

Minutes

Benchers

Date: Friday, October 31, 2014

Present: Jan Lindsay, QC, President Jamie Maclaren

Ken Walker, QC, 1st Vice-President Sharon Matthews, QC

David Crossin, QC, 2nd Vice-President Ben Meisner Haydn Acheson Nancy Merrill

Joseph Arvay, QC
Satwinder Bains

Maria Morellato, QC
David Mossop, QC

Pinder Cheema, QC

David Corey

Jeevyn Dhaliwal

Lynal Doerksen

David Mossop, QC

Lee Ongman

Greg Petrisor

Claude Richmond

Phil Riddell

Thomas Fellhauer Elizabeth Rowbotham
Craig Ferris Herman Van Ommen, QC

Martin Finch, QC Cameron Ward
Miriam Kresivo, QC Sarah Westwood
Dean Lawton Tony Wilson
Peter Lloyd, FCA

Excused: Not applicable

Staff Present: Tim McGee, QC Michael Lucas

Deborah Armour

Taylore Ashlie

Lance Cooke

Su Forbes, QC

Andrea Hilland

Bill McIntosh

Jeanette McPhee

Doug Munro

Alan Treleaven

Adam Whitcombe

Jeffrey Hoskins, QC

Guests: Dom Bautista Executive Director, Law Courts Center

Johanne Blenkin Chief Executive Officer, Courthouse Libraries BC

Kevin Boonstra Legal Counsel, Trinity Western University
Kari Boyle Executive Director, Mediate BC Society
Anne Chopra Equity Ombudsperson, Law Society of BC

barbara findlay, QC Member, Law Society of BC

Ron Friesen CEO, Continuing Legal Education Society of BC Richard Fyfe, QC Deputy Attorney General of BC, Ministry of Justice,

representing the Attorney General

Jeremy Hainsworth Reporter, Lawyers Weekly

Gavin Hume, QC Law Society of BC Member, Council of the Federation of

Law Societies of Canada

Tamara Hunter
Board Chair, Law Foundation of BC
Bob Kuhn
President, Trinity Western University
Dominique Marcotte
Michael Mulligan
Member, Law Society of BC

Lorna O'Grady Director of Administration, Human Resources and Public

Programs, Canadian Bar Association, BC Branch

Earl Phillips Executive Director, Trinity Western University
Wayne Robertson, QC Executive Director, Law Foundation of BC
Alan Ross Board Chair, Courthouse Libraries BC

Alex Shorten Vice President, Canadian Bar Association, BC Branch

Geoffrey Trotter Member, Law Society of BC

Prof. Jeremy Webber Dean of Law, University of Victoria

CONSENT AGENDA

1. Minutes

a. Minutes

The minute of the September 17, 2014 email authorization was approved as circulated.

The minute of the meeting held on September 26, 2014 was approved as circulated.

The *in camera* minute of the meeting held on September 26, 2014 was approved as circulated.

b. Resolutions

The following resolutions were passed unanimously and by consent.

 Federation of Law Societies of Canada: Deferral of National Requirement for Joint and Dual Law Degree Programs until 2017

BE IT RESOLVED to approve the deferral of the application of the National Requirement to joint and dual law degree programs to January 2017.

- Land Title and Survey Authority of BC Board of Directors: Law Society Nomination
 - BE IT RESOLVED to re-nominate William (Bill) Cottick for appointment to the Land Title and Survey Authority Board of Directors, for a second three-year term commencing April 1, 2015.
- Proposed Rules Amendments (Cloud Computing and Retention and Security of Records)

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

- 1. In Rule 1, by adding the following definitions:
 - "metadata" includes the following information generated in respect of an electronic record:
 - (a) creation date;
 - (b) modification dates;
 - (c) printing information;
 - (d) pre-edit data from earlier drafts;

(e) identity of an individual responsible for creating, modifying or printing the record;

"record" includes metadata associated with an electronic record;

2. By adding the following rule:

Failure to produce records on complaint investigation

- **3-5.01**(1) Subject to subrules (2) and (3), a lawyer who is required under Rule 3-5 [Investigation of complaints] or 4-43 [Investigation of books and accounts] to produce and permit the copying of files, documents and other records, provide information or attend an interview and answer questions and who fails or refuses to do so is suspended until he or she has complied with the requirement to the satisfaction of the Executive Director.
 - (2) When there are special circumstances, the Discipline Committee may, in its discretion, order that
 - (a) a lawyer not be suspended under subrule (1), or
 - (b) a suspension under this Rule be delayed for a specified period of time.
 - (3) At least 7 days before a suspension under this Rule can take effect, the Executive Director must deliver to the lawyer notice of the following:
 - (a) the date on which the suspension will take effect;
 - (b) the reasons for the suspension;
 - (c) the means by which the lawyer may apply to the Discipline Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

3. By rescinding Rule 3-43.1 and substituting the following:

Standards of financial responsibility

- **3-43.1** Instances in which a lawyer has failed to meet a minimum standard of financial responsibility include, but are not limited to, the following:
 - (a) a monetary judgment is entered against a lawyer who does not satisfy the judgment within 7 days after the date of entry;
 - (b) a lawyer is an insolvent lawyer;
 - (c) a lawyer does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-79(2)(b) [Compliance audit of books, records and accounts];
 - (d) a lawyer does not deliver a trust report as required under Rule 3-72 [Trust report] or 3-75(4) [Report of accountant when required];

- (e) a lawyer does not report and pay the trust administration fee to the Society as required under Rule 2-72.2 [Trust administration fee];
- (f) a lawyer does not produce electronic accounting records when required under the Act or these Rules in a form required under Rule 10-4(2) [Records].

4. In Rule 3-59:

- (a) by adding the following subrules:
- (0.1) In this Rule, "supporting document" includes
 - (a) validated deposit receipts,
 - (b) periodic bank statements,
 - (c) passbooks,
 - (d) cancelled and voided cheques,
 - (e) bank vouchers and similar documents,
 - (f) vendor invoices, and
 - (g) bills for fees, charges and disbursements.
- (2.1) A lawyer who maintains accounting records, including supporting documents, in electronic form, must ensure that
 - (a) all records and documents are maintained in a way that will allow compliance with Rule 10-4(2) [Records],
 - (b) copies of both sides of all paper records and documents, including any blank pages, are retained in a manner that indicates that they are two sides of the same document, and
 - (c) there is a clear indication, with respect to each financial transaction, of
 - (i) the date of the transaction,
 - (ii) the individual who performed the transaction, and
 - (iii) all additions, deletions or modifications to the accounting record and the individual who made each of them.;
- (b) in subrule (2), by rescinding the preamble and paragraph (c) and substituting the following:
- (2) A lawyer must maintain accounting records, including supporting documents, in
 - (c) an electronic form in compliance with subrule (2.1), and

