

# THE LAW SOCIETY OF BRITISH COLUMBIA

## MINUTES

- MEETING:** Benchers
- DATE:** Thursday, September 2, 2010
- PRESENT:**
- |  |                     |
|--|---------------------|
| Glen Ridgway, QC, President                      | Benjimen Meisner    |
| Gavin Hume, QC, 1 <sup>st</sup> Vice-President   | David Mossop, QC    |
| Bruce LeRose, QC, 2 <sup>nd</sup> Vice-President | Suzette Narbonne    |
| Haydn Acheson                                    | Thelma O'Grady      |
| Rita Andreone                                    | Lee Ongman          |
| Kathryn Berge, QC                                | Gregory Petrisor    |
| Joost Blom, QC                                   | David Renwick, QC   |
| Patricia Bond                                    | Claude Richmond     |
| Robert Brun, QC                                  | Alan Ross           |
| E. David Crossin, QC                             | Richard Stewart, QC |
| Tom Fellhauer                                    | Herman Van Ommen    |
| Leon Getz, QC                                    | Art Vertlieb, QC    |
| Stacy Kuiack                                     | Kenneth Walker      |
| Peter Lloyd, FCA                                 |                     |
- ABSENT:**
- |                 |   |
|-----------------|---|
| Satwinder Bains | David Loukidelis, Deputy Attorney General of BC |
| Carol Hickman   | Catherine Sas, QC                               |
| Jan Lindsay, QC |   |
- STAFF PRESENT:**
- |                     |                  |
|---------------------|------------------|
| Tim McGee           | Bill McIntosh    |
| Deborah Armour      | Jeanette McPhee  |
| Stuart Cameron      | Doug Munro       |
| Robyn Crisanti      | Lesley Pritchard |
| Su Forbes, QC       | Susanna Tam      |
| Jeffrey Hoskins, QC | Alan Treleaven   |
| Michael Lucas       | Adam Whitcombe   |
- GUESTS:**
- Dom Bautista, Executive Director, Law Courts Center
  - Mark Benton, Executive Director, LSS
  - Johanne Blenkin, Executive Director, BCCLS
  - Dean Donna Greschner, Law Faculty, UVIC
  - Jeremy Hainsworth, Reporter, Lawyers Weekly
  - Caroline Nevin, Executive Director, CBABC
  - Wayne Robertson, QC, Executive Director, Law Foundation of BC
  - Rob Seto, Director of Programs, CLEBC

## CONSENT AGENDA

### 1. Minutes

The minutes of the meeting held on July 9, 2010 were approved as circulated.

## Consent Resolutions

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

### 2. External Appointments: Justice Education Society Board of Directors

**BE IT RESOLVED** to appoint Leon Getz, QC to the board of directors of the Justice Education Society for a two-year term effective September 1, 2010.

### 3. Benchers Approval of Agreement: FLS Mobility Defalcation Compensation

**BE IT RESOLVED** to approve the Law Society's entry into the Federation of Law Societies of Canada's Mobility Defalcation Compensation Agreement, as set out in Appendix 1 to these minutes.

### 4. Law Society Representatives on the 2010 QC Appointments Advisory Committee

**BE IT RESOLVED** to appoint President Ridgway and First Vice-President Hume as the Law Society's representatives on the 2010 QC Appointments Advisory Committee.

### 5. Changes to Chapter 10 of the *Professional Conduct Handbook* (withdrawal by counsel for non-payment of fee): *R v. Cunningham*

**BE IT RESOLVED** to amend **Chapter 10 of the *Professional Conduct Handbook*** by deleting Paragraphs 6, 7, 8 and 9, and Footnote 2 and substituting the following

#### **Withdrawal for non-payment of fee**

6. If a lawyer and client agree that the lawyer will act only if the lawyer's fee is paid in advance, the lawyer must confirm that agreement in writing to the client, specifying a payment date.
7. A lawyer must not withdraw because the client has not paid the lawyer's fee when due unless there is sufficient time for the client to obtain the services of another lawyer and for that other lawyer to prepare adequately for a hearing or trial.

#### **Procedure for withdrawal**

8. Upon withdrawal, the lawyer must immediately:
  - (b) notify in writing the court registry where the lawyer's name appears as counsel for the client that the lawyer has withdrawn and, where applicable, comply with any other requirements of the tribunal,<sup>2</sup>

#### **Confidentiality**

9. Subject to exceptions permitted by law, 3 if the reason for withdrawal results from confidential communications between the lawyer and the client, the lawyer must not disclose the reason for the withdrawal unless the client consents.

#### **FOOTNOTES:**

2. In criminal matters, if withdrawal is a result of non-payment of the lawyer's fees, the court may exercise its discretion to refuse to allow the withdrawal. The court's order refusing counsel's withdrawal may be enforced by the court's contempt power. See *R. v. Cunningham*, 2010 SCC 10. The relationship between a lawyer and client is contractual in nature, and the general rules respecting breach of contract and repudiation apply. Except in criminal matters involving non-payment of fees, if a lawyer decides to withdraw as counsel in a proceeding, the court has no jurisdiction to prevent the lawyer from doing so, and the

decision to withdraw is not reviewable by the court, subject to its authority to cite a lawyer for contempt if there is evidence that the withdrawal was done for some improper purpose. Otherwise, the decision to withdraw is a matter of professional responsibility, and a lawyer who withdraws in contravention of this Chapter is subject to disciplinary action by the Benchers. See *Re Leask and Cronin* (1985), 66 BCLR 187 (SC). In civil proceedings the lawyer is not required to obtain the court's approval before withdrawing as counsel, but must comply with the Rules of Court before being relieved of the responsibilities that attach as "solicitor acting for the party." See *Luchka v. Zens* (1989), 37 BCLR (2d) 127 (CA).

