigenous peoples. At the close of the conference I made a commitment to quickly articulate a national vision for moving forward to reflect the urgent attention these issues require. To that end I anticipate that this issue will be considered at the next meeting of the Federation Council.

COUNCIL MEETING

10. The Council of the Federation met on October 1, 2015. Council is the governing body of the organization and consists of 14 individuals nominated by the law societies plus three Executive officers - the President, the Vice-President and President-elect and the Past-President. One of the law society nominees is also designated as a Second Vice President. The Council meets no less than four times each year – twice in conjunction with national conferences that bring together the top leadership of the law societies including Presidents, Vice Presidents and senior staff. The Council also meets in person at the beginning of June and in December of each year.

11. The leadership of the Federation is determined by an Executive ladder system with a regional rotation. At the Council meeting, Sheila MacPherson, Council member nominated by the Law Society of the Northwest Territories, was selected to join the Executive as Second Vice President. She will become President of the Federation in November 2017, following Maurice Piette's term that begins in November 2016. Maurice has been a Federation Council member for many years, representing the Chambre des notaires du Québec. With Jeff Hirsch at the helm in 2015-2016, this is truly an outstanding group of leaders.

12. Set out below is a summary of the matters reported to or discussed by Council at our October meeting.

Status of Permanent Committees and National Initiatives

13. **National Committee on Accreditation**. The NCA's mandate is to assess the legal education and professional experience of persons whose legal education and professional experience were obtained outside of Canada, or in a Canadian civil law program, and who wish to be admitted to a common law bar in Canada. In financial year 2014-2015, the NCA received 1,455 applications for assessment, a 12% per cent increase from 2013-2014. In that same financial year, 892 Certificates of Qualification were issued, a 15% increase from 2013-2014. In 2014-2015, over 5,000 examinations were written in four sessions. Examinations in each session are typically written in 30 locations around the world.

14. **Canadian Common Law Program Approval Committee**. The Approval Committee is mandated by Canada's law societies to assess Canadian common law programs to determine whether they comply with the National Requirement that graduates must meet for entry into Canadian bar admission programs. The Committee met in June 2015 to evaluate 20 law school reports. As required in the committee's iterative process, initial feedback and questions were sent to the law schools in the summer and all schools were responsive. The application of the National Requirement to joint, dual and one year programs for Canadian civil law graduates is deferred until 2017. The committee will next meet in January 2016 to discuss various issues including the evaluation of learning resources, a key issue for the committee due to challenges in evaluating facilities, libraries, etc. without visits to the schools and given the variation in funding, size, and organization of Canadian law schools.

15. **Steering Committee on National Admission Standards Project**. The mandate of the Steering Committee is to provide strategic direction for the development and implementation of high, consistent and transparent national standards for admission to the legal profession in Canada ("National Admission Standards"). In September, an assessment proposal, representing the next step in the National Admission Standards project, was circulated to law society Presidents and CEOs with a request that the proposal be passed on to the appropriate parties in each law society. The assessment proposal and supporting documents provide a vision and structure for moving forward with the development of a national qualifying assessment system for admission to the legal profession in Canada. Law societies have been asked to review the proposal carefully to determine whether they are prepared to move forward with a national assessment system. Meetings with law society leaders are planned throughout the fall.

16. **Standing Committee on National Discipline Standards**. The mandate of the Standing Committee is to facilitate implementation of the national standards established for law society handling of complaints and discipline matters ("National Discipline Standards") and to make recommendations to Council for amendments to the National Discipline Standards from time to time as necessary. The Adjudicator Training Working Group, a sub-group of the Standing Committee, is working on developing a national curriculum for training law society adjudicators. The research conducted to inform the curriculum includes a survey of law society adjudicators and hearing panel presidents (fall, 2015). In October, the Standing Committee will consider refinements to the National Discipline Standards and the Implementation Guide based on feedback from the law society discipline administrators group. Other additions to the National Discipline Standards will be discussed, including a voluntary peer review pilot project; a standard on early resolution of complaints, and a national curriculum for volunteers.

17. **Standing Committee on the Model Code**. The mandate of the Standing Committee is to monitor changes in the law of professional responsibility and legal ethics, to receive and consider feedback on the Model Code from the law societies and other interested parties, and to

make recommendations to Council with respect to any amendments to the Model Code. This fall the Standing Committee will launch an online tool that will permit users to compare Model Code provisions with the rules in place in each provincial and territorial law society. In addition, relevant case law for each rule will be displayed using search data from CanLII. This new feature will be available on the Federation's public website.

18. **Standing Committee on Access to Legal Services**. The Standing Committee is charged with facilitating the Federation's strategic objective of collaborating with other participants in the legal system to foster greater public satisfaction with access to legal services. Work is well underway to set up an Access Exchange site on the Federation's Intranet to facilitate the exchange of information between law societies. The Access Exchange will be launched as part of the Federation's revamped Intranet, expected to be in place in the next few months. The Standing Committee will also be meeting soon to review plans to host meetings of law society representatives and staff working on access issues and to consider what input it might provide on the future of the National Action Committee on Access to Justice headed by Justice Thomas Cromwell of the Supreme Court, and the strategic direction of that Committee.