- (c) by rescinding subrule (4) and substituting the following:
- (4) A lawyer must retain all supporting documents for both trust and general accounts.
- 5. In Rule 3-61.1:
 - (a) in subrule (2) by:
 - (i) striking out "and" at the end of paragraph (a)(ii),
 - (ii) striking out the period at the end of paragraph (b)(v) and substituting ", and", and
 - (iii) adding the following paragraph:
 - (c) indicate all dates on which the receipt was created or modified., and
 - (b) in subrule (3) by:
 - (i) striking out "and" at the end of paragraph (d),
 - (ii) striking out the period at the end of paragraph (e) and substituting ", and", and
 - (iii) adding the following paragraph:
 - (f) all dates on which the receipt was created or modified.
- 6. In Rule 3-62(1), by adding the following paragraph:
 - (a.1) indicating all dates on which the bill was created or modified,
- 7. In Rule 3-65, by rescinding subrule (3) and substituting the following:
 - (2.1) Each monthly trust reconciliation prepared under subrule (1) must include the date on which it was prepared.
 - (3) A lawyer must retain for at least 10 years
 - (a) each monthly trust reconciliation prepared under subrule (1), and
 - (b) the detailed listings described in subrule (2) as records supporting the monthly trust reconciliations.
- 8. By rescinding Rule 3-68 and substituting the following:

Retention of records

- **3-68** (0.1) This Rule applies to records referred to in Rules 3-59 to 3-62.
 - (1) A lawyer must keep his or her records for as long as the records apply to money held in trust and for at least 10 years from the final accounting transaction.

(2) A lawyer must keep his or her records, other than electronic records, at his or her chief place of practice in British Columbia for as long as the records apply to money held in trust and, in any case, for at least 3 years.

9. In Rule 4-43, by adding the following subrule:

(1.4) A request under subrule (1.1) must be refused unless the records in question are retained in a system of storage of electronic records that permits the segregation of personal information in a practical manner in order to comply with the request.

10. By adding the following rules:

Records

- **10-4** (1) In this Rule, "storage provider" means any entity storing or processing records outside of a lawyer's office, whether or not for payment.
 - (2) When required under the Act or these Rules, a lawyer must, on demand, promptly produce records in any or all of the following forms:
 - (a) printed in a comprehensible format;
 - (b) accessed on a read-only basis;
 - (c) exported to an electronic format that allows access to the records in a comprehensible format.
 - (3) A lawyer who is required to produce records under the Act or these Rules must not alter, delete, destroy, remove or otherwise interfere with any record that the lawyer is required to produce, except with the written consent of the Executive Director.
 - (4) A lawyer must not maintain records, including electronic records, with a storage provider unless the lawyer
 - (a) retains custody and control of the records,
 - (b) ensures that ownership of the records does not pass to another party,
 - (c) is capable of complying with a demand under the Act or these Rules to produce the records and provide access to them,
 - (d) ensures that the storage provider maintains the records securely without
 - (i) accessing or copying them except as is necessary to provide the service obtained by the lawyer,
 - (ii) allowing unauthorized access to or copying or acquisition of the records, or

- (iii) failing to destroy the records completely and permanently on instructions from the lawyer, and
- (e) enters into a written agreement with the storage provider that is consistent with the lawyer's obligations under the Act and these Rules.
- (5) If the Executive Committee declares, by resolution, that a specific entity is not a permitted storage provider for the purpose of compliance with this Rule, no lawyer is permitted to maintain records of any kind with that entity.

Security of records

- 10-5(1) A lawyer must protect his or her records and the information contained in them by making reasonable security arrangements against all risks of loss, destruction and unauthorized access, use or disclosure.
 - (2) A lawyer must immediately notify the Executive Director in writing of all the relevant circumstances if the lawyer has reason to believe that
 - (a) he or she has lost custody or control of any of the lawyer's records for any reason,
 - (b) anyone has improperly accessed or copied any of the lawyer's records, or
 - (c) a third party has failed to destroy records completely and permanently despite instructions from the lawyer to do so.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT

Ms. Lindsay noted that the work of the Cloud Computing Working Group is now completed. The Benchers then decided by consensus to dissolve the Cloud Computing Working Group.

• Ethics Committee: Rule 4.2-6 – Possible Elimination of Rule

BE IT RESOLVED to rescind Law Society Rule 4.2-6:

Former firm of current judge or master

4.2-6 [rescinded10/2014] Alawyermustnotstateonanyletterheadorbusinesscardorinany other marketingactivitythenameofajudgeormasterasbeingapredecessororformermember ofthelawyer's firm.

DISCUSSION/ DECISION

2. Consideration of the October 30, 2014 Referendum Result

Ms. Lindsay reported that a referendum of the members of the Law Society has been conducted on the following resolution:

Resolved that the Benchers implement the resolution of the members passed at the special general meeting of the Law Society held on June 10, 2014, and declare that the proposed law school at Trinity Western University is not an approved faculty of law for the purpose of the Law Society's admissions program.

On October 30, 2014 the votes on 8,039 valid ballots were counted, with 5,951 (74%) in favour and 2,088 (26%) opposed. Thirteen thousand, five hundred thirty practising, non-practising and retired lawyers were entitled to vote.

Ms. Lindsay referred the Benchers to a letter dated October 30, 2014 from Trinity Western University (TWU) President Robert Kuhn, received by email (with a number of attachments) following communication of the referendum results to TWU, and circulated by Ms. Lindsay's email (with the attachments) to the Benchers during the evening of October 30. Ms. Lindsay confirmed that subject to a request by a Bencher or Benchers for additional time to review and consider the TWU letter and attachments, a motion to implement the referendum result will be presented on behalf of the Executive Committee.

Mr. Crossin moved (seconded by Mr. Van Ommen) that the Benchers declare, pursuant to Law Society Rule 2-27 (4.1), Trinity Western University's proposed School of Law is not an approved faculty of law.

Mr. Crossin invited TWU President Robert Kuhn to address the Benchers. Mr. Kuhn declined the invitation. Mr. Crossin confirmed that the Benchers' duty is to determine the appropriate response of the Law Society to any issue that may arise, such that the public interest in the administration of justice is protected.

Mr. Crossin also confirmed that the Law Society remains ready and willing to enter into discussion with TWU regarding amendment of TWU's community covenant.

There being no further discussion, Ms. Lindsay called for a vote on the motion by show of hands.