3. One such exception is that set out in *R. v. Cunningham*, 2010 SCC 10, which establishes that, in a criminal case, if the disclosure of information related to the payment of the lawyer's fees is unrelated to the merits of the case and does not prejudice the accused, the lawyer may properly disclose such information to the court. See para. 31:

Disclosure of non-payment of fees in cases where it is unrelated to the merits and will not cause prejudice to the accused is not an exception to privilege, such as the innocence at stake or public safety exceptions (see generally *R. v. McClure*, 2001 SCC 14 and *Smith v. Jones*, [1999] 1 S.C.R. 455). Rather, non-payment of legal fees in this context does not attract the protection of solicitor-client privilege in the first place. However, nothing in these reasons, which address the application, or non-application, of solicitor-client privilege in disclosures to a court, should be taken as affecting counsel's ethical duty of confidentiality with respect to payment or non-payment of fees in other contexts

**6. Referendum on amendment of Rule 1-6 [Annual General Meeting] to allow the Audited Financial Statements to be distributed to members electronically**

*BE IT RESOLVED* that a referendum be held this year on the question of whether the Benchers may amend Rule 1-6 to allow distribution of the audited financial statements to members electronically rather than by traditional mail.

**7. Changes to Rule 3-3 [Confidentiality of complaints] respecting appointment of special prosecutors**

*BE IT RESOLVED* to amend Law Society Rule 3-3(2) by deleting paragraph (a) and substituting the following:

- (a) disclose information referred to in subrule (1), with the consent of the lawyer who is the subject of the complaint;

**REGULAR AGENDA – for Discussion and Decision**

**8. President's Report**

Mr. Ridgway referred the Benchers to his written report — circulated by email prior to the meeting — for an outline of his activities as President during the period of July 10 August 31, 2010.

Mr. Ridgway updated the Benchers on the working process of the BC Public Commission on Legal Aid, advising that the Public Commission will visit 11 communities throughout British Columbia in September and October of this year to gather input from the public and stakeholder groups regarding their views on the future of legal aid. He referred the Benchers to the Commission's recent news

release<sup>1</sup> for a schedule of hearings and directions for making submissions, encouraging them “to spread the word” to lawyers and the public about the upcoming hearing process.

## 9. CEO’s Report

Mr. McGee provided highlights of his monthly written report to the Benchers (Appendix 2 to these minutes), including the following matters:

- a. National Standards on Admission to Practice – Federation Project
- b. Report on the Canadian Common Law Degree – Implementation Update
- c. International Bar Association (IBA) – Vancouver Conference
- d. International Institute of Law Association Chief Executives (IILACE) –
- e. Vancouver Conference
- f. Law Society Annual General Meeting – September 28, 2010

Mr. McGee briefed the Benchers on an upcoming civic policy initiative—called “Public Salons”—being organized by former-Mayor Sam Sullivan. He advised that on September 23 Chief Justice Finch is scheduled to speak at a salon being held at the Vancouver Playhouse.

Mr. Brun expressed appreciation to Mr. McGee for his advice and guidance on strategic planning, the subject of a recent Canadian Bar Association support mission to Uganda.

## 10. Report on Outstanding Hearing and Review Reports

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

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

### 11. Proposed Amendments to Section 3 of the *Legal Profession Act*

Mr. Ridgway reminded the Benchers that proposed amendments to section 3 of the *Legal Profession Act* were discussed in detail at the July Benchers meeting, separately from the package of proposed legislative amendments approved for submission to the provincial government for consideration in 2011.

Mr. Ridgway referred to the following passage in the Executive Committee’s memorandum to the Benchers (page 11001 of the meeting materials) for the wording of the current proposed amendment of section 3, noting that **subparagraph (e)** has been added to address concerns raised at the July Benchers meeting:

***Public interest paramount***

***3 It is the object and duty of the society to uphold and protect the public interest in the administration of justice by***

- (a) preserving and protecting the rights and freedoms of all persons,*
- (b) ensuring the independence, integrity, honour and competence of lawyers,*
- (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and applicants for call and admission,*

<sup>1</sup> Available on the Commission’s website at [http://www.publiccommission.org/About/news/news\\_08\\_03\\_10.aspx](http://www.publiccommission.org/About/news/news_08_03_10.aspx)

- (d) *regulating the practice of law, and*  
 (e) *supporting and assisting lawyers in fulfilling their responsibilities in the practice of law.*

Mr. Vertlieb moved (seconded by Mr. Crossin) that the proposed language for section 3 of the *Legal Profession Act*—as set out at page 11001 of the meeting materials—be approved for submission to the provincial government for consideration in amending section 3 of the Act in 2011.

