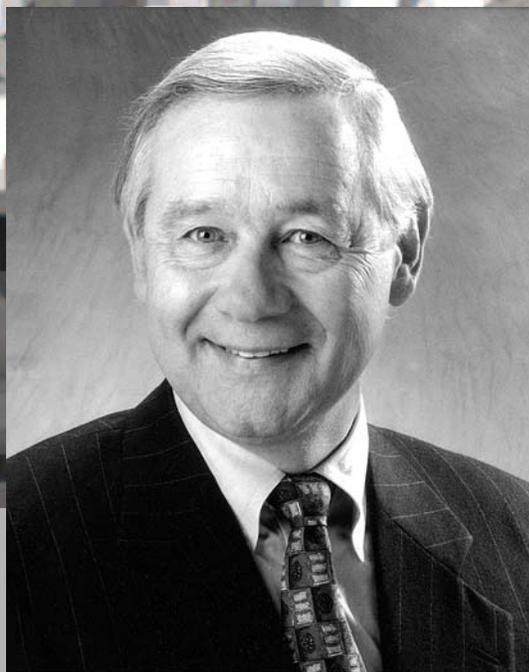


# Annual Report 2004

## Contents

President's Message .....	3
<b>The Law Society in 2004</b>	
Our Mandate, Structure and Leadership .....	5
The Year's Highlights .....	7
<b>Professional Regulation &amp; Services</b>	
The Education and Admission of Lawyers .....	11
Practice Support for BC's Lawyers.....	12
Equity & Diversity .....	13
Ethical Standards .....	15
Trust Assurance.....	16
Complaints.....	16
Discipline .....	20
Practice Standards .....	21
Unauthorized Practice .....	22
Lawyers Insurance Fund .....	23
Special Compensation Fund .....	25
Law Society Finances .....	26
<b>Committees, Task Forces &amp; Appointments</b>	
2004 committees and task forces .....	29
2004 appointments to outside bodies .....	31
<b>Financial statements</b>	
Auditor's Report .....	33
General Fund .....	34
Special Compensation Fund .....	38
Lawyers Insurance Fund .....	41



## President's Message

William M. Everett, QC



# 2004 President's Message

## 2004 President's Message

Whenever people face legal issues in their business or personal lives, they know they can rely on lawyers for professional advice. Reliance is founded on trust, and BC lawyers fulfil the trust of their clients by providing quality services and by standing behind those services.

It has been my philosophy that the Law Society, in the same way as all lawyers, must earn the public's trust by standing behind everything it does.

The Society has a core mandate to protect the public interest in the administration of justice and to regulate lawyers. It is our responsibility to set the qualifications to become a lawyer, to see that all lawyers uphold high standards in the practice of law and to ensure that all professional services are backed by financial protections for the public.

During my extended term as President, I was pleased to help the Law Society's Benchers and staff fulfil those obligations.

Over the course of the past year, the Benchers raised trust assurance standards, improved our ethical rules, advocated new initiatives in cooperation with government, helped lawyers achieve new efficiencies and agreed to look at new proposals for legal education reform.

The highlights of 2004 are described more fully later in this report, and I point particularly to our standards of professional regulation. As a regulatory body, I believe the Law Society stands second to none. Over the past several years, we have improved the transparency of our complaints and discipline process and have adopted strong financial protections, including a top-notch insurance program that now offers trust protection coverage.

For the past three years, we have justified the confidence placed in us by the public by

assessing and paying a large number of claims against our Special Compensation Fund, many of which related to former lawyer Martin Wirick. This has been difficult and expensive work, but it was the right thing to do. BC lawyers have backed the Benchers every step of the way, understanding the importance of protecting the profession's reputation by compensating the public for losses caused by errant members. The number and high cost of these Special Compensation Fund claims, which all practising lawyers pay through their fees, is a testament to their professionalism.