The following Benchers voted for the motion: Haydn Acheson, Joseph Arvay, QC, Satwinder Bains, Pinder Cheema, QC, David Corey, David Crossin, QC, Jeevyn Dhaliwal, Lynal Doerksen, Thomas Fellhauer, Craig Ferris, Martin Finch, QC, Miriam Kresivo, QC, Dean Lawton, Peter Lloyd, FCA, Jamie Maclaren, Sharon Matthews, QC, Ben Meisner, Nancy Merrill, Lee Ongman,

Phil Riddell, Elizabeth Rowbotham, Herman Van Ommen, QC, Cameron Ward, Sarah Westwood and Tony Wilson.

The following Bencher voted against the motion: Claude Richmond.

The following Benchers abstained: Maria Morellato, QC, David Mossop, QC, Greg Petrisor and Ken Walker, QC.

The motion was <u>carried</u> (25 in favour, one opposed and four abstained).

3. Governance Committee Recommendations: Amendments to General Meeting Rules Regarding Webcasting and Electronic Voting

Governance Committee Chair Miriam Kresivo, QC briefed the Benchers on the Committee's recent review of the Rules and procedures governing the Law Society's conduct of general meetings. She noted that a number of complaints have been received by the Law Society from BC lawyers in relation to various restrictions in the current Rules regarding participation and voting at general meeting—including the requirement to attend at one of the designated meeting locations to participate in discussions and to vote on motions and resolutions.

Ms. Kresivo confirmed the Governance Committee's recommendation that the strongly positive results of a 1993 referendum of the Law Society membership can and should be relied upon by the Benchers as authority to request the Act and Rules Committee to proceed with appropriate Rules amendments to permit online participation and electronic voting at general meetings. Ms. Kresivo also confirmed the Committee's recommendations that:

- those changes will be in addition to the current Rules regarding in-person attendance at designated general meeting locations, and telephone connection of satellite locations to the main meeting
- following further deliberation, the Committee expects to report to the Benchers in early 2015 regarding seeking member approval for amendments to provide for only one physical location for general meetings and electronic distribution of notices and other meeting materials

The Benchers agreed with the Committee's recommendations.

GUEST PRESENTATIONS

4. Law Foundation of BC Annual Review

Board Chair Tamara Hunter briefed the Benchers on the affairs of the Law Foundation of BC. She reviewed the Foundation's history, financial situation, governance structure, grant-making principles and strategic priorities. Ms. Hunter noted the Law Society's financial contribution to the Foundation's support for the provision of pro bono legal services in BC.

Ms. Hunter's PowerPoint presentation is attached as Appendix 1 to these minutes.

Ms. Lindsay thanked Ms. Hunter for her presentation, and for her valuable contributions to the governance of the Foundation as Chair of the Board of Governors for the past year, as a Governor since 2010. Ms. Lindsay also noted the distinguished service record of the Law Foundation's Executive Director, Wayne Robertson, QC.

5. Courthouse Libraries BC (CLBC) Biennial Review

CLBC Board Chair Alan Ross addressed the Benchers, providing historical background and context and then an assessment of CLBC's current financial situation.

Mr. Ross stressed the significance of the imminent 18% reduction of the Law Foundation's annual operating grant to CLBC for 2015, which will reduce CLBC's funding envelope by about \$500,000 (from \$4.7 million to \$4.2 million). He outlined a number of cost-reduction measures already implemented by CLBC and confirmed that further reductions will require cutting core services. CEO Johanne Blenkin added that CLBC eliminated 142 print editions from its service offering in 2014; she pointed out that many of those are not available as digital editions.

Mr. Ross confirmed that in 2015 CLBC will request the Law Society to increase the current CLBC levy of \$190 in the annual practice fee for 2016. He noted that replacing the lost Law Foundation funding would require a levy increase of about \$50.

Mr. Ross commented on the importance of the access to justice aspect of CLBC's work, noting that about half of the service requests received by CLBC in 2014 were from the public.

REPORTS

6. 2015-2017 Strategic Planning Update

Mr. McGee updated the Benchers on progress in development of the 2015-2015 Strategic Plan. He noted that the Executive Committee has reviewed the results of the Benchers' September 25 environmental scan session, referring to his memorandum (at page 127 of the agenda package) for an outline of four thematic areas and related potential initiatives identified at that session. Mr. McGee outlined the Executive Committee's plan to have staff circulate a survey to the Benchers following the October 31 meeting: asking them to identify their top two or three strategies and initiatives under each of these four themes:

- Access to Legal Services
- Alternative Business Structures (ABSs)
- Public opinion of/confidence in the justice system
- Admission program reform

Mr. McGee noted that the Executive Committee recognizes that the Benchers may have additional ideas, and that the survey will include a 'verbatim comments' section. He confirmed that the Executive Committee will review the Benchers' survey responses at their November 20 meeting, and that staff will then develop a draft 2015-2017 Strategic Plan for the Benchers' consideration at their December 5 meeting.

7. Interim Report of the Tribunal Program Review Task Force

Ken Walker, QC briefed the Benchers as Chair of the Tribunal Program Review Task Force. After introducing the task force members and Law Society staff contact, Mr. Walker outlined issues that the task force has been considering, including difficulties experienced by the Law Society's Hearing Administrator in overcoming Bencher conflicts in setting hearing panels, and the challenges encountered endeavouring to enhance both continuity and renewal of the membership of hearing panel pools.

Mr. Walker noted that all current hearing panel pools will dissolve at the end of 2014. He will present the task force's written interim report at the December 5 Bencher meeting, including a recommendation to extend the current pools through 2015. Mr. Walker expects the task force will also recommend that in the event a panel is reduced from three members to two, the two remaining panel members may carry on at the discretion of the President.

¹ Benchers: Ken Walker, QC (Chair) Haydn Acheson, Pinder Cheema, QC and David Mossop, QC. Non-Benchers: David Layton and Linda Michaluk. Staff contact: Jeffrey Hoskins, QC.

8. Financial Report to September 30, 2014 - Q3 Year-to-date Financial Results

Finance and Audit Committee Chair Ken Walker, QC referred the Benchers to the written report prepared by Jeanette McPhee, CFO & Director of Trust Regulation (at page 133 of the agenda package) and asked Ms. McPhee to provide highlights.

Ms. McPhee reported that the Law Society's 2014 operating expenses to September 30 total \$654,000 (4.5% over budget): due primarily to costs associated with the TWU law school application process as well as higher than expected external counsel fees. These excess costs were partially offset by compensation and staff-related savings and forensic accounting fee savings. Ms. McPhee also reported that Law Society's 2014 revenue to September 30 is \$346,000 (2.2% ahead of budget): due to an increase in PLTC students, unbudgeted recoveries, and increased interest income, offset by lower than expected practice fees.