Points covered in the ensuing discussion included:

- the Executive Committee’s view is that the re-draft addresses concerns about continuing programs that support and assist lawyers, while also addressing the concern over the current language about “protecting” the interests of lawyers
- replacement of “upholding and protecting the interests of its members” with “supporting and assisting lawyers in fulfilling their responsibilities in the practice of law”
  - does not change the work done by the staff, Benchers and volunteers of the Law Society
  - enhances public confidence in the legal profession and its regulation by the Law Society
- the Law Society’s public interest mandate is already clear and strong, so there is no pressing need for change
- effective regulation requires that the Law Society have the confidence of the legal profession

The motion was carried.

#### **17. Discipline Guidelines Task Force: Revised Abeyance Policy**

Mr. Van Ommen briefed the Benchers on the Discipline Guidelines Task Force’s review of the abeyance principles set out in the Task Force report presented at the July 9 Benchers meeting. The Task Force considers that those principles accurately describe the basis upon which the Discipline Committee is to exercise its discretion when making a decision on a request by a lawyer under investigation to hold the matter in abeyance. The rationale for that approach is that broad policy considerations should be determined by the Benchers as a whole, and applied by the operating committees when exercising their discretion.

Mr. Van Ommen noted that the task force report at Tab 17 of the meeting materials presents the task force’s current and complete proposed abeyance policy (the Abeyance Policy): combining general principles with the guidelines already approved by the Benchers at their July meeting.

Mr. Van Ommen moved (seconded by Mr. Kuiack) that the Abeyance Policy be adopted.

Points raised in the ensuing discussion included:

- concerns about the merits of the Abeyance Policy can be addressed in two ways
  - the Benchers will be asked to review the Abeyance Policy in one year
  - the Discipline Committee may ask the Benchers to reconsider aspects of the Abeyance Policy, if that Committee believes that the circumstances of a particular case or cases so warrant
- the discretion built into the guidelines is always subject to the general principles

- reconsideration of aspects of the Abeyance Policy by the Benchers
  - would be for the purpose of contemplating the potential for future improvements to the Abeyance Policy
  - would not be for the purpose of substituting their judgment for that of the Discipline Committee in particular cases, whether past or pending

The motion was carried.

## **OTHER MATTERS – Other Matters for Discussion and/or Decision**

### **12. Law Society Response to Family Relations Act White Paper**

Mr. Munro briefed the Benchers on the Ministry of Attorney General invitation to comment on its White Paper proposing overhaul of the *Family Relations Act*. He referred to the memorandum at page 12000 of the meeting materials for the amended mandate requested by the Family Law Task Force:

The Family Law Task Force will review the Ministry of the Attorney General’s “White Paper on *Family Relation Act Reform: Proposals for a new Family Law Act*”, and recommend a response to the Benchers on October 1, 2010. The focus of the analysis will be to provide a concise response from the perspective of the Law Society’s public interest mandate.

Ms. Berge moved (seconded by Mr. Stewart) that the mandate of the Family Law Task Force be amended as requested.

The motion was carried.

## **FOR INFORMATION ONLY**

### **18. Report to the Benchers on the 2010 Canadian Bar Association (National) Annual Meeting and Canadian Legal Conference (August 13 – 18, 2010, Niagara Falls, Ontario)**

Mr. LeRose reported briefly on his attendance at the 2010 in Niagara Falls, referring the Benchers to his written report for details. He noted that this was his last attendance at a CBA Annual Meeting on behalf of the Law Society, thanking Past-President Turriff and President Ridgway for that honour over the past two years.

Mr. LeRose concluded by stating his belief that the Law Society’s representation at CBA (National) Annual Meetings provides much value to both organizations.

## ***IN CAMERA* SESSION**

The Benchers discussed other matters *in camera*.

WKM

2010-09-10

*Federation of Law Societies  
of Canada*



*Fédération des ordres professionnels  
de juristes du Canada*

# **Mobility Defalcation Compensation Agreement**

## Mobility Defalcation Compensation Agreement

### FEDERATION OF LAW SOCIETIES OF CANADA

May 2010  
Ottawa, Ontario

#### **Background**

Since the adoption of the Inter-Jurisdictional Practice Protocol by several law societies in 1994, and especially since the adoption of the National Mobility Agreement in 2002, most Canadian lawyers have had the ability to practise law on a temporary basis and subject to limited restrictions in almost all of the jurisdictions of Canada. While this can be done in most cases without notifying any law society, so there are no reliable statistics on the usage of this new ability, every indication is that lawyers are exercising their mobility rights.

While all jurisdictions provide coverage to members of the public who have suffered financial losses due to lawyer misappropriation, jurisdictional differences exist with respect to eligibility for coverage and coverage limits.

#### **Purpose**

The purpose of this agreement is to bring more consistency, certainty and transparency to the process for compensating the public if funds are misappropriated by lawyers exercising their temporary mobility rights under the National Mobility Agreement. In order to do that, the signatories to the National Mobility Agreement hereby agree to amend the Agreement by adopting new coverage limits for defalcation compensation claims against their members when they provide legal services while practising temporarily in or with respect to the law of another jurisdiction and establishing new procedures for investigating and adjudicating claims.