I am pleased to say the Law Society's working relationship with government in respect of policy, regulatory and legislative change was strengthened, and I thank former Attorney General Geoff Plant, QC for the cooperation we have enjoyed with his Ministry and others. I know the Benchers will look forward to continued good relations with our new Attorney General, Wally Oppal, QC.

Some government initiatives will position lawyers to practise more effectively. Thanks to changes in the *Partnership Act*, consequential amendments to the *Legal Profession Act* and rule changes adopted by the Benchers in 2004, BC lawyers have been able to form limited liability partnerships since early 2005.

A new, independent Land Title and Survey Authority emerged during the year. The Law Society had recommended an independent authority as desirable to preserve the structure and integrity of BC's world-class land title system — and we have worked with government to that end. It should be of great comfort to the public that the BC land title system will be protected.

When it comes to the federal government's

fight against money laundering and terrorist financing, we are strongly supportive of the objective. To act decisively on the substance of the government's concern, we introduced a rule restricting the amount of money that a lawyer can receive in cash, and I am pleased to see this approach adopted by law societies across the country. This is one measure to ensure that lawyers do not unwittingly serve as a conduit for money laundering by people who purport to be clients. But we have resisted and continue to resist any legislation to force lawyers to report privileged client information to government. The Law Society, not government, should regulate lawyers in this important area, as the courts to date have made clear.

The Law Society has maintained an open dialogue with the courts on issues of mutual concern, and for this I sincerely express my appreciation to Chief Justice Lance Finch, Chief Justice Donald Brenner and Chief Judge Carol Baird Ellan who demonstrated an unflinching commitment to the betterment of the justice system.

I sincerely thank Sholto Heberton, QC for interrupting his retirement to become our Acting Executive Director late in the year and into 2005. His profession needed him, and he responded by providing stability and strong leadership for the Law Society and its staff.

In closing, I extend my thanks to all Benchers and staff of the Law Society, the directors and staff of other organizations in the legal community and lawyers across the province for sharing in our commitment to the profession and the public. My best wishes go to 2005 President Ralston Alexander, QC and to Vice-Presidents Rob McDiarmid, QC and Anna Fung, QC as they take the profession forward.



**The Benchers** (as of December, 2004)

*(Front row)* Grant C. Taylor, QC, Anna K. Fung, QC, First Vice-President Ralston S. Alexander, QC, President William M. Everett, QC, Second Vice-President Robert W. McDiarmid, QC, June Preston

*(Second row)* Gavin H.G. Hume, QC, Margaret Ostrowski, QC, Anne K. Wallace, QC, Patrick Nagle, Patricia L. Schmit, QC, Michael J. Falkins, Gregory M. Rideout

*(Third row)* Patrick Kelly, David A. Zacks, QC, Arthur E. Vertlieb, QC, Bruce A. LeRose, Carol W. Hickman, G. Glen Ridgway, QC, Darrell J. O'Byrne, QC

*(Back row)* Dr. Maelor Vallance, John J.L. Hunter, QC, Gordon Turriff, QC, Terence E. La Liberté, QC, Dirk J. Sigalet, QC, Ian Donaldson, QC, James D. Vilvang, QC, Joost Blom, QC

*(Not pictured)* William F.M. Jackson, Lilian To, Ross D. Tunnicliffe

The Law Society in 2004



# The Law Society in 2004

## Mandate, Structure and Leadership

*The primary mandate of the Law Society is to protect the public interest, as reflected in section 3 of the Legal Profession Act:*

*3 It is the object and duty of the society*

*(a) to uphold and protect the public interest in the administration of justice by*

*(i) preserving and protecting the rights and freedoms of all persons,*

*(ii) ensuring the independence, integrity and honour of its members, and*

*(iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership, and*

*(b) subject to paragraph (a),*

*(i) to regulate the practice of law, and*

*(ii) to uphold and protect the interests of its members.*

### The Law Society's mandate

As the independent governing body for BC lawyers, the Law Society works to ensure that the legal profession is honourable, competent and independent and serves the public well.