19. **Litigation Committee**. The Litigation Committee is mandated to consider and make recommendations to Council on potential interventions in court proceedings on matters of national interest that raise issues of compelling importance to the law societies and on which the Federation can make a significant contribution to the court's consideration. The Federation has been granted intervenor status by the Supreme Court of Canada in the matter of *Attorney General of Canada v. Chambre des notaires du Québec et al*, a case that raises important issues about the scope of solicitor-client privilege in the context of demands from the Minister of National Revenue (Canada Revenue Agency) for the production of documents by members of the legal profession. The case will be heard on November 3, 2015. The matter raises issues that are closely related to those in *Minister of National Revenue v. Duncan Thompson* in which the Federation also intervened. The Thompson case was heard in December 2014, but the Court has not yet released its decision.

20. **CanLII**. The Council heard from CanLII's new President and CEO, Xavier Beauchamp Tremblay and its Board Chair, Martin Felsky. Usage of CanLII continues to grow significantly. Council discussed how it might best engage with the CanLII Board and its President to consider CanLII's Strategic Plan and resource needs. A draft budget was presented that includes a request for a 5% increase in the law society levy. CanLII continues to dispute a decision by the Canada Revenue Agency to deny claims for input tax credits. In order to clarify the financial arrangements that have prevailed for many years between the law societies and CanLII, a revised Governance and Services Agreement was circulated to law societies for approval. The Council also approved updated by-laws in accordance with the *Canada Not-for-profit Corporations Act*.

21. **National Criminal Law Program**. For many years, the Federation has lent its name and administrative support to two top-in-class CLE programs, the National Family Law Program and the National Criminal Law Program. The Honourary Chair and long-time organizer of the National Criminal Law Program, Justice David Watt of the Ontario Court of Appeal, reported to Council on the program held in Edmonton in July. The program was attended by over 600 registrants. It will be held in Charlottetown next year. The National Family Law Program, held every two years, will be held in St. John's, Newfoundland and Labrador, in July 2016.

Governance, Finance and Administration

22. **Governance Review.** Last year, the Federation Council made governance review a priority for 2015. After a series of Canada-wide consultations, workshops and other meetings, the Governance Review Committee circulated to law societies a comprehensive draft governance policy for consideration. The Council's overall reaction to the draft was that the Committee is on the right track. There continue to be a number of issues that require further reflection and refinement, particularly with regard to the role and responsibilities of Council members. The Committee will meet again in November. The Council agreed that completion of the review process should be a top priority for the Federation and a precursor to a new strategic planning exercise.

23. **2014-2015 Financial Statements.** The Federation's financial year end is June 30. Federation CEO Jonathan Herman reported on the financial results for the year. Overall, the year ended with a \$7,700 surplus against budgeted expenditures for general operations. The NCA ended the year with a deficit of approximately \$59,000. A deficit of \$84,000 had been projected at the beginning of the year. The audited financial statements for the financial year ending 2014-2015, together with KPMG LLP's unqualified audit opinion, were approved by the Council.

24. **2016-2017 Draft Budget.** Council was presented with a working draft budget for information for the 2016-2017 financial year. The draft was premised on the levy remaining unchanged at \$28.50 per FTE for the year. It was agreed that the draft budget would be submitted to the new Finance and Audit Committee for consideration.

25. **Finance and Audit Committee.** The Council approved the establishment of an interim Finance and Audit Committee with the same mandate as the one proposed in the draft governance policies. The initial membership of this Committee consists of the Past-President, Marie-Claude Bélanger-Richard, incoming President Jeff Hirsch, Council members for the Law Societies of British Columbia and Alberta, Gavin Hume and Steve Raby, respectively, as well as the CEO of the Law Society of Upper Canada, Rob Lapper, and the Director General of the Barreau du Québec, Lise Tremblay. Steve Raby will chair the Committee.

26. **Head Office and Personnel.** The Federation has completed a modest expansion of its premises to accommodate its 16 full-time employees (eight of whom operate the National Committee on Accreditation), as well as the President and CEO of CanLII. As projected in the approved 2015-2016 budget, the Federation is now recruiting two additional Policy Counsel positions to handle the demands placed on the office and to fill in a number of gaps in the staff's capacity to respond to the Federation's needs. A communications officer position has been created to assist the Director of Communications with the expectations that have increased over time in connection with external and internal communications requirements.

Other Policy Discussions

27. **National Requirement Review.** Council approved the establishment of the National Requirement Review Committee in October 2014. This Committee is mandated to review how the National Requirement and the law program approval process have worked thus far. It has as its first priority the task of studying whether a non-discrimination provision should be included in the National Requirement and if so, in what form. The Committee has developed a work plan for dealing with both aspects of its mandate. At this meeting, Council reaffirmed the mandate for the Committee. Next steps will involve review of the issues identified by the Committee, to identify their priority and urgency, gathering information on the issues and consulting with

stakeholders including representatives of the legal academy. On the non-discrimination issue, background work to assist the committee's deliberations is being undertaken. The Committee meets next in mid-November.

28. **Anti-Money Laundering Rules.** In February 2015, the Supreme Court of Canada sided with the Federation and determined that government efforts to impose know-your-client rules on the legal profession were unconstitutional. The Department of Finance has signaled that it intends to bring forward new Charter compliant legislation to cover the legal profession in this area. The Council agreed that the time has come to review the current model rules adopted by law societies and suggested that the CEOs' Forum bring forward options for dealing with these issues.

