

## THE LAW SOCIETY OF BRITISH COLUMBIA

### MINUTES

<b>MEETING:</b>	Benchers	
<b>DATE:</b>	Friday September 3, 2004	
<b>PRESENT:</b>	William Everett, QC, President Ralston Alexander, QC, 1 <sup>st</sup> Vice-president Robert McDiarmid 2 <sup>nd</sup> Vice-president Joost Blom, QC Ian Donaldson, QC Michael Falkins Anna Fung, QC Carol Hickman Gavin Hume, QC John Hunter, QC William Jackson Terry La Liberté, QC Bruce LeRose Patrick Nagle	Darrell O'Byrne June Preston Greg Rideout Glen Ridgway, QC Dirk Sigalet, QC Grant Taylor Lilian To Gordon Turriff, QC (by telephone) Dr. Maelor Vallance Art Vertlieb, QC James Vilvang, QC Anne Wallace, QC David Zacks, QC
<b>NOT PRESENT:</b>	Patrick Kelly Margaret Ostrowski, QC Patricia Schmit, QC	Alan Seckel, QC, Deputy A.G. Ross Tunnicliffe
<b>STAFF PRESENT:</b>	James Matkin, QC, Executive Director Stuart Cameron Brad Daisley Charlotte Ensminger Su Forbes, QC Jeffrey Hoskins	Michael Lucas David Newell Neil Stajkowski Alan Treleaven Ron Usher Adam Whitcombe
<b>GUESTS:</b>	Dean Mary Ann Bobinski, UBC Faculty of Law Dean Andrew Petter, University of Victoria Faculty of Law Sylvia Teasdale, Chief Librarian, BC Courthouse Library Society Michael Woodward, President, CBA (BC Branch) Caroline Nevin, Association Executive Director, CBA (BC Branch)	

#### 1. MINUTES

The minutes of the meeting held on July 9, 2004 were approved as circulated.

#### 2. PRESIDENT'S REPORT

Mr. Everett welcomed Michael Woodward, President of the CBA BC Branch.

Mr. Everett spoke about the late David Gibbons, QC, and on behalf of the Benchers extended condolences to Mr. Gibbons family and friends.

Mr. Everett also noted the passing of Life Bencher Henry Hutcheon.

Moving to happier business, Mr. Everett reported that Sylvia Teasdale, Chief Librarian of the BC Courthouse Library Society had accepted the position of University Librarian at Bishop's University. Mr. Everett congratulated Ms. Teasdale on the appointment and thanked her on behalf of the Benchers for her excellent work in improving library services for the legal profession and the public.

Mr. Everett noted several upcoming events, including a Call Ceremony and the Law Society Annual General Meeting on September 24, and a Federation of Law Societies Council meeting to continue discussions with the federal government with respect to model rule prohibiting lawyers from receiving cash in trust.

### **3. EXECUTIVE DIRECTOR'S REPORT**

Mr. Matkin circulated a written report on Law Society operations over the previous month.

Mr. Matkin noted that the Law Society had been subject to some adverse media coverage over the month, including considerable negative press following the discussion on sexual relationships between lawyers and their clients that took place at the CBA national conference.

Mr. Matkin reported that Law Society staff had been working on significant issues with respect to defalcations. He called on Stuart Cameron to report on the Oldroyd case.

Mr. Cameron gave a brief outline of the circumstances of the Oldroyd case, which concerned allegations of misappropriation of several million dollars held in trust by Mr. Oldroyd. Mr. Cameron noted that the estates suffering losses were represented by capable counsel who had succeeded in tying up Mr. Oldroyd's assets. Consequently, Mr. Cameron was optimistic that there would not be significant impact on the Special Compensation Fund.

### **4. REPORT ON LITIGATION INVOLVING THE LAW SOCIETY**

Mr. Hoskins circulated a privileged written report.

Mr. Hoskins reported that the case against Canadian Domain Name Exchange Inc. had come to a successful conclusion by obtaining a permanent injunction prohibiting the respondent from improperly using an Internet domain name similar to the name registered to the Law Society. He noted that counsel from Fasken Martineau had provided services to the Law Society without fee.

Mr. Hoskins reported that a lawyer from Saskatchewan was unsuccessful in his attempt to circumvent requirements for visiting lawyers on the basis that he was a British Columbia resident.