Ms. McPhee confirmed that the Law Society is forecasting a 2014 negative variance of \$430,000 for the General Fund (excluding capital and the Trust Administration Fee). She noted that explanatory notes for that forecast are included in her written report—at page 134 of the agenda package:

Operating Revenue

Revenues are projected to be ahead of budget by \$255,000 (1.3%). Practicing membership revenue is projected at 11,115 members, 75 below the 2014 budget, a negative variance of \$105,000. PLTC revenues are projected at 470 students, a positive variance of \$50,000. We are also projecting higher recoveries of \$155,000 and \$40,000 of additional interest income.

Lease revenues will have a positive variance of approximately \$100,000 for the year, with a new lease on the third floor of 835 Cambie and the renewal of the atrium café lease.

Operating Expenses

Operating expenses are projected to have a negative variance to budget of \$684,000 (3.4%). This variance excludes those expenses that were to be funded from the reserve in 2014, as approved by the Benchers during the 2014 budgeting process.

There are three main areas of unanticipated costs:

- 1) The unbudgeted costs related to the TWU application process are projected at \$366,000, including meeting costs, legal opinions, and referendum costs.
- 2) External counsel fees are projected at \$575,000 over budget, with the increase due to a number of factors. There have been a higher percentage of complex files, including an increased number of 4-43 forensic files. In addition, there have been a number of files handled by the investigations and discipline departments that have been much more challenging than normal, causing a significant increase in workload for a number of staff members. Also, with the staff vacancies that occurred in 2013, and into 2014, there were a number of professional conduct files sent out to external counsel to ensure file timelines were addressed. The increase in external counsel fees is also reflective of the projected increase in number of hearing/review days in 2014. For 2014, the estimate is 80 hearing/review days, compared to an average of 44 per year over the past four years.
- 3) Building occupancy costs have increased, mainly related to an increase in property taxes and utilities.

We should note that some of these costs will be partially offset by savings related to staff compensation savings of \$175,000 and forensic accounting fee savings of \$155,000.

Mr. McGee noted that projecting external counsel fees for the coming year is an exercise in judgment, and is a core element of the budgeting process. He also confirmed that management always assesses carefully whether in-house counsel capacity can carry more load, and that assessment will be a key aspect of the 2016 budget-setting process to be conducted next year.

9. President's Report

Ms. Lindsay reported on various Law Society matters which have arisen since the last Bencher meeting, including:

a. Federation of Law Societies of Canada Conference and Council Meeting (October 7 – 10, Halifax)

i. Conference Theme: Access to Legal Services

Ms. Lindsay asked Mr. Riddell to brief the Benchers regarding his participation in a poverty simulation exercise and a tour of legal service provider organizations in the Halifax area. He did so, noting that considerable innovation and resourcefulness was evident in the operations he visited.

ii. National Committee on Accreditation (NCA)

Ms. Lindsay noted the value of NCA in assessing law schools and the quality of their curricula.

iii. 2014 Annual General Meeting (AGM) Member Resolution

Ms. Lindsay confirmed that the Executive Committee is considering the issues raised by the member resolution passed at the 2014 AGM, and will report to the Benchers in that regard at an upcoming meeting:

BE IT RESOLVED THAT the Law Society of British Columbia require all legal education programs recognized by it for admission to the bar to provide equal opportunity without discrimination on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, gender expression, gender identity, age or mental or physical disability, or conduct that is integral to and inseparable from identity for all persons involved in legal education – including faculty, administrators and employees (in hiring continuation, promotion and continuing faculty status), applicants for admission, enrolled students and graduates of those educational programs.

Dean Jeremy Webber of the University of Victoria Faculty of Law commented on the pace of development, range and urgency of issues currently faced by the Federation of Law Societies.

iv. 2014 International Bar Association (IBA) Annual Conference (October 19 – 24, Tokyo, Japan)

Ms. Lindsay represented the Law Society at the 2014 IBA Annual Conference. Ms. Lindsay briefed the Benchers on several policy sessions she attended, on topics including:

- retention of lawyers in the profession, focusing on both generational and gender issues
- access to justice and legal services issues
- substance abuse in the legal profession
- legal regulation and compliance issues
- human rights in Zimbabwe

 Rule of Law issues, focusing on freedom of expression and freedom of the press

10.CEO's Report

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

- Introduction
- Federation of Law Society Matters
- Update on Process for Developing New 2015 2017 Strategic Plan
- International Institute of Law Association Chief Executives Annual Conference

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

Gavin Hume, QC reported as the Law Society's member of the FLSC Council. He briefed the Benchers on matters addressed at the October 10 Council meeting in Halifax, including:

a. National Requirement Review Committee

The Federation Council has approved the establishment of a National Requirement Review Committee, with a mandate to consider, among other issues, whether a "non-discrimination" provision should be included in the <u>National Requirement</u> for approving law degrees.

b. Standing Committee on the *Model Code of Professional Conduct*

The Standing Committee presented a number of Model Code amendments for the Council's approval, on topics including: conflicts of interest, short-term legal services and incriminating physical evidence in criminal law. The Federation's member societies now need to consider if they should implement the changes made to the Model Code. The Standing Committee is consulting with the Federation's member law societies—among other bodies—on various topics, including consulting with witnesses, and duty to report.

c. Federation Budget Review

The Council approved an increase of \$3.50 in the Federation's annual full-time fee equivalent assessment to the law societies, from \$25.00 to \$28.50.

d. Federation Governance Review Committee

A major review of the Federation's governance policies, processes and structure is underway. Considerable consultation with the Federation's member societies will be entailed in the review.

e. Report by the National Committee on Accreditation (NCA)

The NCA processes about 1,300 applications per year. Significant progress has been made toward aligning the NCA's curriculum with the Federation's national standards, with, more work still to be done in that regard.

f. National Admission Standards

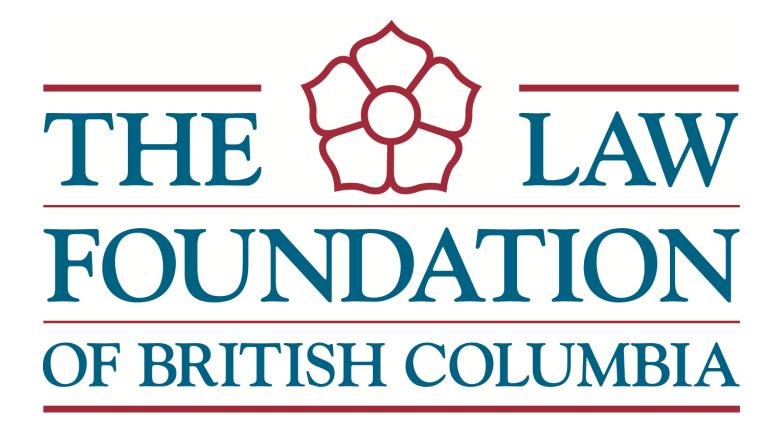
Work continues on implementation of the Federation's national competency indicators by the member law societies. Work also continues on the challenging process of developing standards for the "good character" requirement set out in the enabling legislation of the Federation's various member societies.