CONCLUSION

29. So much of the Federation past successes can be attributed to strong and healthy relationships across every aspect of the Federation's network. Future successes will be no less reliant on those relationships. That is why I have made every effort to reach out to law society leaders across Canada throughout my mandate and will urge my successors to do the same. This outreach and ongoing communication is essential not only among elected leaders but among the staff of the Federation and its members.

30. Equally important are our external relationships with national stakeholders such as the Department of Justice and other federal government agencies, the Canadian Bar Association, the Council of Canadian Law Deans, the Supreme Court of Canada and other federal courts. Our efforts in this regard have been substantial and effective over the years, to the point that the Federation enjoys a heightened credibility and stature that was unknown just 10 years ago.

31. The same can be said of the Federation's international footprint, particularly within the International Bar Association. For example, I just returned from Vienna where I participated on a panel to give the Canadian perspective on how the regulatory landscape is shifting here at home with talk of proactive and entity regulation, as well as the prospect of paralegal regulation in law societies beyond Ontario.

32. Thank you for the privilege of being the Federation's leader and its ambassador. It is my deepest wish that it continues to progress, and move from strength to strength.

The Law Society *of British Columbia*



Financial Report

September 30, 2015

Prepared for: Finance & Audit Committee Meeting – October 29, 2015

BENCHER MEETING – OCTOBER 30, 2015

Prepared by: Jeanette McPhee, CFO & Director Trust Regulation

Financial Report – To September 30, 2015

Attached are the financial results and highlights for the nine months ended September 30, 2015.

General Fund**General Fund (excluding capital and TAF)**

The General Fund operations resulted in a positive variance to budget of \$662,000 to September 30, 2015.

Revenue

Revenue was \$16,571,000, \$549,000 (3%) ahead of budget due to membership revenues, additional recoveries and miscellaneous revenue.

Operating Expenses

Operating expenses for the first nine months were \$15,114,000, \$113,000 (1%) under budget due to the timing of various operating expenses, specifically external counsel costs expected to be incurred in the last quarter of the year.

2015 Forecast - General Fund (excluding capital and TAF)

We are forecasting the General Fund to be below budget for the year, projecting a \$95,000 (0.5%) negative variance. Higher than expected external counsel fees will be partially offset by additional revenues, along with other expense savings in various areas.

Operating Revenue

Operating revenue is projected to have a positive variance to budget of \$405,000 (1.9%).

Practicing membership revenue is projected at 11,355 members, 45 members above budget, a positive variance of \$65,000. Recoveries revenue is projected to be \$175,000 higher than budget, mainly due to discipline related recoveries. Additionally, we received a Law Foundation grant of \$100,000 in relation to the delivery of PLTC at TRU.

Operating Expenses

Operating expenses are projected to have a negative variance to budget of \$500,000 (2.3%).

We are projecting higher than budgeted professional conduct, discipline, custodianships, and credentials external counsel fees of \$705,000 and additional

hearing costs of \$25,000. In addition, the webcast of the AGM resulted in \$30,000 of unbudgeted costs. Also, there will be an external review of the IT system security, with estimated costs of \$35,000.

These higher costs will be offset by savings in forensic accounting fees of \$75,000 and lower building occupancy costs of \$45,000.

In addition, during Q2, management performed a comprehensive review of all discretionary spending to help mitigate the increase in external counsel fees. This review resulted in additional operational savings of \$175,000 to the end of the year.

TAF-related Revenue and Expenses

The first two quarters of TAF revenue was above budget by \$390,000 due to increased real estate unit sales. The trust assurance program costs were under budget \$132,000, due to the timing of travel costs.

Special Compensation Fund

There has been little activity in the Special Compensation Fund.

Lawyers Insurance Fund

LIF operating revenues were \$10.9 million for the first nine months, above budget by \$303,000 (2.9%).

LIF operating expenses were \$4.6 million, \$605,000 (11.6%) below budget. There were staff salary savings of \$394,000 due to vacancy savings. Insurance costs were under budget as the stop loss refund from the stop loss insurance policy was received in the first quarter in the amount of \$118,000, which was not known at the time the budget was set.

The market value of the LIF long term investments held by the investment managers is \$142.9 million, an increase of \$3.1 million in the first nine months. The related year to date investment returns were 2.62%, compared to a benchmark of -1.47%.

In addition, included in investment income is the sale of the Law Society's interest in the 750 Cambie building closed in the first quarter of 2015, which resulted in a book gain of \$10.7 million. The proceeds were reinvested with the long term investments at the end of September according to the updated asset mix as set out in the Bencher approved Statement of Investment Policies and Procedures – Investment Guidelines.