Mr. Hoskins reported that the Law Society's position regarding access to information about a deceased lawyer was upheld by the Freedom of Information and Privacy Commissioner.

### **5. REPORT ON OUTSTANDING HEARING DECISIONS**

The Benchers received a report on outstanding hearing decisions.

**6. REPORT FROM THE DEAN OF THE UBC FACULTY OF LAW**

Dean Bobinski gave a report on activities and developments at the University of BC Faculty of Law. A copy of the presentation is attached as Appendix 1.

Mr. Everett noted that the faculty of law offered 130 different course titles. He asked Dean Bobinski how many courses were compulsory, and what guidance was given to students who intended to practice law.

Dean Bobinski said the majority of students choose their courses from within a much smaller core curriculum. She said students are keenly aware of the job market and the requirements of PLTC. Additionally, students are provided with information about PLTC and the benefits of taking courses that relate to the PLTC curriculum.

Mr. Nagle noted that statistics indicate that there may not be enough lawyers in rural areas, and there is a large cohort of lawyers who will retire in the near future. He asked Dean Bobinski how many students graduate each year from the faculty of law.

Dean Bobinski said the law school admitted about 200 students each year and graduated between 186 and 190. She said there is an important distinction between supply and distribution. She said the law school was attempting to address the distribution problem by providing students with information about the range of opportunities outside the lower mainland, and creating a process for connecting students with those opportunities.

Mr. Sigalet asked if the law school would be increasing the amount of problem-based instruction offered.

Dean Bobinski said there would be some increase, but she would not suggest that the law school would move to a wholly problem-based instruction method.

**7. REPORT FROM THE CBA.**

Mr. Woodward said the debate about sexual relationships between lawyers and clients that took place at the CBA national conference was senatorial in tone, and it was the media reporting on the debate that was problematic, rather than the debate itself. Looking ahead, Mr. Woodward said, the BC Branch was strong, and reasonably capitalized, and its goal was to have the highest participation rate among all voluntary membership provinces. He said the positive side of the members' decision to make participation in the CBA voluntary was that it ended any confusion about the respective roles of the CBA and the Law Society.

Mr. Turriff asked to what extent the CBA explained to the media at the national conference that the rules that govern lawyer-client relations lie in the Law Society's jurisdiction.

Mr. Woodward noted that the CBA Code of Conduct is a default code of conduct in many jurisdictions, and the media stories he had read had made that distinction. He said the CBA did make it clear that the Code of Conduct is the CBA's corporate policy that lawyers accept when they become CBA members, and that the Law Societies have given it sufficient weight to adopt it either wholly or as a default.

**8. REPORT OF THE LIMITED LIABILITY PARTNERSHIPS TASK FORCE**

Mr. Zacks introduced the report of the Limited Liability Partnerships Task Force. He recalled that the Benchers had approved in principle permitting lawyers to practice through limited liability partnerships ("LLPs"). The rules developed by the task force were intended to ensure that the public interest would be addressed and in no way compromised. He said the task force concluded

based on statistics that increasing the minimum amount of insurance required for lawyers practicing in LLPs was not necessary. The task force also considered what notification requirement was necessary to ensure that clients are aware of a firm's LLP status. Mr. Zacks said that the task force had also concluded that the Law Society should not impose a greater regulatory burden on law corporations than on LLPs; consequently, its recommendations included removing the annual license renewal and fee for law corporations.

It was moved (Zacks/LeRose) to amend the Law Society rules, as set out in Appendix 2,

Mr. Vilvang asked if the task force had considered the impact on the cost of excess liability insurance.

Mr. Zacks said LLPs were not necessarily a popular structure only for big firms, and may be quite popular with smaller firms. He said it was certainly in the public interest to encourage lawyers to come together in practice and the nature of a practice has far more impact on the requirement for excess insurance than the partnership structure.

Mr. LeRose said he was able to bring a small firm perspective to the task force, and was satisfied that allowing lawyers to practice in LLPs was in the public interest. He noted that more than one third of the BC bar was in sole practice and the proposed changes would place partnerships in the same position, with respect to liability, as sole practitioners.

The motion was carried by more than two-thirds of the Benchers present.

## **9. DISCLOSURE AND PRIVACY TASK FORCE**

Mr. Hunter introduced the task force's recommendation to authorize disclosure of lawyers' practice history on request. He said the Law Society's past practice was to withhold the information on the basis that it is the equivalent of employment history and is, therefore, presumed to be personal information under the *Freedom of Information and Protection of Privacy Act*.