12. Report on the Outstanding Hearing & Review Reports

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

The Benchers discussed other matters in camera.

WKM 2014-11-24



Mandate

- Legal aid
- Legal education (professional legal education and public legal education)
- Law libraries
- Law reform
- Legal research

Vision

A society where access to justice is protected and advanced.

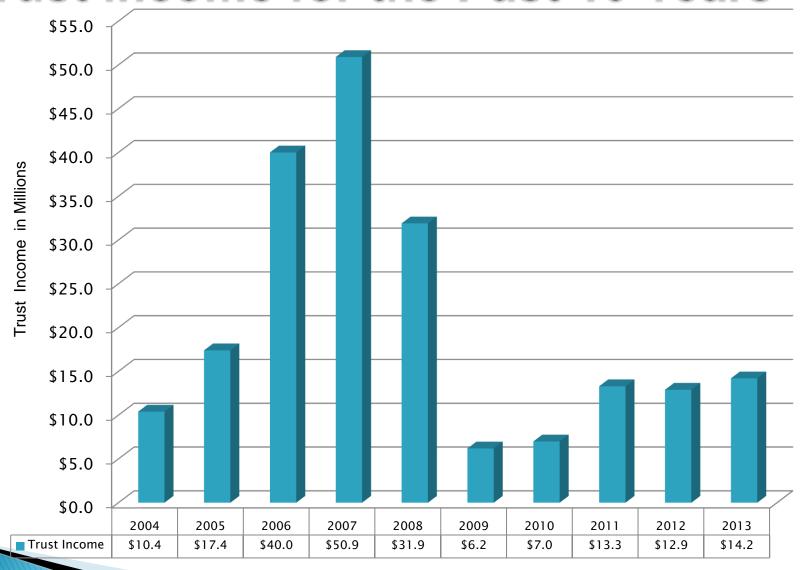
Mission

To advance and promote a just society governed by the rule of law, through leadership, innovation and collaboration.

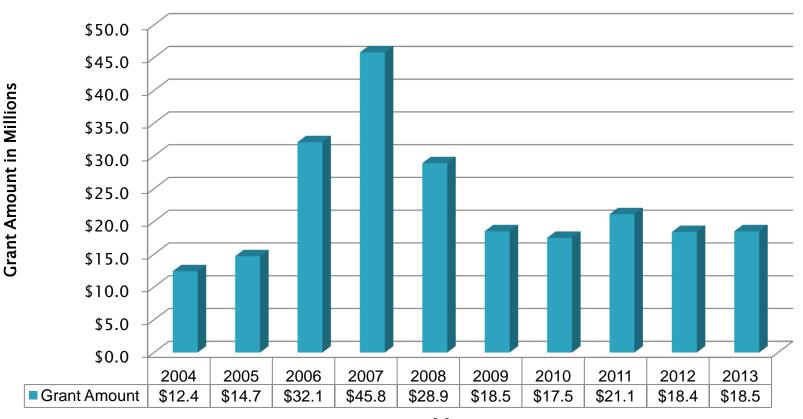
Strategic Priorities

- Maintain and improve Law Foundation finances.
- Provide support for Law Foundation grantees.
- 3. Continue the ongoing evaluation of Law Foundation programs and projects.
- 4. Research and address gaps in access to justice in BC sectoral and substantive.
- Develop new programs and initiatives.

Trust Income for the Past 10 Years



Grants for the Past 10 Years



Year

Grantmaking Principles

- 1. Fulfilling its statutory mandate;
- 2. Remaining a stable and effective organization;
- 3. Producing the greatest value to the poor;
- The importance of delivering services to disadvantaged people;
- 5. Giving a direct benefit to the public of Law Foundation funding; and
- 6. Providing the maximum benefit to British Columbia.

Law Society Contributions to Law Foundation Work

- Appointing Governors
- 2. \$340,000 Grant
 - \$280,000 to support pro bono initiative, mainly Access Pro Bono (out of total Law Foundation pro bono funding of \$535,000)
 - \$60,000 to support access to justice initiatives

Statistics: 2013 Law Foundation Funded Programs

A. FUNDING

- Number and annual dollar value of Continuing and OnTrack Programs:
 88 Programs \$17,288,320
- Number and dollar value of projects: 48 Projects \$976,968

B. LEGAL AID

- Number of clients served by legal advocates and law students: 68,460
- Number of clients served by lawyers: 13,255
- Number of clients served by pro bono activities: 7,606
- Number of test cases worked on/ completed: 78; regulatory hearings: 26

C. PROFESSIONAL LEGAL EDUCATION

- Number of law students involved in Law Foundation funded programs: 826
- Number of law students receiving bursaries and scholarships: 161

Statistics: 2013 Law Foundation Funded Programs

D. PUBLIC LEGAL EDUCATION

Numbers of publications produced and distributed: 126 titles; over 126,708 print copies

E. LAW LIBRARIES

- Information requests: 21,750 members of public, and 26,278 members of legal community
- CPD Training for lawyers on digital tools: 1,036, and CPD hours of training: 1,123

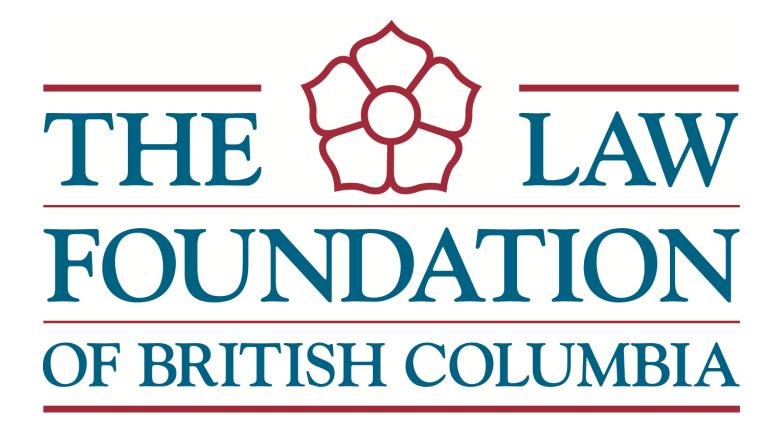
F. LAW REFORM

Number of law reform projects worked on or completed in 2013: 37

G. LEGAL RESEARCH

Number of legal research projects in 2013: 54

Thank You





CEO's Report to the Benchers

October 23, 2014

Prepared for: Benchers

Prepared by: Timothy E. McGee

Introduction

September and October have been very busy months for Law Society operations and for me personally. In addition to our planning for the current referendum regarding TWU, the Annual General Meeting, the special meeting of Benchers on strategic planning, the recent Federation of Law Societies of Canada conference in Halifax, and finalizing our 2015 Budget and financial plan, we are also right in the thick of our performance review process for all staff and we will soon be conducting our annual all employee survey. You may also interested to know that the past few months have the been among the busiest on record for the number of Law Society hearing days over a similar time frame and we will likely set a record in 2014 for the total number of hearing days held in a calendar year. All of this is happening as the Legal Services Regulatory Framework Task Force chaired by Art Vertlieb QC is meeting, conducting surveys, consulting with a number of key groups and preparing to issue an interim report on schedule to the Benchers in December. This list while substantial is actually just a snapshot of a few of the important activities currently underway at the Law Society. Suffice to say we are fully engaged in the business of regulating the legal profession in the public interest.