## Mobility Defalcation Compensation Agreement

THE SIGNATORIES AGREE AS FOLLOWS:

### Definitions

1. In this agreement, unless the context indicates otherwise:

**“defalcation compensation coverage”** means the coverage to be provided by a home governing body to compensate members of the public who sustain a financial loss arising from the misappropriation of monies or property by a lawyer while providing legal services on a temporary basis in a host jurisdiction or with respect to the law of a host jurisdiction;

**“governing body”** means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau;

**“home governing body”** means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “home jurisdiction” has a corresponding meaning;

**“host governing body”** means a governing body of the legal profession in Canada in whose jurisdiction a lawyer practises law without being a member, and “host jurisdiction” has a corresponding meaning;

**“Inter-Jurisdictional Practice Protocol”** means the 1994 Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada, as amended from time to time;

**“lawyer”** means a member of a signatory body;

**“National Mobility Agreement”** or **“NMA”** means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

**“practice of law”** has the meaning with respect to each jurisdiction that applies in that jurisdiction;

**“providing legal services”** means engaging in the practice of law: in a Canadian jurisdiction or with respect to the law of a Canadian jurisdiction;

**“reciprocating governing body”** means a governing body that has signed and implemented the provisions of this Agreement.

### General

2. The signatory governing bodies will:

(a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this Agreement;

(b) amend their own rules, by-laws, insurance or other policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this Agreement;

## Mobility Defalcation Compensation Agreement

(c) comply with the spirit and intent of this Agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and

(d) work co-operatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.

**3.** Signatory governing bodies will subscribe to this Agreement and be bound by it by means of the signature of an authorized person affixed to any copy of this Agreement.

**4.** A signatory governing body will not, by reason of this Agreement alone,

(a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or

(b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.

### **Defalcation Compensation Coverage for Mobile Lawyers**

**5.** The signatories adopt the "Principles for Uniform Compensation Fund Coverage for Mobile Lawyers" adopted by the Council of the Federation of Law Societies of Canada (the "Federation") in March 2009, particularized as follows:

(a) The defalcation compensation coverage in place in a lawyer's home jurisdiction must respond to a claim made against one of its lawyers arising from the lawyer providing legal services on a temporary basis in a host jurisdiction;

(b) A home governing body must provide defalcation compensation fund coverage of at least \$250,000 per claimant, with an annual limit per lawyer of at least \$2 million, subject to the annual aggregate limit in place in the home jurisdiction;

(c) No classes of claimants may be excluded from coverage;

(d) Claimants must contact the lawyer's home governing body and comply with the claims process in place in the home jurisdiction;

(e) Subject to paragraphs (b) and (c) above, the home jurisdiction will follow its local payment guidelines, rules, policies and procedures;

## Mobility Defalcation Compensation Agreement

- (f) When a claim is made, the home governing body must:
- (i) notify the host governing body,
  - (ii) discuss with the host governing body the manner in which the investigation of the claim will be handled, and
  - (iii) keep the host governing body informed on the progress of the investigation;
- (g) When a claim is made, the home governing body may:
- (i) ask the host governing body, on the basis of the public interest, convenience and cost, to assume conduct of the investigation of the claim, and
  - (ii) agree with the host governing body as to the share of the costs of the investigation to be borne by each;
- (h) Where the identity of a home jurisdiction is not obvious because a lawyer is a member and entitled to practise law in more than one jurisdiction, the governing body of the jurisdiction that has the closest and most real connection to the claim will be responsible for responding to the claim;
- (i) The factors that must be considered in order to determine which jurisdiction has the closest and most real connection to a claim include, but are not limited to, the following:
- (i) the jurisdiction whose law was being practised by the lawyer;
  - (ii) where the lawyer performed the services involved in the claim;
  - (iii) the ordinary location of the client;
  - (iv) the location of the subject matter of the services provided, or the source of the subject matter;
  - (v) the jurisdiction in which proceedings are commenced or are likely to be commenced;
  - (vi) where the trust funds were, or ought to have been, deposited; (j) If the identity of a host jurisdiction is not obvious, the host will be determined by applying the criteria set out in clauses (h) and (i).

## Mobility Defalcation Compensation Agreement

### Dispute Resolution

6. If a dispute arises with a governing body concerning any matter under this Agreement, a signatory to this Agreement may do one or both of the following:

- (a) agree with a governing body to refer the matter to a single mediator;
- (b) submit the dispute to arbitration under Appendix 5 of the Inter-Jurisdictional Practice Protocol.

### Claimants' rights preserved

7. Governing bodies that refer a dispute to mediation or arbitration under clause 7 must make their best efforts to ensure that the ability of a rightful claimant to receive compensation in a timely fashion is not prejudiced.

### Implementation

8. Provisions implementing the terms of this Agreement apply immediately with respect to claims for compensation arising when a lawyer who is a member of a reciprocating governing body provides legal services with respect to the jurisdiction of a different reciprocating governing body. The provisions previously in force under the National Mobility Agreement continue to apply with respect to all other claims.

9. Clause 22 of the NMA and the provisions in clause 42 of the NMA that apply to defalcation compensation coverage are of no effect with respect to claims involving only reciprocating governing bodies. When all signatory governing bodies have implemented this agreement, those provisions are hereby rescinded.

### National Excess Plan

10. The signatories agree that the Federation of Law Societies of Canada will

- (a) maintain the National Excess Plan established under the Inter-Jurisdictional Practice Protocol until all signatory governing bodies have implemented this agreement, and
- (b) decide on the future use or disposition of the funds in the plan.

Mobility Defalcation Compensation Agreement

SIGNED as of the dates indicated below.