In fulfilling this mandate, the Law Society sets and enforces standards of professional responsibility for lawyers and brings a voice to issues that affect the justice system and the delivery of legal services in the province.

### The Benchers – our directors

The Benchers, the Law Society's board of directors, ensure that the Society meets its responsibilities under the *Legal Profession Act*.

There are 25 Benchers who are lawyers – elected by other lawyers in nine regions across BC – and six Lay Benchers, who are non-lawyers appointed by the Lieutenant Governor in Council (provincial Cabinet).

Lawyers who are elected as Benchers serve two-year, renewable terms of office. The most senior Bencher position is that of President. William M. Everett, QC of Vancouver took up his responsibilities as President in October 2003, following the resignation of Howard

Berge, QC. Mr. Everett served in that role 15 months, instead of the usual one-year term.

First Vice-President Peter J. Keighley, QC was appointed a master of the BC Supreme Court in March, after more than eight years of service as a Bencher for Westminster District. As a result, Second Vice-President Ralston S. Alexander, QC moved up to assume the position of First Vice-President for the balance of the year, and Kamloops Bencher Robert W. McDiarmid, QC was elected Second Vice-President.

### The Attorney General

The Hon. Geoff Plant, QC, Attorney General of British Columbia, was an *ex officio* Bencher during his time in office, a role set out in the *Legal Profession Act*. The Benchers were pleased to liaise with him throughout the year and to welcome Deputy Attorney General Allan Seckel, QC as his representative at most Bencher meetings. This regular point of contact fostered an open dialogue between the Law Society and government on justice issues.

### Life Benchers

Past Presidents or Treasurers and other

long-serving Benchers become Life Benchers on completion of service. There were 61 Life Benchers in 2004, many of whom remained active Law Society volunteers.

BC lawyers interested in seeing the Benchers conduct the business of the profession are welcome to attend Bencher meetings. The Benchers meet in Vancouver nine times each year and outside the Lower Mainland once a year, in conjunction with their annual retreat. The Society's website features meeting dates as well as highlights of new policy decisions, and lawyers can also follow policy and regulatory changes in the *Benchers' Bulletin*.

The Benchers value viewpoints from others in the profession, the justice system and the community. At their meetings, they take time to liaise with representatives of the CBA, BC Courthouse Library Society, Law Foundation of BC, Continuing Legal Education Society of BC and others in the legal community.

Benchers devote many hours each month to Law Society work, which includes preparing for and attending Bencher meetings, committee and task force meetings and various consultations. Among their duties, they offer advice to lawyers, conduct articulated student interviews and serve as Law Society appointees to other bodies. They also attend outside meetings, special events and call ceremonies on behalf of the Law Society. Among their most important roles is to serve as members of hearing panels, conduct review subcommittees and practice reviews.

### Committees and task forces

Much of the Law Society's regulatory work is the responsibility of its standing committees, and many of the policy issues brought to the



# The Law Society in 2004

## Lay Bencher reflections

*"We are comfortable that the Law Society is on the right track."*

— by Michael Falkins, Lay Bencher

With the exception of June Preston, who has pulled a little longer term than the rest of us, the Lay Benchers completed their second year as Lay Benchers in 2004.

We are very pleased to have been selected for what we now realize is a very important role in the future of the Society. Now well into our third year, we note it has been a steep learning curve for all of us as non-lawyers, but I think we are all now comfortable with our role in the scheme of things.

We have served on most committees, including Executive and on hearings, and we are worked pretty hard. The fact that none of us is complaining about the workload is very much the result of the camaraderie we share with every other Bencher and the entire Law Society staff. We are welcomed sincerely, our opinions are sought and listened to. The relationships between staff, elected Benchers and Lay Benchers is most rewarding.

Collectively, we are comfortable that the Law Society is on the right track for a long future as a self-regulated body. It is doing all the right things to maintain its independence, and the Lay Benchers look forward to continuing to provide our input.

We have an exciting time ahead with a new Executive Director and we look forward to the months and years ahead of us.