In my report this month I would like to highlight a few related and additional items for your information.

Federation of Law Society Matters

As mentioned, the Federation of Law Societies of Canada held its bi-annual national conference in Halifax earlier this month, at which LSBC was well represented. I strongly encourage you to read the report about Federation activities including a report on the Halifax Conference set out in the new Federation "E-Briefing" report which is included with your Bencher package. The E-Briefing is a new initiative to help member law societies better connect with the work of their Federation and it complements the inperson briefing which Benchers receive from Gavin Hume QC, our representative on the Federation's governing council.

I specifically raise this with you because as your CEO I plan to do more to keep you aware and informed regarding the many emerging issues facing Canadian legal regulators, which warrant a national, coordinated response. The breadth and importance of these issues is remarkable. The challenge for all law societies in Canada is how to

effectively and in practical terms initiate regulatory reforms at the local level while ultimately recognizing the benefits on a national scale. Two clear success stories to date (among several) are the current regime of lawyer mobility across the country which started as an idea among a few western law societies including LSBC, and CANLI, which was born because a few law societies recognized that investing in purely local solutions to online case research was a losing strategy. Upcoming challenges include how to approach alternative business structures, admissions and articling reform, entity regulation and outcomes based regulation in a coordinated way. These are all topics which are currently contemplated for LSBC's new 3 year strategic plan so we will soon be addressing these challenges head on.

I have also attached to this report as Appendix "A" a brief summary of the in-kind contributions of LSBC staff in 2014 to the work of the Federation. This summary was prepared at the request of the Finance and Audit Committee to assist in its deliberations and it illustrates the breadth and depth of our staff contributions on national initiatives. I think it is important to emphasize that the benefits of this work flow not only to the Federation per se but also to many of the core regulatory functions we carry out at LSBC. In short, our relationship with the Federation is a mutually beneficial one but it is also evolving and because of this it warrants our close attention and support.

Update on Process for Developing New 2015 – 2017 Strategic Plan

Included as part of your meeting package is a separate memorandum from me setting out the next steps in the development of the Law Society's new 3 year strategic plan. These steps have been reviewed with the Executive Committee and follow on the results of the special environmental scanning session which you participated in on September 25. As you will see from the memorandum there are four core thematic areas for the new plan.

The task at hand is for you to consider the many possible strategies and initiatives clustered under each of the 4 headings and start to formulate a view regarding which are the top 2 or 3 in your view in each category. We don't expect to have a full discussion on this at the meeting on October 31 but rather we will be seeking your responses after the meeting by way of an online survey. This will feed into a compilation of the responses together with an assessment by staff of the related resource and timing requirements and the preparation of a initial draft strategic plan for consideration by the Benchers at the meeting on December 5.

International Institute of Law Association Chief Executives – Annual Conference

The International Institute of Law Association Chief Executives (IILACE) is a unique organization bringing together the CEOs of law regulatory and representative bodies from around the world. I have been a member of IILACE since I joined the Law Society in 2005 and I have now served on the Executive Committee and I am currently the Vice President of the organization. I will assume the Presidency of IILACE for a 2 year term at the next AGM during this year's conference in Cape Town from November 19 - 23. At last count the approximately 40 CEOs from around the world who attend the IILACE conference manage organizations that either regulate or represent over 1.5 million lawyers worldwide. I was the Chair of this year's program committee and I have attached a copy of the 2014 conference program as Appendix "B" for your information. I would be happy to discuss any of the topics with you in greater detail.

I consistently find the top benefit of participating in IILACE is being able to exchange views and compare notes with a relatively small group of people who have basically the same job description as me and, notwithstanding global diversity, whose organizations increasingly face a similar set of governance, operational and policy issues. I look forward to reporting back to the Benchers on this year's IILACE conference at the December meeting.

Timothy E. McGee Chief Executive Officer

APPENDIX A

Law Society Employee In-Kind Contributions to Federation

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Memo

To: Finance and Audit Committee

From: Tim McGee, QC and Alan Treleaven

Date: October 21, 2014

Subject: Law Society Employee In-Kind Contributions to Federation

At the September committee meeting, management was requested to provide an estimate of the inkind contributions of Law Society of B.C. staff to the work of the Federation.

The following is a rough estimate of the Law Society's in-kind contributions to the Federation in 2014, according to category of contribution.

In most instances the hourly estimates represent the dual purpose of contributing to the Federation and simultaneously to the ongoing fulfillment of the Law Society of BC's mandate. For example, staff participation on the Federation's National Discipline Standards Committee contributes to the enhancement of the Law Society of BC's discipline-related work, while furthering the national mandate of the Federation. In addition, it ensures that the Law Society of B.C. has a strong voice in determining national issues and standards at the Federation.

There are four key areas of engagement with the Federation.

1) Federation Standing Committees

National Discipline Standards [D. Armour], Model Code [J. Olsen], National Admission Standards [A. Treleaven, T. McGee], Law Degree Approval [A. Treleaven], National Committee on Accreditation [A. Treleaven], National Mobility Policy [A. Treleaven], Access to Legal Services [T. McGee, M. Lucas, A. Whitcombe]

Three Law Society staff [T. McGee, A. Treleaven, and D. Armour]: approximately 90 hours annually, plus two staff occasionally [M. Lucas, J. Olsen]

2) Federation Ad Hoc Task Forces and Working Groups

Federation Governance Review [T. McGee], Character and Fitness Working Group [M. Lucas, L. Small], Communications Working Group [A. Whitcombe, T. Ashlie], Discipline Administrators [D. Armour + Regulatory managers], Mobility Staff Working Group [A. Treleaven, L. Small, J. Hoskins],



Memo

Equity and Diversity Staff Working Group [A. Hilland, A. Chopra], Working Group on the National Law Degree Requirement Review [T. McGee]

Five Law Society staff [T. McGee, A. Treleaven, D. Armour, M. Lucas, and L. Small]: approximately 100 hours annually, plus other staff occasionally [A. Whitcombe, T. Ashlie, J. Hoskins, A. Hilland, A. Chopra, Regulatory managers]

3) Federation Conference Planning and Participation

Regina (April 2014) [A. Treleaven] and Halifax (October 2014) [T. McGee] Conferences, as well as upcoming Ottawa Conference planning (March 2015) [T. McGee, A. Treleaven]

Two Law Society staff planning [T. McGee, A. Treleaven], and four to five staff typically attending: approximately 140 hours annually

4) Law Society CEO and Senior Management Consultation with the Federation

Two Law Society staff [T. McGee, A. Treleaven]: approximately 20 hours annually, plus other staff occasionally [A. Whitcombe, M. Lucas]

In summary, a rough estimate of time spent by Law Society of B.C. staff on Federation matters is approximately 350 hours annually.