It was moved (Hunter/Nagle) to permit disclosure of lawyers' practice histories.

Ms. Hickman said that the information amounted to employment histories for associates and articled students, and for that reason she disagreed with the recommendation.

Mr. Sigalet agreed with Ms. Hickman that disclosing practice histories could lead to disclosure of more sensitive information.

The motion was carried.

It was moved (Hunter/Nagle) to disclose lawyers' practice histories on request but not to place the information on the Law Society website.

The motion was carried.

Mr. Hunter reviewed the task force's recommendations with respect to disclosure of restrictions and conditions placed on members. He noted that these issues were first discussed in December, 2003 and the Benchers had asked the task force to address a number of questions. Mr. Hunter said the Law Society currently disclosed all restrictions or conditions imposed as a result of a public process, and restrictions relating to a members practice arising from a private process, but did not disclose conditions relating to personal matters arising from private processes. He said the question to be addressed was whether to disclose all restrictions and conditions including those not currently disclosed.

It was moved (Hunter/Nagle) to continue the practice of not disclosing restrictions and conditions relating to personal matters arising from a private process.

The motion was carried.

Mr. Hunter introduced the ancillary question of whether the Law Society should disclose restrictions and conditions that are no longer in effect. The task force recommendation was to disclose expired restrictions and conditions on request if they would have been disclosed when they were in effect.

It was moved (Hunter/Nagle) to permit disclosure of restrictions and conditions no longer in effect if they would have been disclosed whether they were in effect.

Mr. McDiarmid commented that a typical restriction might be to restrict a member from practicing in a certain area of law. He said the Practice Standards Committee would encourage the member to obtain expertise in that area, and on being satisfied that the member had done so, would lift the restriction. He said it seemed unfair that a member who had acquired the expertise necessary to have such a restriction lifted would continue to have it disclosed that he had been restricted from practicing in that area. He suggested there should at least be a mechanism to inform the public that a restriction was lifted for a positive reason.

Mr. Vertlieb suggested as an alternative, specifying a period of time after which expired restrictions would not be disclosed.

Dr. Vallance agreed with Mr. Vertlieb that expired restrictions should not be disclosed for an unlimited time irrespective of the nature of the restriction.

Mr. Vilvang suggested that the period after expiry in which restrictions may be disclosed should be shorter when the restriction was primarily intended to be rehabilitative.

Ms. Hickman favoured the idea of disclosing expired restrictions together with an explanation of the reasons for removing the restriction. Alternatively, she suggested providing for cessation of disclosure on application of the member.

It was agreed to refer the question of limiting disclosure of expired restrictions and conditions back to the task force for further consideration and recommendations.

Mr. Hunter introduced the final matter concerning the disclosure of undertakings given by members to the Law Society (such as undertakings to restrict a member's practice or adhere to conditions). The task force's recommendation was to treat undertakings in the same way as restrictions and conditions.

It was moved (Hunter/Nagle) to treat undertakings in the same way as restrictions and conditions.

The motion was carried.

**10. NEW SECURITIES ACT**

It was agreed to refer this matter to the Public Affairs Committee.

**11. LAWYERS INSURANCE FUND ASSESSMENT FOR 2005**

Ms. Forbes gave a presentation on the status of the Lawyers Insurance Fund, a copy of which is attached as Appendix 3.

It was moved (McDiarmid/Falkins) that:

- (a) The insurance fee for 2005 pursuant to section 30(3) of the Legal Profession Act be fixed at \$1,500;
- (b) The part-time insurance fee for 2005 pursuant to Rule 3-22(2) be fixed at \$750; and
- (c) The insurance surcharge for 2005 pursuant to Rule 3-62(2) be fixed at \$1,000.

The motion was carried.

**12. RESOLUTION TO THE AGM SUBMITTED BY DUGALD CHRISTIE AND DEL FELLER**

The Benchers considered a resolution submitted to the Annual General Meeting by members Dugald Christie and Del Feller proposing relief from payment of the 2005 Special Compensation Fund assessment for members who declare that their income in the previous calendar year was less than 30,000, that they have not in that period acted for clients in either commercial or conveyancing matters involving more than \$300,000, and that payment of the assessment would be a hardship.