\* \* \*

*"The Society takes its vital role seriously."*

— by June Preston, Lay Bencher

I have valued and enjoyed my Lay Bencher experiences over the last four years and appreciate the responsibility of this appointment in serving with elected lawyer Benchers and in contributing and supporting the goals and objects of the Law Society.

An important issue for the Law Society is public legal education. The Society takes its vital role seriously and strives to address ways to enhance the public's understanding of its work and how people are served by an independent, self-governing legal profession dedicated to acting in the public interest.

The Law Society recognizes it can play a role in meeting the needs of members of the public who require information about their legal rights that is accessible and easy to understand. The Society also needs to take opportunities to address any negative attitudes and cynicism about lawyers and the legal system. BC Lay Benchers have met with the Alberta Lay Benchers, exchanging ideas about our common interests.

In May 2004, I was honoured to be the first Lay Bencher in BC to address a call ceremony. My remarks\* included information about the Society, directed mainly to the large audience of family and friends and other members of the public. I thank Past President Bill Everett for this invitation. I appreciate the ongoing support and guidance from staff and Benchers of the Law Society.

\* The text of these remarks is available on the Law Society website.

Benchers table come from these committees or special task forces. Benchers serve on all of these, as do other volunteers from the profession, supported by Law Society staff from various departments. In 2004, there were 15 standing committees and nine task forces: see pages 29-30 for a list of members.

The Benchers and other Law Society volunteers share a common vision, commitment and spirit of volunteerism. The Law Society encourages lawyers to volunteer to serve on committees and task forces, or to seek election as Benchers as a way of serving the profession. There is a particular need at the Benchers table for women, solicitors and lawyers of diverse backgrounds who can offer a broad range of perspectives.

### Transitions at the Benchers table

For 2004-2005, eight lawyers were elected Benchers for the first time, 14 lawyers were re-elected and all six Lay Benchers were re-appointed, blending fresh viewpoints with experience and continuity. New representatives for Vancouver (District 1) in 2004 were Joost Blom, QC, of the UBC Faculty of Law, Gavin H.G. Hume, QC, of Fasken Martineau DuMoulin, returning Bencher Terence E. La Liberté, QC, of La Liberté and Company and Arthur E. Vertlieb, QC, of Vertlieb Anderson MacKay.

Also elected Benchers for the first time were Carol W. Hickman of the Quay Law Centre, for Westminster (District 4), Bruce A. LeRose of Thompson, LeRose & Brown, for Kootenay (District 5) and Darrell J. O'Byrne, of Peters & O'Byrne, elected by acclamation for Prince Rupert (District 8). Dirk J. Sigalet, QC of Sigalet & Company was elected for Okanagan (District 6) in a by-election on January 21, 2004 following a tie vote in the 2003 general election.

Following Mr. Keighley's appointment as a master in March, he was replaced as a Bencher for Westminster by Gregory M. Rideout of Rideout, Riddell in a by-election.

Six Benchers became Life Benchers at the



# The Law Society in 2004

beginning of 2004: Robert D. Diebolt, QC, David W. Gibbons, QC, Robert W. Gourlay, QC, Gerald J. Kambeitz, QC, William J. Sullivan, QC and G. Ronald Toews, QC. Mr. Gibbons passed away in August 2004 and will be sadly missed by all his colleagues. At year-end, President Everett completed his presidential term and became a Life Bencher.

## Management

The Law Society's Chief Executive Officer carries out the policies of the Benchers and oversees all Law Society operations.

The Law Society had a change of leadership late in the year. Jim Matkin, QC stepped down as Executive Director/CEO in November following extensive publicity relating to his personal business dealings. The Benchers began recruiting for a replacement, culminating in the appointment of Timothy E. McGee as CEO in 2005. In the interim, the Law Society welcomed Sholto Heberton, QC who graciously agreed to step out of his retirement to provide leadership to the Law Society staff.

## The Year's Highlights

The Law Society works continuously to improve its policies, programs and services, and 2004 was no exception. The year's changes are detailed throughout the program and service reports, and here are a few of the highlights.