APPENDIX B IILACE Annual Conference 2014 Cape Town, South Africa



IILACE Annual Conference 2014 CAPE TOWN

November 19 - 22









Presented by



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





Jan Martin

Nic Swart

Dear colleagues,

We are delighted to present the IILACE 2014 program for our upcoming conference in Cape Town, which will take place at the beautiful Vineyard Hotel on the banks of the Liesbeek River, Newlands; a ten minute drive from the heart of Cape Town.

The Program Committee, chaired by Tim McGee has put together an exceptional program that will be of relevance to IILACE members from all parts of the world.

The social program provides an opportunity to see the picturesque waterfront in Cape Town; to have dinner on the Bay nestled beneath the magnificent Table Mountain and to experience the delights of African cuisine.

Finally on Saturday morning our session will take place on Robben Island and will include spouses/guests travelling with delegates. As well as having our session there we will have the opportunity to tour the island and have lunch before returning to Cape Town.

As has become our 'tradition' there will be an 'end-on' to the Conference trip to the Stellenbosch wine area which will depart on Saturday afternoon and return on Sunday afternoon.

The deadline for reserving both your hotel and the trip to Stellenbosch is 10 September 2014. We urge you to make your reservations by that date.

The 2014 Conference promises to be a very exciting conference and we encourage you to register as soon as possible. If you have any questions concerning the program please do not hesitate to contact John Hoyles, Honorary Executive Member of IILACE at johnh@cba.org.

We very much look forward to welcoming you to beautiful Cape Town in November.

Travel safely and best wishes

9. M. Mastire

Jan Martin,

President of IILACE

Nic Swart

CEO of the Law Society of South Africa

IILACE Annual Conference 2014



Business Program All sessions take place at the Vineyard Hotel

Wednesday, November 19 (Pre-registration is open from 4:00 – 5:30)

5:30 - 7:00	Welcome reception at Vineyard Hotel
7:00	Meet in the lobby for bus transportation to Victoria & Albert Waterfront area
7:30 – 9:30	Touring Victoria & Albert Waterfront area Dress code: Casual
9:30	Bus transportation to Vineyard Hotel

Thursday, November 20 - Focus on Management (Registration is open from 8:30)

09:00 - 09:15	Conference Opening	and Welcoming Speeches

Sponsored by The Law Society of England and Wales

- · Jan Martin, President of IILACE
- Ettienne Barnard & Max Boqwana, Co-Chairs, The Law Society of South Africa
- · President, Cape Law Society
- · Nic Swart, CEO, The Law Society of South Africa

09:15 – 10:45 Session #1: CEO Leadership – Building Personal Resilience and Effectiveness

Sponsored by The Law Society of Queensland

Chair: Retha Steinmann

For CEOs it may often be "lonely at the top". Rapid, disruptive change whether social-political, technological or managerial means that to cope, leaders need to be agile and resilient. Studies show CEOs make many decisions intuitively. Studies also show that leaders' best thinking and decisions are grounded in emotional as well as intellectual intelligence. Authenticity, vulnerability and empathy are critical to success. This session will reveal a side of CEO leadership and success which may surprise you. But it is also designed to inspire and help you.

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09:45 – 10:30 Panel Discussion and Q&A – Merete Smith, John Hoyles, Makanatsa Mokanese

Guest Speaker - Dr. Gustav Gous, CEO GetALife

10:30 – 10:45 Health Break

09:15 - 09:45

10:45 – 12:00 Session #2: The Successful Organization – Does Your Organization Measure Up? What Every CEO Needs to Know

Sponsored by The Law Society of Ireland

Chair: Tim McGee

It's not all about you. CEOs are hired to build successful organizations and to help them thrive. Personal fulfillment is another matter. Achieving both is up to you. In this session, we will build on the personal model for CEO success discussed in the morning and broaden our focus to include what makes an organization resilient and effective. Strong mission, values and culture, talent development, good



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governance, key performance indicators, strategic focus, employee engagement, accountability – buzz words or indispensable tools for a successful organization? How does your organization measure up? Learn how to leverage these in your organization whether you are big or small, established or developing.

10:45 – 11:15 Guest Speaker: Patricia McLagan, CEO, McLagan International
11:15 – 11:45 Panel Discussion – Noela L'Estrange, Cord Brügmann, Lorna Jack
11:45 – 12:15 Breakout Sessions – What Works for You?
12:30 – 2:00 Lunch

Sponsored by The Law Society of Hong Kong

Lunch Speaker - Renate Volpe - Topic "Political Intelligence and Power Imbalance in Organizations"

2:00 – 3:30 Session #3: Nuts and Bolts Management and Governance – Contemporary Challenges
Chair: Tinus Grobler

This session will offer participants an opportunity to take a detailed look at issues, best practices and solutions in three core areas; human resources issues including, recruitment, performance management, compensation, and succession planning; IS/IT issues including, intranet and extranets, desk top support, information and data storage and retrieval, and communications support; and Board issues including, managing expectations and reporting to your Board, relationship with the President, negotiating compensation and work arrangements, political intelligence and the importance of being politically saavy. Following a panel discussion to introduce and highlight the key features of these three streams you are free to join one or more of the facilitated smaller groups on the topic(s) of most interest to you. You are encouraged to bring ideas and examples which you think can help your colleagues identify issues and find good solutions and strategies.