Mr. Rideout commented that if one group of members is exempted from payment of the Special Compensation Fund assessment on the basis that they practice in a low risk area of law, there is a large body of criminal lawyers who would seek a similar exemption.

Ms. Wallace noted that the Equity and Diversity Committee had considered the impact of the Special Compensation Fund assessment on lawyers with disabilities who may be unable to practice full time. She said some lawyers have indicated that they cannot continue to practice if they are required to pay the full assessment of \$600. Ms. Wallace disagreed in principle with risk-rating the assessment but thought the Benchers should address the concern that some lawyers may be unfairly penalized by the assessment.

Mr. Vilvang suggested it was a mistake to mix the concepts of hardship and risk in seeking relief from the assessment. He said the motion could be very divisive to the profession and despite his sympathy for low-income lawyers, recommended that the Benchers take a position supporting the *status quo*.

Ms. Wallace agreed that the Benchers should take the position that all lawyers should pay the assessment regardless of the area of law in which they practice but should consider some level of income below which a full or partial exemption would be available.

Mr. Vertlieb asked if the resolution could cause a problem in the future for the Lawyers Insurance Fund.

Mr. Stajkowski noted that the resolution would only affect the Special Compensation Fund and any spillover effect on the Lawyers Insurance Fund would depend on the breadth of the exemption. He noted that implementing an exemption would be very difficult without clear definitions based on an objective standard.

Mr. Zacks noted that the principles underlying an exemption from the Special Compensation Fund assessment could also apply to other Law Society fees, and for that reason, great care and full consideration of all the implications was necessary.

Mr. LeRose suggested that if the Benchers decide to create an exemption, the Law Society should indicate what the additional cost to the paying members would be.

Mr. LaLiberté said the Benchers should not discourage the Dugald Christie's of the profession who provide a valuable service.

Mr. Falkins noted that the current assessment of \$600 resulted from the Wirick matter and would not remain at that level forever.

Mr. McDiarmid agreed with Mr. LaLiberté, and said Mr. Christie's motivation was terrific. He said Mr. Christie did not misspend money and did a great service to the public, but it was not necessarily true that low-income lawyers do not create problems for the Special Compensation Fund. He said the Benchers response should note that but also acknowledge Mr. Christie's work and express sympathy for his position.

Ms. To said that if there was some way of encouraging people like Mr. Christie, the Law Society should make an effort to recognize the service they provide to the public.

Mr. Turriff suggested there might be a larger question to consider in terms of incentives that the Law Society might provide to lawyers to provide pro bono services or train new lawyers. He suggested the Benchers consider creating task force to examine the range of incentives that might be offered.

It was agreed that the Benchers would circulate at the AGM a position paper in response to Mr. Christie's resolution supporting the status quo, and to authorize the Executive Committee to finalize the text of the paper.

**13. APPOINTMENT TO THE BOARD OF DIRECTORS OF THE LEGAL SERVICES SOCIETY.**

It was agreed to appoint D. Mayland McKimm, QC to the board of directors of the Legal Services Society for a term of two years commencing on September 3, 2004 and ending on September 2, 2006.

**14. APPOINTMENTS TO THE QUEEN'S COUNSEL SELECTION COMMITTEE**

It was agreed to appoint William Everett, QC and Ralston Alexander, QC to the Queen's Counsel Selection Committee for 2004.

**15. FEDERATION OF LAW SOCIETIES SEARCH WARRANT PROTOCOL**

The Benchers considered a draft protocol to address searches and seizures of documents from lawyer's offices (where the lawyer is not the target of the search). Mr. Lucas advised that the draft protocol was intended to inform discussions with the Department of Justice.

It was agreed to authorize the President to endorse the draft protocol for discussion with the Department of Justice

**16. SPONSORSHIP OF THE CBA CANADIAN LEGAL CONFERENCE IN 2005**

The Benchers considered the recommendation from the Executive Committee that the Law Society sponsor the 2005 CBA Canadian Legal Conference, to be held in Vancouver.

Mr. LeRose asked if there was a general policy dealing with sponsorship requests.

Mr. Hoskins said the Benchers adopted a policy that the Law Society would not generally consider funding organizations that were not sponsored by the Law Society; however, he said there had been occasional exceptions made.

Mr. Everett suggested that the CBA conference might be an appropriate exception to the policy.

Mr. Rideout noted that the Law Society provided \$25,000 to the same conference in 1996.