### Preserving BC's land title system

The Law Society was pleased to see the creation of a new Land Title and Survey Authority in 2004 to administer the provincial Land Title Office (LTO). The Benchers had advocated for an independent authority as a way of preserving the integrity of BC's Torrens land title system and improving service delivery to users around the province as the demand for services for grows. The Authority is committed to maintaining and advancing a Torrens system that is secure and conclusive, guarantees title and is backed by the Land Title Assurance Fund.

## Online at [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca)

With information for both lawyers and the public, the Law Society's website has become a busy place. Visits to the site have more than doubled since 2002, as have the number of pages viewed and the number of documents downloaded.

The BC Lawyer Lookup is the most used feature — with visitors making over 600,000 searches in 2004, up almost 27% over 2003. The most popular information resource is the online *Benchers' Bulletin*, followed by the *Legal Profession Act*, Law Society Rules and *Professional Conduct Handbook*, the hearings schedule and reports, practice resources and PLTC information.

Here is a quick site summary:

	2002	2003	2004
Site visits	158,219	245,460	380,128
Pages viewed	495,608	803,611	1,182,838
Lawyer Lookup searches	—	491,944	623,217
Documents downloaded	38,011	87,348	115,207

The Law Society operates over 20 programs, grouped into six operational areas — Credentials and Education, Regulatory Compliance, Insurance, Policy and Legal Services, Executive

Support and Corporate Services. The CEO and program directors lead a team of professional, management and administrative staff dedicated to serving the public and the profession.

### Moving land online

There was another significant development at the Land Title Office during the year. On April 1 the LTO began accepting the e-filing of transfers, mortgages and other documents. The Law Society is the certification authority for professionals under the *Land Title Act* and, through its company Juricert Services Inc., provides BC lawyers with the digital certificates necessary to do LTO filings on behalf of clients.

BC lawyers began to use other online services during the year as well — the Corporate Online service of the Corporate Registry to file corporate documents and the Court Services Online to search court files.

### Leveraging technology

In addition to offering lawyers digital certificates for online filings at the LTO, the Law Society

has itself made better use of technology. BC lawyers were asked to e-file their trust reports and annual practice declarations with the Member Services Department through a new web forms service.

### No-cash rule counters money laundering

The Law Society of BC was the first law society in Canada to adopt a new rule that demonstrates to the public and the federal government its serious commitment to fight money laundering. The rule limits the amount of money a lawyer can receive in cash, with specified exceptions. This restriction is one the Law Society can monitor and also makes lawyers a less attractive target of any person who might seek to deposit proceeds of crime into a lawyer's trust account.



# The Law Society in 2004

## Congratulations



*Victoria Bencher Anne K. Wallace, QC presents the 2004 Law Society gold medal to law graduate Paul Brackstone (right), in recognition of his high academic achievement at the University of Victoria Faculty of Law. Professor John P.S. McLaren joined with other faculty and students in offering their congratulations at a reception following Convocation.*

### Academic achievements

Best wishes and congratulations went to 2004 gold medallists Kathy Grant, graduate of the UBC Faculty of Law, and Paul Brackstone, graduate of the University of Victoria Faculty of Law, who each achieved the highest cumulative grade point average over their respective three-year programs. The Benchers also wished success to Jana Katherine McLean, recipient of the \$12,000 Law Society Scholarship for Graduate Legal Studies.

### Recognition of service

The Law Society presented certificates of service to these longstanding members of the profession in 2004: Leonard C. Dudley, Robert J. Falconer, QC, William C.E. Frolic, Frederick H. Herbert, QC, John F. Leighton, E. George MacMinn, QC, John D. McAlpine, QC, David P.R. Roberts, QC, Stella F. Samuels and John M. Tennant.

All were honoured for their 50 years in the profession.