LAW SOCIETY OF ALBERTA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF BRITISH COLUMBIA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF MANITOBA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF NEW BRUNSWICK

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

Mobility Defalcation Compensation Agreement

NOVA SCOTIA BARRISTERS' SOCIETY

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF UPPER CANADA

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF PRINCE EDWARD ISLAND

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

BARREAU DU QUÉBEC

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

LAW SOCIETY OF SASKATCHEWAN

Per: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Date

The Law Society  
of British Columbia



## ***Chief Executive Officer's Monthly Report***

A Report to the Benchers by

Timothy E. McGee

September 2, 2010

## **Introduction**

My report to the Benchers this month focuses on two major initiatives of the Federation of Law Societies and also updates the Benchers on several additional items of interest.

### **1. National Standards on Admission to Practice – Federation Project**

At its June 2009 meeting, Council of the Federation authorized the preparation of a detailed proposal for a project to develop national standards for admission to the legal profession. The goal of the project will be to develop consistent standards for admission and to provide law societies with an objective mechanism to ensure every applicant admitted to the bar meets the national standards.

The impetus for this project comes from recognition that a number of factors reinforce the desirability of each law society having reasonably similar standards for the admission of applicants to the bar.

Probably the most compelling of these factors is national mobility. The National Mobility Agreement (the “NMA”) and the Territorial Mobility Agreement reinforced by the recent amendments to the Agreement on Internal Trade (the “AIT”) permit lawyers to transfer from one common law jurisdiction to another with ease.

That the standards for admission were reasonably comparable was one of the underlying premises of the NMA. The existence of common standards eliminates concerns about the qualifications of transferring lawyers. This has become even more important with the imposition of mandatory mutual recognition of credentials under the AIT. The reality, however, is that significant differences exist in the admission standards and processes employed by each law society. These differences can no longer be justified.

Finally, the establishment of national admission standards would eliminate the considerable duplication of effort and expense that is inevitable in the current system in which each law society is called upon to develop its own processes and standards to evaluate applicants.

The goal of this project is:

“To develop consistent, defensible standards for admission to the legal profession and to ensure every applicant admitted to the bar meets these standards.”

The admission process is intended to ensure that everyone admitted to the bar has the necessary competencies and other qualifications to practice law. To

gain entry to the profession, applicants must demonstrate that they possess the knowledge, skills and character necessary to fulfill their role as lawyers.

Drafting a profile of those competencies, defining and articulating the required elements of good character and developing a mechanism to assess whether applicants possess the necessary competencies and good character will be the central tasks of this project.

Once drafted and validated through a consultation process, the admission standards will be submitted to Council and to the members of the Federation for approval. Adoption and implementation of the standards by individual law societies is a key component of this project.

A Steering Committee has been appointed by the Executive of the Federation to provide overall direction for the project. The Steering Committee membership is:

Don Thompson, QC (Chair, Alberta)  
Tim McGee (British Columbia)  
Alan Treleaven (British Columbia)  
Allan Fineblit, QC (Manitoba)  
Darrel Pink (Nova Scotia)  
Mike Milani (Saskatchewan)  
Malcolm Heins (Ontario)  
Jonathan Herman (Federation)

The Steering Committee will be responsible for the operation and supervision of the project and, through the Executive will provide regular reports to Council of the Federation. The Steering Committee will also be responsible for working with the law societies to ensure that their views and interests are reflected in the standards and that law societies are kept well informed of the progress of the project. Members of the Steering Committee will also work directly with the law societies to assist with implementation of the standards once they have been approved and adopted.

The work of the project will be divided into three distinct streams:

- i. drafting and validation of the competencies profile
- ii. drafting of the good character standard
- iii. development of assessment mechanism

Following the drafting and validation of the competency and character standards and the development of a suitable assessment mechanism, the final standards and proposed assessment mechanism will be submitted to Council for its approval following which member law societies will be asked to adopt and implement the standard. Details of the process for adoption and

implementation will be determined by the Steering Committee in consultation with member law societies.

The tentative target for completion of the final report to Council is the end of 2011.

The Law Society of BC will play an integral role in this project through our involvement on the Steering Committee and through the expertise we will contribute by making Lynn Burns, Director, PLTC, and Lesley Small, Manager, Members Services and Credentials, available for the competencies and good character streams, respectively.

Alan Treleaven and I would be happy to speak to any Benchers about this project in greater detail at your convenience.

In addition, under the Chair of Thelma O’Grady, the Lawyer Education Advisory Committee will receive regular progress reports and provide feedback to Alan Treleaven and me.

## **2. Report on the Canadian Common Law Degree – Implementation Update**

On March 18, 2010, Federation President John Campion reported that the Final Report of the Task Force on the Canadian Common Law Degree (known as the Hunter Report) had been approved by all law societies and that the implementation process must be complete by 2012 for the law students who begin their first year of studies that year and graduate in 2015. Council approved the Federation Executive appointing a Working Group to make recommendations to Council at its June 7, 2010 meeting on the establishment of a Task Force Report Implementation Committee.