It was moved (LaLiberté/Vilvang) to sponsor the CBA Canadian Legal Conference in the amount of \$35,000.

Mr. Turriff agreed that the Law Society should contribute to the legal conference but suggested that Law Society might specify that the funds be used for specific purposes that have a public interest component. He was concerned about the possibility of creating a public perception that the Law Society is connected to or is an adjunct to the CBA.

Mr. Rideout was opposed to putting restrictions on the funding.

Mr. Vilvang said the Law Society should not be considered to be a regular commercial sponsor but should discuss consideration that is more valuable to the Law Society or the public than display space.

It was agreed to amend the motion to authorize the Executive Director to negotiate consideration for the Law Society's sponsorship of the conference.

The motion was carried.

## **17. SPONSORSHIP OF THE AFRICAN CHILDREN'S CHOIR**

Mr. Matkin urged the Benchers to consider Law Society sponsorship of the 20<sup>th</sup> Anniversary performance of the African Children's Choir in support of AIDS awareness and fundraising. He recalled that Stephen Lewis gave a compelling keynote address on the AIDS tragedy in Africa at the CBA conference in Winnipeg. Mr. Matkin acknowledged that the event had nothing to do with the Law Society as a professional governing body, but did concern the Law Society and all lawyers as citizens of the world. He noted that the Prime Minister, the Premier of BC and the Chief Justices of the Supreme Court of BC and BC Court of Appeal would be attending the performance.

Mr. Alexander agreed that the matter was not in the Law Society's "wheelhouse" but was in the World's wheelhouse, which justified a limited exception to the policy.

It was moved (Alexander/Turriff) to sponsor the 20<sup>th</sup> Anniversary Performance of the African Children's Choir at the "bronze" level of \$5,000.

Ms. Hickman agreed that the Law Society should sponsor the event but recommended sponsorship at the "silver" level of \$10,000.

Mr. Vilvang opposed the motion. He said this was the trap that governments fell into because it is easy to be generous with other people's money. He said sponsorship of the event would not be an appropriate use of the members' money and could not be seen to be in the Law Society's mandate. He noted that members such as Dugald Christie could not afford to pay the Special Compensation Fund assessment. He suggested that if the Law Society wanted to support the event, it should encourage members to make personal donations.

Mr. Rideout agreed with Mr. Vilvang but did not intend to minimize the significance of the AIDS issue.

Mr. McDiarmid agreed with Mr. Vilvang. He said he would have no objection to the Law Society encouraging members to donate.

Mr. Nagle supported the motion, saying it was in the public interest.

Mr. Zacks said there were many tragedies facing the world, and if the Benchers decided to sponsor this cause, they should consider what others to take on as well.

Mr. Turriff said he was not promoting something outside the Law Society's jurisdiction. He said the event was within the Law Society's mandate noting that most if not all lawyers had encountered clients or cases connected in some way to the AIDS crisis. He said the Law Society should do what it could.

The motion was defeated.

**18. NOMINATIONS FOR APPOINTMENT TO THE BOARD OF DIRECTORS OF THE LAND TITLE AND SURVEY AUTHORITY.**

The Benchers noted the large number of candidates for appointment and the short time-frame for making a decision.

It was agreed to authorize the Executive Committee to select between six and ten nominees for appointment to the Land Title and Survey Authority.

**19. TRUST ADMINISTRATION FEE**

Mr. Everett reported that although the Trust Administration Fee was intended to be implemented on October 1, 2004, further work was needed before it could proceed. He proposed that the Benchers delay implementation of the fee until March 1, 2005.

Mr. Stajkowski reported that the members were notified of the October 1, 2004 implementation date. He said a further notice advising members of the delay had been prepared and would be published immediately if the Benchers decided to delay implementation to March 1, 2005.

It was moved (Alexander/Falkins) to delay implementation of the Trust Administration Fee until March 1, 2005.

Mr. Ridgway was concerned that specifying a date for implementation could create perception problems if further delay was necessary.

Mr. Alexander noted Mr. Ridgway's concern but said an indefinite delay would send the wrong message and create worse problems.

Ms. Hickman shared Mr. Ridgway's concerns about a specific date.

Mr. O'Byrne noted that some lawyers had updated their accounting systems in anticipation of the October 1, 2004 implementation date and further delay after March 1, 2005 would be unfair.

The motion was carried.