**The Law Society
of British Columbia**



Summary of Financial Highlights - September 2015
(\$000's)

2015 General Fund Results - YTD September 2015 (Excluding Capital Allocation & Depreciation)				
	Actual*	Budget	\$ Var	% Var
Revenue (excluding Capital)				
Membership fees	12,755	12,676	79	1%
PLTC and enrolment fees	908	912	(4)	0%
Electronic filing revenue	623	531	92	17%
Interest income	270	242	28	12%
Other revenue	1,156	806	350	43%
Building revenue & recoveries	859	855	4	0%
	16,571	16,022	549	3%
Expenses (excl. dep'n)	15,114	15,227	113	1%
Results before spending on reserve items	1,457	795	662	
Approved spending from Reserves	93	-	93	
	1,364	795	569	

* Note: Actuals include \$93,000 in costs related to Bencher approved items to be funded from the reserve

2015 General Fund Year End Forecast (Excluding Capital Allocation & Depreciation)		
	Avg # of Members	Actual Variance
Practice Fee Revenue		
2011 Actual	10,564	
2012 Actual	10,746	
2013 Actual	10,985	
2014 Actual	11,114	
2015 Budget	11,310	
2015 Forecast	11,355	
Revenue		
Membership revenue - projected to be 45 members above budget		65
Law Foundation Grant to PLTC - Kamloops		100
Recoveries		175
Electronic filing		40
Miscellaneous		25
		405
Expenses		
External Counsel Fees - Regulation/Credentials		(705)
Forensic Accounting Fees - fewer files		75
Hearing costs - more hearing days		(25)
AGM Webcasting - unbudgeted		(30)
IT security review		(35)
Building cost savings		45
Miscellaneous savings - various areas		175
		(500)
2015 General Fund Variance (excluding reserve funded items)		(95)

Reserve funded amounts (Bencher approved):	Approved	Spent
2015 - CBA REAL contribution (\$50K approved) - first payment in April	50	45
2015 - Year 2 - Articling student (\$58K approved) - started at end of May	58	18
2015 - Practice standards program review (\$65K approved)	65	25
2014 - Update to on-line courses (\$30K remaining unspent)	30	5
2014 - Knowledge Management program costs - (\$235K approved)	235	-
	438	93

Trust Assurance Program Actual				
	2015 Actual	2015 Budget	Variance	% Var
TAF Revenue**	1,902	1,512	390	25.8%
Trust Assurance Department	1,772	1,904	132	6.9%
Net Trust Assurance Program	130	(392)	522	

** Q1 & Q2 only, Q3 revenue not due until October 31st

2015 Lawyers Insurance Fund Long Term Investments - YTD September 2015 Before investment management fees			
Performance	2.62%		
Benchmark Performance	-1.47%		

***The Law Society of British Columbia
General Fund
Results for the 9 Months ended September 30, 2015
(\$000's)***

	2015 Actual	2015 Budget	\$ Var	% Var
Revenue				
Membership fees (1)	14,757	14,674		
PLTC and enrolment fees	908	912		
Electronic filing revenue	623	531		
Interest income	270	242		
Other revenue	1,156	806		
Building Revenue & Recoveries	859	855		
Total Revenues	18,573	18,020	553	3.1%
Expenses				
Regulation	5,480	5,507	27	
Education and Practice	2,610	2,517	(93)	
Corporate Services	2,044	2,124	80	
Bencher Governance	724	751	27	
Communications and Information Services	1,568	1,485	(83)	
Policy and Legal Services	1,534	1,499	(35)	
Occupancy Costs	1,663	1,775	112	
Depreciation	258	240	(18)	
Total Expenses	15,881	15,898	(17)	-0.1%
General Fund Results before TAP	2,692	2,122	570	
Trust Administration Program (TAP)				
TAF revenues	1,902	1,512	390	
TAP expenses	1,772	1,904	132	6.9%
TAP Results	130	(392)	522	
General Fund Results including TAP	2,822	1,730	1,092	

(1) Membership fees include capital allocation of \$2.0m (YTD capital allocation budget = \$2.0m).

The Law Society of British Columbia
General Fund - Balance Sheet
As at September 30, 2015
(\$000's)

	Sep 30 2015	Dec 31 2014
Assets		
Current assets		
Cash and cash equivalents	161	111
Unclaimed trust funds	1,784	1,781
Accounts receivable and prepaid expenses	1,004	1,494
B.C. Courthouse Library Fund	1,941	568
Due from Lawyers Insurance Fund	<u>7,919</u>	<u>24,127</u>
	<u>12,809</u>	<u>28,081</u>
Property, plant and equipment		
Cambie Street property	12,826	12,691
Other - net	<u>1,282</u>	<u>1,331</u>
	<u>26,917</u>	<u>42,103</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	753	5,671
Liability for unclaimed trust funds	1,784	1,781
Current portion of building loan payable	500	500
Deferred revenue	4,852	18,807
Deferred capital contributions	26	34
B.C. Courthouse Library Grant	1,941	568
Deposits	<u>25</u>	<u>28</u>
	<u>9,881</u>	<u>27,389</u>
Building loan payable	<u>2,600</u>	<u>3,100</u>
	<u>12,481</u>	<u>30,489</u>
Net assets		
Capital Allocation	2,294	1,841
Unrestricted Net Assets	<u>12,142</u>	<u>9,773</u>
	<u>14,436</u>	<u>11,614</u>
	<u>26,917</u>	<u>42,103</u>

***The Law Society of British Columbia
General Fund - Statement of Changes in Net Assets
For the 9 Months ended September 30, 2015
(\$000's)***