2:00 – 2:30 Panel Discussion – Paul Carlin, Heidi Chu 2:30 – 3:30 Breakout Sessions to Share Experiences / Examples Streams:

• HR issues

IS/IT issues

· Board issues

3:30 – 4:00 Report back on Breakout Sessions and wrap up on Day 1

4:00 End of Day 1 business program

6:30 Meet in the lobby for bus transportation to African Café – Cape Town

9:30 Bus transportation back to Vineyard Hotel from African Café

Sponsored by The Law Society of Northern Ireland



Friday, November 21 - Focus on Legal Education, Services and the Public

09:00 – 10:30 Session #4: Legal Education at a Crossroads: New Models for a New Era

Chair: Paula Littlewood

Do you remember the first time you heard this: "The first year they scare you to death, the second year they work you to death and the third year they bore you to death"? Is that just a quaint lament of graduating law students or an inconvenient truth about the state of legal education that cannot be ignored? Has the legal "academy" lost touch with the needs of the modern marketplace for lawyers? Why are the law schools in some countries abandoning a three year program and making clinical and experiential learning a priority? Are the tenents of academic freedom and the need for practical skills on a collision course? Who is calling the shots and what are the stakes for regulators and associations and for students, lawyers and the public? And what of law school admissions? Are grades and LSAT scores determinative of those best suited and most likely to be excellent lawyers? Is there anything wrong with this picture? We will hear about all these issues which form part of a rapidly emerging debate around the world and how some of our ILLACE member organizations are taking matters into their own hands. What is your view and why?

09:00 – 09:45 Panel Discussion – Don Thompson, David Hobart, Paula Caetano

09:45 - 10:15 Breakout Sessions

10:15 - 10:30 Health Break

10:30 – 12:00 Session #5: Legal Services at a Crossroads – What is the "Practice of Law" and Who Does It?

Sponsored by The Law Society of British Columbia

Chair: Robert Lapper

The days of a lawyer monopoly for the provision of legal services to the public is long gone in many, if not all, of the IILACE member countries. The notion of a select few with rigid credentials plying their trade under the banner of the "Practice of Law" from fixed locations with established, captive clientele is rapidly fading. In this session we will take stock of how non-lawyers, including paralegals, legal technicians, community advocates, and self help on-line providers are rapidly filling a gap left vacant by lawyers or in which lawyers are not the preferred choice of provider. What does the "Practice of Law" mean today and where is it headed? How is the lawyer "value-add" changing? Is it being redefined by lawyers or by others, whether lawyers like it or not? For many the "business" of law is now a more relevant concept than the "profession" of law and this is raising a number of issues relating to the appropriate commercial differentiation among legal service providers as well as what separates a lawyer from others in terms of professionalism, ethical conduct and his/her relationship with the courts. What roles are IILACE member organizations playing today in terms of leading, following or ignoring this changing landscape and why?

10:30 – 11:15 Panel Discussion and Q&A – Darrel Pink, Anne Ramberg

11:15 – 12:00 Presentation and Q&A of IILACE Member Survey Results re: "Practice of Law"

12:00 – 1:30 Group Photo and Lunch

Sponsored by The Federation of Law Societies of Canada

Update from Willis – Andrew Fryer



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1:30 – 2:00 **IILACE AGM**

2:00 – 2:20 Commonwealth Lawyers Conference – Glasgow 2015

Presented by Lorna Jack, CEO Law Society of Scotland

2:20 – 4:20 Session #6: What is the "Public Interest"? Why Does it Matter? A "World Cafe" Exploration

and Discussion

Sponsored by The Law Society of Upper Canada

Chair: Paul Mollerup

Facilitators: Michael Brett Young, Megan Lawton, Jonathan Herman, Don Deya

All of us in the room will say that our respective organizations exist to serve the "public interest" in some way. The "public interest" is not the exclusive domain of the regulators - it plays a significant part in the life of member focused associations as well. The "public interest" is cited as the basis for a wide range of actions we take and services we provide from disciplining lawyers, to requiring minimum number of hours of continuing professional development, to conducting public forums on social issues, to issuing reports on access to justice, to encouraging pro bono work to running defalcation insurance programs, to condemning human rights violations around the world. But do any of us know for sure whether and to what extent the public is interested in these efforts? If so do they think we are doing a good job? In short, why does it matter and who cares? In this World Cafe interactive session we will explore these issues and consider whether a consensus exists across the breadth of the IILACE member countries and jurisdictions on matters such as the meaning of the public interest, what it means for lawyers, organizations and the public and do we have our priorities right to serve the public interest most effectively?

2:20 – 2:50 Round #1 Topics and Discussions in Groups of 8 2:50 – 3:20 Round #2 Topics and Discussions in Groups of 8

3:20 – 3:35 Health Break

3:35 – 4:20 Reporting out by group facilitators on World Cafe findings and wrap up

4:20 End of Day 2 business program

6:00 Meet in the lobby for bus transportation to Gala Dinner at 12 Apostles Hotel

7:00 Reception and Gala Dinner at Azure Restaurant at 12 Apostles Hotel

Sponsored by Willis

Dress code: Smart casual or traditional dress

10:00 Bus transportation from Azure Restaurant back to Vineyard Hotel

Saturday, November 22 - Focus on Core Values

07:00 Continental Breakfast – Meet in the lobby for bus transportation to ferry to Robben Island

09:00 – 10:00 Ferry trip to Robben Island – Participants and Guests

10:30 - 11:00 Session #7: "A Short Walk to Freedom" The Legacy and Lessons of Nelson Mandela

Speaker: Dr. Gustav Gous

In this very special session which will be held on what has become sacred ground for the cause of



human rights and personal freedom in South Africa and around the world, we will hear from Dr. Gustav Gous, a well known authority on Nelson Mandela and his experience on Robben Island

11:00 – 12:00 Session #8: Ethics and Professional Responsibility of Lawyers – A Contemporary Perspective and Global Scorecard

Chair: Jan Martin

Panel Discussion and Q&A – Joe Dunn, Raffi Van den Burg, Max Boqwana, Co-Chairperson of Law Society of South Africa, Ken Murphy

In this final session of the conference you will be encouraged to reflect on one of the recurring themes for IILACE annual conferences namely, the Core Values of the profession and whether they are being met. We will have a provocative panel discussion focusing on the ethical behaviour and professional responsibility demonstrated or lacking in legal practice today from several unique perspectives. Would you agree that the bar in this area must be set high? If so, what must we do to ensure no one

fails to meet it?

12:00 – 2:00 Light lunch and guided tours of Robben Island Prison

2:00 – 4:00 Return ferry trip and transportation to Vineyard Hotel – Farewells 4:00 Optional: bus departure for special overnight trip to Stellenbosch

Sunday, November 23

2:30 Travel back from Stellenbosch

4:00 Arrive at Vineyard Hotel from Stellenbosch

Spouse Programme

Thursday, November 20

Tour of Cape Town including the Castle of Good Hope, the first building of the original Dutch settlement and tour of the waterfront.



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Friday, November 21

Trip to the top of Table Mountain (in case of high winds, alternate is a trip to Hout Bay with lunch in the heart of the harbor).



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