**20. UPDATE ON THE WIRICK INVESTIGATION AND SPECIAL COMPENSATION FUND CLAIMS.**

This matter was discussed *in camera*.

**21. OPEN DISCUSSION OF BENCHER CONCERNS**

Ms. Hickman said the Benchers should reconsider the policy with respect to charitable giving. She suggested it would be in the public interest and the Law Society could afford to allocate some small amount to charitable causes in the future.

It was agreed to refer the question of charitable giving by the Law Society to the Financial Planning Subcommittee.

Mr. Donaldson noted that Mr. Justice Oppal had appealed to the Law Society on behalf of the Law Courts Education Society. Mr. Donaldson said he was very persuaded that the Law Courts Education Society's work is of great benefit to the public and the profession, yet the Law Society declined to fund them. He recalled other decisions not to fund worthy causes. He said the issue Ms. Hickman raised was significant and more complex than it might seem, and he encouraged the Benchers to think about it because, he said, there was a public interest in the Law Society being seen as a good corporate citizen.

Ms. Wallace said that she was trying to get the Law Courts Education Society to provide services in Victoria and would be approaching the Law Society for assistance.

DMGN  
04-09-21

## Appendix 2

### RULE AMENDMENT RESOLUTION

**adopted September 3, 2004**

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

**1. In Rule 1 by adding the following definition:**

“advertising” includes letterhead, business cards and the use of paid space or time in a public medium, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public or a group of people, for the purpose of promoting professional services or enhancing the image of the advertiser;

**2. In Rule 1**

**(a) by adding the following definition:**

“limited liability partnership” or “LLP” means a limited liability partnership under Part 6 of the *Partnership Act*, including an extraprovincial limited liability partnership registered under that Part;

**(b) by rescinding paragraph (b) of the definition of “firm” and substituting the following:**

(b) a partnership, including a limited liability partnership or a partnership of law corporations;

**3. In Part 9, by rescinding the heading of the Part and substituting the following:**

### PART 9 – INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS

#### Division 1 – Law Corporations

**4. In Rules 9-1, 9-9 and 9-11 by striking the word “Part” wherever it appears and substitute the word “Division”.**

**5. By rescinding Rules 9-7 and 9-8 and substituting the following:**

#### Public disclosure of corporate status

9-7 When a lawyer or firm provides legal services to the public through a law corporation, all advertising for the lawyer or firm must indicate that the law corporation provides the legal services.

### **Corporate information and annual reports**

- 9-8 (1) A law corporation must deliver to the Executive Director copies of its Articles and amendments to its Articles
- (a) when applying for a permit, and
  - (b) immediately on adoption of new or amended Articles.
- (2) A law corporation must deliver to the Executive Director copies of the following at the same time that they are filed under the *Business Corporations Act*:
- (a) an annual report;
  - (b) the Notice of Articles and any amendments to it.

6. ***In Rule 9-9, by rescinding subrule (2)(c) and substituting the following:***

- (c) disclose the following information, on request, to any person:
  - (i) the name of a law corporation;
  - (ii) a law corporation's place of business;
  - (iii) whether a company has a valid law corporation permit;
  - (iv) whether a specified lawyer is an employee or a voting shareholder of a law corporation;
  - (v) whether a specified law corporation is a voting shareholder of a law corporation.

7. ***In Part 9, by adding the following Division:***

### **Division 2 – Limited Liability Partnerships**

#### **Definition**

9-12 In this Division “person applying” means a person applying or proposing to apply on behalf of a partnership for registration as a limited liability partnership or extraprovincial limited liability partnership under Part 6 of the *Partnership Act*.

#### **Practice through a Limited Liability Partnership**

9-13 A lawyer is authorized to carry on the practice of law through a limited liability partnership, provided that the lawyer and the limited liability partnership comply with the provisions of the *Partnership Act* and meet the prerequisites of this Division.

#### **LLP name**

9-14 A limited liability partnership must not use a name contrary to Chapter 14, Rule 9 of the *Professional Conduct Handbook* (“Marketing of Legal Services”).