### New Queen's Counsel

There were 30 lawyers appointed Queen's Counsel in 2004: Mark D. Andrews, QC, Robert C. Brun, QC, Elisabeth A. Burgess, QC, D. Ross Clark, QC, Brian Coleman, QC, Wendy Elizabeth Dawson, QC, William F. Dickson, QC, Robin M. Elliot, QC, David C. Harris, QC, John Wellesly Hogg, QC, Richard Henry Jensen, QC, Clarence Burton (Cal) Johnson, QC, Jeffrey J. Kay, QC, William Knutson, QC, Derek LaCroix, QC, Bruce Austin Laughton, QC, James M. Lepp, QC, Dinyar Marzban, QC, James Kenneth McEwan, QC, D. Paul Nixon, QC, Darrell O'Byrne, QC, Vincent Orchard, QC, Henry Jeffrey (Hank) Reiner, QC, Donald H Risk, QC, Kenneth Julius Sarnecki, QC, Grant C. Taylor, QC, Henry Vlug, QC, Peter George Voith, QC, Mary Anne Waldron, QC, and Paul Wylie Walker, QC.

### Wirick spurs reforms for public protection

Thanks to the commitment of BC lawyers, the Law Society's Special Compensation Fund has continued to assess and pay claims arising from defalcation by lawyers, including former lawyer Martin Wirick. In 2002 Mr. Wirick misappropriated or wrongfully converted funds while acting as a lawyer in real estate transactions. He resigned and was later disbarred. The first priority on the Wirick claims was the prompt approval and payment of the valid claims of all innocent purchasers.

Although instances of lawyer theft are rare, the Wirick scenario reinforced the importance of public protection.

As a means of improving defalcation claims coverage, the Law Society introduced a program change during the year. Claims discovered after May 1, 2004 now come under new "trust protection coverage," which is part of the compulsory group insurance policy carried by BC lawyers in private practice. For details, see the Lawyers Insurance Fund and Special Compensation Fund reports on pages 23-25.

### Expanding the role of paralegals

The Benchers want to consider allowing paralegals in BC law firms to perform new functions, under lawyer supervision. An expansion of the services that supervised paralegals can provide might allow firms greater flexibility and opportunity to keep costs down for clients – without sacrificing the quality of legal services. The Paralegal Task Force now has this issue under review. Although it looked into a paralegal certification program, the Task Force did not recommend that the Benchers pursue this option.

### Furthering the cause of pro bono legal services

The Law Society, one of the founders of Pro Bono Law of BC (PBLBC), provided office space, promotional assistance and modest financial support to the society in 2004 as it



# The Law Society in 2004

mapped out its service priorities and fundraising plans.

PBLBC encourages the provision of pro bono legal services by the legal profession in various programs across the province. The organization serves as a first point of contact for the public seeking information with respect to pro bono legal services, as a resource for law firms, the courts, community groups and the public.

## Encouraging retired lawyers to stay connected

Beginning in 2004, BC lawyers who decide to wind down their careers qualify to become retired members of the Law Society sooner than before. Should they wish to volunteer some of their retirement time to approved pro bono programs, they also now qualify for insurance coverage for that purpose at no cost. The Credentials Committee can use its discretion to waive all or part of the reinstatement fee for an applicant for retired membership on conditions it considers appropriate. A waiver may assist some senior members of the bar or judges who have recently retired and wish to re-enter the profession to offer their expertise for the provision of pro bono legal services.

## Law Foundation celebrates 35 years

2004 marked the 35th anniversary of the Law Foundation of BC, of which the Law Society is a founder and appointing body. Since its inception, the Law Foundation has made over \$281 million in grants for legal education, legal research, legal aid, law reform and law libraries in the province. BC was the first jurisdiction in North America to have interest on lawyers' pooled trust accounts — previously kept by the financial institutions — support justice-related work. This approach has since been adopted in all Canadian provinces and across the United States. In 2004 the Law Foundation approved 81 grants totalling \$12.4 million, most of which funded 53 continuing programs.