The following was the process recommended to Council by the Working Group:

1. An Implementation Committee known as the Federation of Law Societies of Canada’s Common Law Degree Implementation Committee (“the Implementation Committee”) should be established .
2. The Implementation Committee’s mandate should be:
  - a. to determine how compliance with the recommendations of the Task Force on the Canadian Common Law Degree will be measured. Its mandate may include clarifying or elaborating on the recommendations, where appropriate, to ensure their effective implementation, but will not include altering the substance or purpose of them;

- b. to make recommendations as to the establishment of a monitoring body to assume ongoing responsibility for compliance measurement, including an evaluation of the compliance measurement program and the required competencies and for maintaining the Federation's relationship with Canadian law schools. The Implementation Committee should consider any role the National Committee on Accreditation might play in that monitoring process; and
- c. that the Committee include two representatives from academe.

John Hunter, QC, the Chair of the Task Force, and John Campion, President of the Federation, are finalizing arrangements for participation in and a process for the work of the Implementation Committee.

### **3. International Bar Association (IBA) – Vancouver Conference**

As you know, the IBA is holding its Annual Conference in Vancouver on October 3 – 8, 2010. The Law Society has been active in assisting the local organizing committee in a variety of ways. The Law Society is formally involved as a co-sponsor or host of three specific events during the conference. These events were chosen after consultation with the Executive Committee on the basis of the connection to legal regulation and relevance to our mandate. A chart providing details on these events and other events during the conference that involve Benchers or staff involvement is attached to this report. If you have any questions regarding the Law Society's involvement in the IBA Conference, please contact me or Bill McIntosh, Manager Executive Support

### **4. International Institute of Law Association Chief Executives (IILACE) – Vancouver Conference**

I am a member of IILACE, an international organization that brings together chief executives from law regulatory and representative bodies from around the world each year to review and discuss matters of interest and concern. This year the conference is being held in Vancouver immediately before the IBA Annual Conference. As the local Law Society for this year's conference we have played a lead role in helping to set the agenda and to make the necessary arrangements.

I am attaching a copy of the current IILACE conference program for your information. Please don't hesitate to let me know if you have any thoughts or ideas on the program topics. As usual, I will be reporting to the Benchers on the results of the conference at the Benchers meeting in October.

**5. Law Society Annual General Meeting – September 28, 2010**

This is a reminder that the Law Society's 2010 Annual General Meeting will be held at the Pan Pacific Hotel in Vancouver and in 10 different satellite locations around the province on Tuesday, September 28, 2010. Registration begins at 11:30 a.m. with call to order at 12:30 p.m.

There is one member resolution this year proposing a reduced CPD requirement for lawyers working on a part time basis. The Benchers have spoken against this proposal in the materials recently distributed as part of the second and final meeting notice.

If you have any questions about arrangements for the AGM, please do not hesitate to contact Bill McIntosh.

Timothy E. McGee  
Chief Executive Officer

## International Bar Association Annual Conference October 3 – 8, 2010

## LSBC Event Participation or Attendance

Date	Time/Location	Event	Notes
<b>Sunday, October 3</b>	6 PM – 10:30 PM Vancouver Trade & Exhibition Centre West	Opening Ceremony & Welcome Party	<ul style="list-style-type: none"> <li>Glen and Tim will attend.</li> </ul>
<b>Monday, October 6</b>	3 PM – 6 PM Vancouver Trade & Exhibition Centre	Anti-Money Laundering Legislation Implementation Working Group	<ul style="list-style-type: none"> <li>Stu Cameron is participating in this panel</li> </ul>
<b>Tuesday, October 5</b>	9 AM – 11:30 AM Vancouver Law Courts	Law Courts Tour	<ul style="list-style-type: none"> <li>Bill McIntosh is working with Johanne Blenkin (BC Courthouse Library Society and Public Legal Education and Information Working Group) to organize this tour for a maximum of 60 delegates.</li> <li>Proposed schedule is (pending Chief Justice's approval): <ul style="list-style-type: none"> <li>9 AM – Great Hall – photo op and greeting</li> <li>9:30 AM – visit Courtroom 20 (high security court)</li> <li>10:00 AM – 3 groups – attend proceeding in civil, criminal or appellate</li> <li>10:30 AM – Clicklaw and SHISH (self-help centre) demos</li> <li>11:15 AM – coffee at Law Courts Inn with Chiefs or delegates in attendance (cost of refreshments to be split between LSBC, CBA and Federation)</li> </ul> </li> </ul>
<b>Thursday, October 7</b>	10 AM – 1 PM Vancouver Trade & Exhibition Centre West	Multidisciplinary Practices Committee Working Session: "Alternative business structures – advancing an international perspective"	<ul style="list-style-type: none"> <li>Gavin Hume, QC will be speaking at this working session</li> <li>The 'Commission on Ethics 20/20', recently created by the American Bar Association, is charged with re-examining the regulation of the legal profession in view of globalisation and technological advances. One issue to be addressed is whether American lawyers should be permitted, contrary to current US law, to engage in multidisciplinary practices, in law practices with non-lawyer managers/owners, or to work in incorporated or publicly traded law firms. The IBA Multidisciplinary Practices Committee will be researching the global landscape regarding such alternative business structures for lawyers and expects to prepare a report to the commission. At this working session, the committee will present its work and gather additional international experience for inclusion</li> </ul>

Bill McIntosh is assisting with invitations to dignitaries - LSBC agreed to publicize conference in Benchers' Bulletin and by posting it on the LSBC online calendar