	<i>Invested in capital</i> \$	<i>Working Capital</i> \$	Unrestricted Net Assets	Trust Assurance	Capital Allocation	2015 Total	2014 Total
Net assets - December 31, 2014	10,676	(1,941)	8,735	1,038	1,841	11,614	9,908
Net (deficiency) excess of revenue over expense for the period	(822)	1,512	690	130	2,002	2,822	1,706
Repayment of building loan	500	-	500	-	(500)	-	-
Purchase of capital assets:							-
LSBC Operations	267	-	267	-	(267)	-	-
845 Cambie	782	-	782	-	(782)	-	-
Net assets - August 31, 2015	11,403	(429)	10,974	1,168	2,294	14,436	11,614

***The Law Society of British Columbia
Special Compensation Fund
Results for the 9 Months ended September 30, 2015
(\$000's)***

	2015 Actual	2015 Budget	\$ Variance
Revenue			
Annual assessment	-	-	-
Recoveries	-	-	-
Interest income	-	-	-
Other income	-	-	-
Total Revenues	<hr/> -	<hr/> -	<hr/> -
Expenses			
Claims and costs, net of recoveries	2	-	2
Administrative and general costs	0	-	0
Loan interest expense	(20)	-	(20)
Total Expenses	<hr/> (18)	<hr/> -	<hr/> (18)
Special Compensation Fund Results	<hr/> 18	<hr/> -	<hr/> 18

***The Law Society of British Columbia
Special Compensation Fund - Balance Sheet
As at September 30, 2015
(\$000's)***

	Sep 30 2015	Dec 31 2014
Assets		
Current assets		
Cash and cash equivalents	1	1
Accounts receivable	-	-
Due from General Fund	-	-
Due from Lawyers Insurance Fund	1,352	1,334
	<u>1,353</u>	<u>1,335</u>
	<u>1,353</u>	<u>1,335</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	-	-
Deferred revenue	-	-
	<u>-</u>	<u>-</u>
Net assets		
Unrestricted net assets	1,353	1,335
	<u>1,353</u>	<u>1,335</u>
	<u>1,353</u>	<u>1,335</u>

The Law Society of British Columbia
Special Compensation Fund - Statement of Changes in Net Assets
For the 9 Months ended September 30, 2015
(\$000's)

	2015 \$	2014 \$
Unrestricted Net assets - At Beginning of Year	1,335	1,287
Net excess of revenue over expense for the period	18	48
Unrestricted Net assets - At End of Period	1,353	1,335

***The Law Society of British Columbia
Lawyers Insurance Fund
Results for the 9 Months ended September 30, 2015
(\$000's)***

	2015 Actual	2015 Budget	\$ Variance	% Variance
Revenue				
Annual assessment	10,948	10,645		
Investment income*	13,844	4,988		
Other income	69	70		
Total Revenues	24,861	15,703	9,158	58.3%
Expenses				
Insurance Expense				
Provision for settlement of claims	11,027	11,027		
Salaries and benefits	1,823	2,217		
Contribution to program and administrative costs of General Fund	960	1,048		
Insurance	265	323		
Office	250	323		
Actuaries, consultants and investment brokers' fees	420	397		
Allocated office rent	185	184		
Premium taxes	6	6		
Income taxes	-	-		
	14,936	15,525		
Loss Prevention Expense				
Contribution to co-sponsored program costs of General Fund	693	709		
Total Expenses	15,629	16,234	605	3.7%
Lawyers Insurance Fund Results	9,232	(531)	9,763	

*Investment income includes the book gain on the sale of the 750 Cambie Street building of \$10.7M

The Law Society of British Columbia
Lawyers Insurance Fund - Balance Sheet
As at September 30, 2015
(\$000's)

	Sep 30 2015	Dec 31 2014
Assets		
Cash and cash equivalents	5,661	26,984
Accounts receivable and prepaid expenses	314	745
Due from members	4,283	1,194
General Fund building loan	3,100	3,600
Investments	139,457	126,301
	152,815	158,824
Liabilities		
Accounts payable and accrued liabilities	913	1,754.93
Deferred revenue	3,498	7,198.33
Due to General Fund	7,919	24,126.61
Due to Special Compensation Fund	1,352	1,335
Provision for claims	56,859	51,367.83
Provision for ULAE	7,231	7,231.00
	77,772	93,013
Net assets		
Unrestricted net assets	17,500	17,500
Internally restricted net assets	57,543	48,311
	75,043	65,811
	152,815	158,824

The Law Society of British Columbia
Lawyers Insurance Fund - Statement of Changes in Net Assets
For the 9 Months ended September 30, 2015
($\$000$'s)

	Unrestricted \$	Internally Restricted \$	2015 Total \$	2014 Total \$
Net assets - At Beginning of Year	48,311	17,500	65,811	59,429
Net excess of revenue over expense for the period	9,232	-	9,232	6,382
Net assets - At End of Period	57,543	17,500	75,043	65,811



Memo

To: The Benchers
From: Alan Treleaven
Date: October 13, 2015
Subject: Barreau du Québec Bar Admission Training Process Overview

For Information

During the September 25 Bencher meeting discussion of the Federation's National Admission Standards Project, there were questions about the bar admission training process for the Barreau du Québec. This memorandum summarizes the Barreau's bar admission training process.