### **Notice of application for registration**

- 9-15 (1) Before an application to register a partnership or an extraprovincial limited liability partnership as a limited liability partnership is made on behalf of the partnership under Part 6 of the *Partnership Act*, the person applying must
- (a) submit to the Executive Director a copy of the registration statement that he or she intends to file under that Act,
  - (b) pay the LLP registration fee specified in Schedule 1, and
  - (c) receive a statement of approval of LLP registration from the Executive Director.
- (2) On receipt of a submission under subrule (1), the Executive Director must either
- (a) issue a statement of approval of LLP registration if the Executive Director is satisfied that
    - (i) the intended name complies with Rule 9-14, and
    - (ii) all partners in the partnership are members of the Society or a recognized legal profession in another jurisdiction, or
  - (b) decline to issue a statement of approval.
- (3) The Executive Director must notify the person applying in writing of the Executive Director's decision under subrule (2).

### **Review of Executive Director's decision**

- 9-16 (1) If the Executive Director declines to issue a statement of approval under Rule 9-15, the person applying may apply in writing to the Ethics Committee for a review.
- (2) After considering any submissions received from the partners and from the Executive Director, the Ethics Committee must
- (a) direct the Executive Director to issue a statement of approval if it is satisfied that
    - (i) the intended name complies with Rule 9-14, and
    - (ii) all partners in the partnership are members of the Society or a recognized legal profession in another jurisdiction, or
  - (b) reject the application.
- (3) The Ethics Committee must notify the person applying and the Executive Director in writing of its decision under this Rule.

### **Disclosure of LLP status**

- 9-17 (1) When a firm provides legal services to the public through a limited liability partnership, all advertising for the firm must indicate that the limited liability partnership provides the legal services.

(2) When a firm is continued as a limited liability partnership, the firm must promptly take reasonable steps to notify in writing each existing client of the firm of the change and the effect of a limited liability partnership in respect of the liability of partners.

(3) The notice required under subrule (2) must include the following statement, prominently placed:

The partners in a limited liability partnership are not personally liable for the negligent acts of another partner or an employee who is directly supervised by another partner. Each partner is personally liable for his or her own actions and for the actions of those he or she directly supervises and controls. The partnership continues to be liable for the negligence of its partners, associates and employees, and accordingly there is no reduction or limitation on the liability of the partnership.

- (4) When a firm is registered as an extraprovincial limited liability partnership under Part 6 of the *Partnership Act*, the firm must promptly take reasonable steps to notify in writing each existing client of the firm of the registration and any change, resulting from the registration, in the liability of the partners.
- (5) Subrule (4) does not apply to a client outside of British Columbia if the firm provides legal services to the client primarily through lawyers outside of British Columbia.
- (6) The notice required under subrule (2) or (4) may be
  - (a) mailed by regular or registered mail to the client at the client's last known address,
  - (b) delivered personally to the client,
  - (c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,
  - (d) transmitted by electronic mail to the client at the client's last known electronic mail address, or
  - (e) published in a newspaper distributed in the area in which the client resides or carries on business.

### **Change in LLP information and annual reports**

**9-18 A limited liability partnership must deliver to the Executive Director copies of the following at the same time that they are filed under Part 6 of the *Partnership Act*:**

- (a) an annual report;
- (b) an amendment to the registration statement.

### **Disclosure of LLP information**

9-19 (1) All information and documents received by the Society under this Division are confidential, and no person is permitted to disclose them to any person.

(2) As an exception to subrule (1), the Society may

- (a) use information and documents for a purpose consistent with the Act and these Rules,
- (b) disclose information and documents to a governing body, and
- (c) disclose to any person on request the name and place of business of a limited liability partnership.

### **Notification of non-compliance**

9-20 With the consent of the Credentials Committee, the Executive Director may notify the Registrar of Companies if the Executive Director becomes aware of the failure of a limited liability partnership or one or more of its partners to maintain compliance with the requirements of Part 6 of the *Partnership Act*.

8. *In Schedule 1, by repealing section I and substituting the following:*

<b>I. Corporation and limited liability partnership fees</b>	<b>\$</b>
1. Permit fee for law corporation (Rule 9-4(c)) .....	250.00
2. New permit on change of name fee (Rule 9-6(4)(c)) .....	75.00

9. *In Schedule 1, by adding the following to section I:*

3. LLP registration fee (Rule 9-15(1)) .....	250.00
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B. *BE IT FURTHER RESOLVED that the amendments in Part A be effective as follows:*

1. *The amendments in paragraphs 1, 5, 6 and 8 are effective immediately;*
2. *All other amendments are effective on proclamation of the Partnership Amendment Act, 2004, SBC 2004, c. 38.*