Date	Time/Location	Event	Notes
			in its final report.
	1 PM – 3 PM Vancouver Trade & Exhibition Centre West	Public and Professional Interest Division Lunch	<ul style="list-style-type: none"> <li>Jointly sponsored by LSBC and FLS.</li> <li>Bill McIntosh is assisting with booking the keynote speaker (most likely the AG)</li> <li>Arrangements by IBA (Elaine Owen)</li> </ul>
	8 PM Zefferelli's - 1136 Robson Street	Bar Issues Commission Dinner	<ul style="list-style-type: none"> <li>Jointly sponsored by LSBC, FLS, CBABC &amp; CBA National</li> <li>Arrangements by IBA (Elaine Owen)</li> </ul>
<b>Friday, October 8</b>	9 AM - 4 PM Vancouver Trade & Exhibition Centre West	Rule of Law Symposium	<ul style="list-style-type: none"> <li>LSBC not actively involved (Glen and Tim have tickets to attend); however this event is likely to be attended by a variety of law-related non-profit organizations as they can attend free of charge. Some Law Society staff lawyers are planning to attend.</li> <li>CJ Beverley McLachlin and Justice Sandra Day O'Connor will be speaking at the morning session "The state of the rule of law in Canada and the US".</li> </ul>
	1 PM – 3 PM LSBC Bencher's Room /914	Bar Executives Lunch Workshop - "The media, government and public perception – what you don't know can hurt you"	<ul style="list-style-type: none"> <li>LSBC is hosting this lunch workshop in the Bencher Room. The session will be led by Kimanda Jarzebiak of Ascent Public Affairs.</li> </ul>



**IILACE**  
**vancouver2010**

Annual Conference of the International Institute  
of Law Association Chief Executives

**September 30 - October 2, 2010**  
**Vancouver, Canada**

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## Wednesday, September 29

- 2:00 pm - 4:00 pm** IILACE Executive Committee meeting  
Westin Bayshore Hotel
- 5:30 pm - 6:30 pm** Welcome reception  
*Sponsored by the Canadian Bar Association*  
Marine Room, Westin Bayshore Hotel
- 6:45 pm** Bus departs Westin Bayshore Hotel for dinner venue
- 7:00 pm** Dinner - Joe Fortes Seafood and Chop House  
*Sponsored by Canadian Law Societies*
- Return to Westin Bayshore Hotel (by walking or by taxi)

## Thursday, September 30

- 9:00 am - 10:30 am** PLENARY SESSION  
Topic #1: Core values of the profession  
*What are they? Are they the same everywhere? Are they changing everywhere? Who really cares? What worms are eating our core values?*
- Plenary Speaker – Paul D. Paton, Professor of Law & Director, Ethics Across the Professions Initiative, University of the Pacific, McGeorge School of Law  
Session Chair – Tim McGee, Law Society of British Columbia  
Ken Murphy – Law Society of Ireland  
Heidi Chu – Law Society of Hong Kong  
Lorna Jack – Law Society of Scotland
- 10:30 am - 10:45 am** Break
- 10:45 am - 11:15 am** Initial breakout groups

- 11:15 am - 12:45 pm** **Topic #2: The growing divide between large and small firms**  
*'E Unum Pluribus'? Should we not just acknowledge the fact that large and small firms now constitute two separate legal professions? Should separate ethical and regulatory rules be developed for, and applied to, large and small firms? Are Law Societies and Bar Associations in fact completely irrelevant for today's large firms?*
- Session Chair – Cord Brüggmann, German Bar Association  
 Michael Brett Young – Law Institute of Victoria  
 Malcolm Heins – Law Society of Upper Canada  
 Caroline Nevin – British Columbia Bar Association
- 12:45 pm - 1:45 pm** **Lunch**  
 Marine Room
- 1:45 pm - 3:30 pm** **Topic #3: A practical approach to strategic planning**  
*What is a 'strategic plan'? Is it just optics or can there be a real value to a Law Society or Bar Association in having a strategic plan? How can you bridge the aspiration gap so that your strategic plan is truly a driving force and not just a dead document in your drawer?*
- Session Chair – John Hoyles, Canadian Bar Association  
 Interactive Presentation – Ron Knowles, Principal, Western Management Consultants, and author of *Strategic Planning for Associations and Not-for-Profit Organizations*
- 3:30 pm - 4:15 pm** **Breakout groups reconvene on Topic #1**
- 5:15 pm** Bus departs Westin Bayshore Hotel for Museum of Anthropology
- 5:30 pm - 7:00 pm** **Cocktail reception and guided tours - Museum of Anthropology**  
*Sponsored by Australian Law Associations & Bar Societies*  
 University of British Columbia, Point Grey Campus
- 7:00 pm - 7:15 pm** Walk from Museum of Anthropology to Cecil Green Park House
- 7:15 pm** **Champagne toast - Cecil Green Park House**
- Dinner - Cecil Green Park House**  
*Sponsored by LexisNexis*  
 With special dinner guests and speaker
- 9:30 pm** Bus departs for Westin Bayshore Hotel
- 9:45 pm** Hospitality Suite – Westin Bayshore Hotel

## Friday, October 1

- 9:00 am - 10:00 am** **Topic # 4: Impact of recession on law societies and bar associations including challenges of generating alternate revenue sources**  
*How badly has your members' income been hit by 'the Great Recession'? How badly has your Law Society or Bar Association's income been hit by it? Have you had to 'downsize' staff numbers and, if so, how have you gone about it? What practical cost-cutting measures*