The Barreau has approved the Federation's national competency profile, but has opted out of the national assessment proposal phase.

The Barreau du Québec Bar School (l'École du Barreau du Québec) administers the Barreau equivalent of BC's Professional Legal Training course and articling. The Bar School is funded by student fees and the provincial government. (Government funding was reduced to \$1,993,025 in 2015, from \$2,319,025 in 2014.)

Professional Training Program

The École du Barreau delivers the Professional Training Program twice annually in Montreal, Québec City, Sherbrooke and Ottawa. In 2015, 851 students were registered in the Spring program and 466 in the Fall. (total 1,317)

The Program is 71 half days in duration (four hours daily), extending over four months. It is delivered in French. It focuses on skills and competency training, including legal knowledge and know-how (13 substantive law areas), and related client relationship skills. Students participate in 14 interactive training activities (including interviewing, legal research, writing and drafting, negotiation and advocacy).

Students, in addition to being assessed on their skills, complete the mid-term Professional Ethics Examination and the Final Examination (Part 1: 4.5 hours - multiple choice; Part 2: 4.5 hours - case resolution). The examinations are closed book, with specific legal codes permitted. The

selection of substantive law areas to be examined on the Final Examination is announced prior to the examination sitting.

The student fee is \$4,835 (including the mandatory \$825 course materials fee).

Preparatory Course

A 57 half day (three hours daily) Preparatory Course extending over four months is delivered each fall. In 2015, 664 students are registered. All students are entitled to take the Preparatory Course, but some students educated outside Québec are required to take it after completing a mandatory diagnostic evaluation. The Preparatory Course focuses on substantive law subjects.

The student fee is \$856.

Articling

Articling is six months in length, and may be completed in a law firm, corporate legal department, public and public-related organization, community legal office, and outside Québec. If the articling principal is not a Québec lawyer, the articling can only be for three months, with the remaining three months being completed with a Québec lawyer.

Students may not begin articling until they successfully complete the Professional Training Program.

The articling principal must assess student competencies twice during the articles. At the conclusion, the principal must evaluate at least two components of each of the following skills:

Communicate effectively

- interviewing
- legal drafting
- negotiation
- advocacy

Assess a situation

- research information
- apply research methods
- analyze the law
- determine the applicable law

Choose, develop and implement a solution

- assess the relevance and appropriateness of available solutions

- establish a plan of action
- implement the solution
- use, when applicable, alternative methods of dispute resolution,

at least one component of the following skills:

- manage a file
- apply the accounting rules,

and the following competencies:

- apply the rules of ethics and professional conduct
- demonstrate personal skills.



Memo

To: Benchers
 From: Andrea Hilland
 Date: October 21, 2015
 Subject: Truth and Reconciliation Commission Recommendations

Introduction

On June 2, 2015, after more than six years of collecting evidence from thousands of residential school survivors, the Truth and Reconciliation Commission released its Executive Summary Report (Report),¹ including 94 recommendations (Recommendations)² to redress the legacy of residential schools, and to offer guidance for reconciliation. The Report conveys the importance of “truth” – acknowledging the wrongs of the past, and “reconciliation” – establishing a mutually respectful relationship going forward. The Recommendations indicate that a multifaceted approach is required for effective reconciliation. This memo provides some context, highlights Recommendations that are pertinent to the legal profession in BC, and suggests possible next steps for the Law Society of BC in relation to reconciliation.

Truth

Residential schools were part of Canada’s broader strategy to assimilate Aboriginal peoples. According to the Report:

For over a century, the central goals of Canada’s Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties; and, through a process of assimilation, cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada. The establishment and operation of residential schools were a central element of this policy, which can best be described as “cultural genocide.”³

The Report defines “cultural genocide” as:

the destruction of those structures and practices that allow [a targeted] group to continue as a group. Land is seized, and populations are forcibly transferred and their movement is

¹ http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf.

² http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf.

³ Report at 1.

restricted. Languages are banned. Spiritual leaders are persecuted, spiritual practices are forbidden, and objects of spiritual value are confiscated and destroyed. And...families are disrupted to prevent the transmission of cultural values and identity from one generation to the next.⁴

Rationale for cultural genocide is “based on an assumption that European civilizations...are superior to Aboriginal culture.”⁵

The Report acknowledges that Canada committed cultural genocide in dealing with Aboriginal people,⁶ and provides the following examples:

Canada asserted control over Aboriginal land. In some locations, Canada negotiated Treaties with First Nations; in others, the land was simply occupied or seized. The negotiation of Treaties, while seemingly honourable and legal, was often marked by fraud and coercion, and Canada was, and remains, slow to implement their provisions and intent.⁷

On occasion, Canada forced First Nations to relocate their reserves from agriculturally valuable or resource-rich land onto remote and economically marginal reserves.⁸

In the 1880s Canada instituted a “pass system” that was intended to confine First Nations people to their reserves.⁹

Canada replaced existing forms of Aboriginal government with relatively powerless band councils whose decisions it could override and whose leaders it could depose.¹⁰

Canada denied the right to participate fully in Canadian political, economic, and social life to those Aboriginal people who refused to abandon their Aboriginal identity.¹¹

Canada outlawed Aboriginal spiritual practices, jailed Aboriginal spiritual leaders, and confiscated sacred objects.¹²

And, Canada separated children from their parents, sending them to residential schools.¹³

⁴ *Ibid.*

⁵ *Ibid* at 4.

⁶ *Ibid.*

⁷ For coercion, see: Ray, *Illustrated History*, 151–152. For fraud, see: Upton, “Origins of Canadian Indian Policy,” 56. For failure to implement Treaties, see: Sprague, *Canada’s Treaties with Aboriginal People*, 13. For taking land without Treaty, see Fisher, *Contact and Conflict*.

⁸ For examples from Saskatchewan, see: Miller, *Skyscrapers Hide the Heavens*, 222; Stonechild, “Indian View,” 263; Wiebe, “Mistahimaskwa,” http://www.biographi.ca/en/bio/mistahimaskwa_11E.html (accessed 14 July 2014).

⁹ Barron, “Indian Pass System.”

¹⁰ *An Act to amend and consolidate the laws respecting Indians*, Statutes of Canada 1880, chapter 28, section 72.

¹¹ *An Act for the gradual enfranchisement of Indians*, Statutes of Canada 1869, chapter 42.

¹² *An Act further to amend “The Indian Act, 1880,”* Statutes of Canada 1884, chapter 27, section 3.

¹³ Report at 2.

According to the Report:

The Canadian government pursued this policy of cultural genocide because it wished to divest itself of its legal and financial obligations to Aboriginal people and gain control over their land and resources. If every Aboriginal person had been “absorbed into the body politic,” there would be no reserves, no Treaties, and no Aboriginal rights.¹⁴

It is important to acknowledge that the Canadian legal system was used to facilitate this assimilationist agenda. At the Federation of Law Societies Conference in October, 2015, Julian Falconer urged the Law Societies to reflect on the role of lawyers in past and present injustices that affect Aboriginal peoples (beyond the residential school legacy), and to take strategic, tangible steps to correct these injustices.

The Role of Lawyers in Reconciliation

The Report makes specific reference to the role of lawyers in residential school claims:

The criminal prosecution of abusers in residential schools and the subsequent civil lawsuits were a difficult experience for Survivors. The courtroom experience was made worse by the fact that many lawyers did not have adequate cultural, historical, or psychological knowledge to deal with the painful memories that the Survivors were forced to reveal. The lack of sensitivity that lawyers often demonstrated in dealing with residential school Survivors resulted, in some cases, in the Survivors not receiving appropriate legal service. These experiences prove the need for lawyers to develop a greater understanding of Aboriginal history and culture as well as the multi-faceted legacy of residential schools.¹⁵

Unfortunately, there are instances of professional misconduct of lawyers in relation to residential school claims.¹⁶

There are two recommendations directly aimed at the legal community:

27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*,¹⁷ Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

¹⁴ *Ibid* at 3.

¹⁵ *Ibid* at 215.

¹⁶ See: <http://aptn.ca/news/2015/06/18/another-residential-school-lawyer-accused-professional-misconduct/>.

¹⁷ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Both recommendations are aimed at assuring a common foundation of knowledge and skills for lawyers. The Law Society of BC is directly affected by Recommendation 27, and may have some influence in encouraging law schools to implement Recommendation 28. However, the role of lawyers in reconciliation goes beyond these two Recommendations.

Other Recommendations reveal a number of legal issues currently impacting Aboriginal communities, including: child welfare, overrepresentation of Aboriginal people in custody and the need for enhanced restorative justice programs, the disproportionate victimization of Aboriginal women and girls, Aboriginal rights and title (including treaty rights), the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*, unresolved residential school claims, and issues concerning jurisdictional responsibility for Aboriginal peoples. While these Recommendations are not directly aimed at lawyers, their implementation largely depends on the engagement of lawyers.

For example, many Recommendations call on the federal and/or provincial/territorial governments to enact or repeal legislation, or to resolve jurisdictional issues. It is reasonable to assume that the implementation of such Recommendations will depend on legal analysis, drafting, and/or advocacy by lawyers. (See Appendix A for a list of such Recommendations). Beyond lawyer education, key opportunities for Law Society engagement include a number of Recommendations under the subheadings of “Justice” and “Legal Reconciliation”. Child welfare is also an important aspect of reconciliation, as the removal of Aboriginal children out of their communities into non-Aboriginal foster homes is often compared to the removal of Aboriginal children to residential schools. Arguably, redressing the legacy of residential schools should ensure that the ongoing removal of Aboriginal children from Aboriginal communities is, to the greatest extent possible, prevented. Law Society action in these three key areas would advance its goal of ensuring public confidence in the rule of law and the administration of justice.¹⁸

¹⁸ <https://www.lawsociety.bc.ca/page.cfm?cid=4&t=Strategic-Plan>.

Next Steps

Possible next steps include:

1. Encouraging all lawyers in BC to read the Report;
2. Developing appropriate cultural competency training for lawyers in BC;
3. Striking a Task Force to further examine the Recommendations to identify strategic priorities and action plans;
4. Identifying collaborative opportunities (e.g. with the Federation of Law Societies, Indigenous Bar Association, Canadian Bar Association Aboriginal Lawyers Forum – BC Branch, etc.) to facilitate the implementation of pertinent Recommendations.