*have you taken and how? What steps have you taken to generate alternate revenue and how? How can you commercialise without selling your soul?*

Session Chair – Ken Murphy, Law Society of Ireland  
 Cord Brüggmann – German Bar Association  
 Jan Martin – Law Society of South Australia  
 Allan Fineblit – Law Society of Manitoba

- 10:00 am - 10:15 am** Break
- 10:15 am - 11:00 am** Continuance of Topic #4: Impact of recession on law societies and bar associations including challenges of generating alternate revenue sources
- 11:00 am - 11:45 am** Drawing the Strands Together: Discussion of core values of the profession  
 Session Chair – Tim McGee, Law Society of British Columbia
- 11:45 am - 12:45 pm** Lunch  
 Marine Room
- 12:45 pm - 2:00 pm** Topic # 5: *Communicate or Die*  
*How can you get the attention of your members whether you are a regulatory or representative body? How can you stop yourself being boring and irrelevant? Who should be the judge of what's important - you or your members? Your message is often complex but your members have a short memory attention span - how can modern communication - from direct mail to twitter - help? Which is more important, the medium or the message?*  
 Guest speaker – Tod Maffin, Strategist, Consultant, Author, Speaker, and Social Media Expert  
 Session Chair – Retha Steinmann, Law Society of Namibia  
 Merete Smith – Norwegian Bar Association  
 Bill Grant – Law Council of Australia  
 Raj Daya – Law Society of South Africa  
 Jonathan Herman – Federation of Law Societies of Canada
- 2:00 pm - 2:15 pm** Break
- 2:15 pm - 3:30 pm** Continuance of Topic #5: *Communicate or Die*
- 6:00 pm** Bus departs Westin Bayshore Hotel for Grouse Mountain
- 6:30 pm - 6:45 pm** Skyride to Peak Chalet
- 6:45 pm** Reception - Timber Room, Grouse Mountain  
*Sponsored by British & European Law Societies & Bar Associations*
- 7:30 pm** Dinner - Timber Room, Grouse Mountain  
*Sponsored by Willis*
- 9:30 pm - 9:45 pm** Skyride to base of Grouse Mountain
- 9:45 pm** Bus departs for Westin Bayshore Hotel
- 10:00 pm** Hospitality Suite – Westin Bayshore Hotel

## Saturday, October 2

- 9:00 am - 9:30 am** Update: The insurance world post-recession  
Presenter: Andrew Fryer, Willis
- 9:30 am - 9:45 am** Distribution and review of Communiqué on core values of the profession
- 9:45 am - 10:45 am** Topic #6: The CEO and the Board: The relationship and effective management structures  
*How to create a proper understanding and mutual respect for the different roles of the CEO and of the political masters in a Law Society or Bar Association - what works and what doesn't? What parts of the relationship should be defined in writing and what parts shouldn't? How can trust be generated? How can we stop the supposedly permanent becoming transient?*
- Session Chair – John Hoyles, Canadian Bar Association  
Don Deya – East African Law Society  
David Hobart – Bar Council of England and Wales  
Tim McGee – Law Society of British Columbia  
Hank White
- 10:45 am - 11:00 am** Break
- 11:00 am - 11:45 am** Continuance of Topic #6: The CEO and the Board
- 11:45 am - 12:15 pm** ILLACE Annual General Meeting
- 12:15 pm - 1:15 pm** Lunch  
Marine Room
- Saturday Afternoon** OPTIONAL  
Into the Wild: A Westcoast Experience, Vancouver Island, British Columbia



This will be a unique overnight opportunity that will be priced separately for those that wish to participate after the formal 2010 conference proceedings end. Please see the information form. Participants will return to Vancouver by 4pm on Sunday.



## Registration Form

**September 30-  
October 2, 2010**

Name of Chief Executive \_\_\_\_\_ Title \_\_\_\_\_

Name of Law Association \_\_\_\_\_ E-mail \_\_\_\_\_

Address \_\_\_\_\_ Telephone \_\_\_\_\_

- I will attend the IILACE Vancouver 2010 Conference.  
**US \$625 registration fee.** Includes all meetings and educational sessions, receptions, lunches on Thursday, Friday, and Saturday, and dinners on Thursday and Friday.

- I will be accompanied. The name of my guest is \_\_\_\_\_  
**US \$375 guest registration fee.** Includes all receptions, and dinners on Thursday and Friday.

### Payment Information

**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**

**Pay by Credit Card:**  VISA  MasterCard  American Express Name on card: \_\_\_\_\_

Card Number: \_\_\_\_\_ Expiry: \_\_\_\_\_

**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 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](mailto:info@iilace.org) confirming the day the money was wired for our tracking purposes.**

**Send your registration form by email to [info@iilace.org](mailto:info@iilace.org) or by fax to 613-237-0185 (Canada), attention of John Hoyles.**

### Hotel Accommodations

The IILACE 2010 conference will take place at the **Westin Bayshore** in Vancouver. IILACE has secured a **special conference rate** of \$274 (+ tax) single occupancy and \$299 (+ tax) double occupancy which **includes a full breakfast**, and is **available until September 3, 2010**. To book, [please click here to visit the Starwood Meetings site](#).