Appendix A: List of Recommendations Requiring the Legal Services of Lawyers

Child Welfare

3. We call upon all levels of government to fully implement Jordan's Principle.¹⁹
4. We call upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:
 - i. Affirms the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
 - ii. Requires all child-welfare agencies and courts to take the residential school legacy into account in their decision making.

Education

6. We call upon the Government of Canada to repeal Section 43 of the *Criminal Code of Canada* [commonly known as the “spanking law”].
10. We call upon the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples.

Languages

13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.
14. We call upon the federal government to enact an Aboriginal Languages Act.
17. We call upon all levels of governments to enable residential school survivors and their families to reclaim names changed by the residential school system by waiving administrative costs for a period of five years for the name change process and the revision of official identity documents, such as birth certificates, passports, driver’s licenses, health cards, status cards, and social insurance numbers.

¹⁹ Jordan's Principle is a child first principle used to resolve jurisdictional disputes within, and between governments, regarding payment for government services provided to First Nations children. Where a jurisdictional dispute arises between two government parties (provincial/territorial or federal) regarding payment for services for a Status Indian child which are otherwise available to other Canadian children, the government of first contact must pay for the services without delay or disruption. The paying government party can then refer the matter to jurisdictional dispute mechanisms.

Health

18. We call upon the federal, provincial, territorial and Aboriginal governments to acknowledge that the current state of Aboriginal health in Canada is a direct result of previous Canadian government policies, including residential schools, and to recognize and implement the health care rights of Aboriginal people as identified in international law, constitutional law and under the Treaties.

20. In order to address the jurisdictional disputes concerning Aboriginal people who do not reside on reserves, we call upon the federal government to recognize, respect, and address the distinct health needs of the Metis, Inuit and off reserve Aboriginal peoples.

Justice

25. We call upon the federal government to establish a written policy that reaffirms the independence of the Royal Canadian Mounted Police to investigate crimes in which the government has its own interest as a potential or real party in civil litigation.

26. We call upon the federal, provincial and territorial government to review and amend their respective statutes of limitations to ensure that they conform to the principle that government and other entities cannot rely on limitation defences to defend legal actions of historical abuse brought by Aboriginal people.

27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

28. We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

29. We call upon the parties and, in particular, the federal government to work collaboratively with plaintiffs not included in the Indian Residential Schools Settlement Agreement to have disputed legal issues determined expeditiously on an agreed set of facts.

30. We call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade and to issue detailed annual reports that monitor and evaluate progress in doing so.

31. We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic

alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

32. We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.

34. We call upon the government of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD) including:

... ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.

38. We call upon the federal, provincial, territorial and Aboriginal governments to commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade.

39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.

41. We call upon the federal government, in consultation with Aboriginal organizations, to appoint a public inquiry into the causes of, and remedies for, the disproportionate victimization of Aboriginal women and girls.

42. We call upon the federal, provincial, and territorial governments to commit to the recognition and implementation of Aboriginal justice systems in a manner consistent with the Treaty and Aboriginal rights of Aboriginal peoples, the Constitution Act, 1982, and the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by Canada in November 2012.

Legal Reconciliation

43. We call upon the federal, provincial, and territorial and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.

44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764,

and reaffirm the nation to nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and terra nullius.
- ii. Adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
- iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiations and implementation processes involving Treaties, land claims, and other constructive agreements.

46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a Covenant of Reconciliation that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:

- i. Reaffirmation of the parties' commitment to reconciliation.
- ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the Doctrine of Discovery and terra nullius, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
- iii. Full adoption and implementation of the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
- v. Enabling those excluded from the Settlement Agreement to sign onto the Covenant of Reconciliation.
- vi. Enabling additional parties to sign onto the Covenant of Reconciliation.

47. We call upon the federal, provincial, territorial and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

50. In keeping with the United Nations Declaration on the Rights of Indigenous Peoples, we call upon the federal government, in collaboration with Aboriginal organizations, to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous law and access to justice in accordance with the unique cultures of Aboriginal peoples in Canada.

51. We call upon the Government of Canada, as an obligation of its fiduciary responsibility, to develop a policy of transparency by publishing legal opinions it develops and upon which it acts or intends to act, in regard to the scope and extent of Aboriginal and Treaty rights.

52. We call upon the Government of Canada, provincial and territorial governments, and the courts to adopt the following legal principles:

- i. Aboriginal title claims are accepted once the Aboriginal claimant has established occupation over a particular territory at a particular point in time.
- ii. Once Aboriginal title has been established, the burden of proving any limitation on any rights arising from the existence of that title shifts to the party asserting such a limitation.

53. We call upon the Parliament of Canada, in consultation and collaboration with Aboriginal peoples, to enact legislation to establish a National Council for Reconciliation. The legislation would establish the council as an independent, national, oversight body with membership jointly appointed by the Government of Canada and national Aboriginal organizations, and consisting of Aboriginal and non-Aboriginal members.

92. We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources.

94. We call upon the Government of Canada to replace the Oath of Citizenship with the following:

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada including Treaties with Indigenous Peoples, and fulfill my duties as a Canadian citizen.

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