The Law Society always encourages lawyers to support the Law Foundation by considering the rates paid by financial institutions when deciding where to hold their trust accounts.

## 2004 Law Society Award



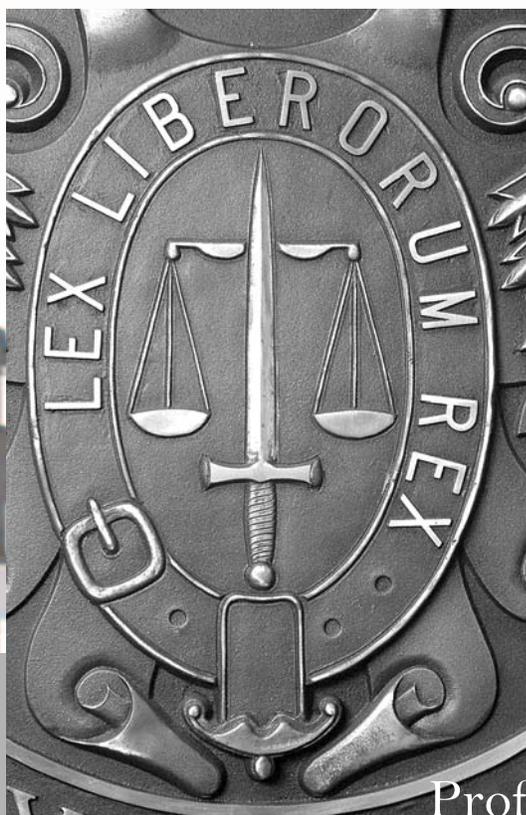
*Richard R. (Rick) Sugden, QC, recipient of the 2004 Law Society Award, with his wife Karen and son Dave. The Award was presented at the annual Bench & Bar Dinner in November.*

Richard R. Sugden, QC received the Law Society Award in 2004, in recognition by the Benchers of his exemplary service over 30 years at the bar. The Law Society Award honours the lifetime contributions of the truly exceptional within the profession and the legal community, based on integrity, professional achievements, service and law reform. Recognized by all as pre-eminent counsel, as well as a generous volunteer and committed advocate for lawyers in trouble, Rick Sugden has been described as “a model of thoughtful integrity.”



*The Law Society Award is a bronze statue of Sir Matthew Baillie Begbie, cast by the late Pender Island sculptor Ralph Sketch.*

Lex Liberatorum Rex, engraved on the Law Society crest, means “law is the ruler of free people” and reflects that our constitutional democracy is based on the rule of law, not on arbitrary rulings. In Canada, no person or government authority is above the law, all persons are equal before the law and the law is upheld within an independent justice system. Lawyers, as members of an independent profession, help uphold the rule of law by protecting the rights and freedoms of their clients.





# Professional Regulation & Services

## The Education and Admission of Lawyers

*"The very best lawyers start the way you are starting. They put their hearts into it, and they still do."*

— Mr. Justice Eric Rice, *Call and Admission ceremony, September 24, 2004*

### Becoming a BC lawyer

At each call and admission ceremony, the faces of all new lawyers reflect the pride they have in their chosen profession. From different walks of life and from diverse communities, they celebrate this moment with their families and friends, and with each other. It marks the beginning of a career in law, one they are ready to embrace.

The Law Society welcomed 391 new lawyers in 2004 at four call and admissions ceremonies in Vancouver and at 18 small regional ceremonies across the province. Of those called during the year, 50% were graduates of BC law schools, 25% were graduates of other Canadian law schools and 5% were foreign law school graduates. The final 20% were lawyers were called to the BC bar on transfer from other Canadian jurisdictions.

In BC, a lawyer's education begins with law school and is followed by the Law Society Admission Program, which includes nine months of articles in a law firm or other legal workplace and the 10-week Professional Legal Training Course, known as PLTC.

PLTC celebrated 20 years in 2004. The program complements law school education and helps prepare new lawyers for the practice of law. With its emphasis on skills training, PLTC has earned international recognition and served as a model for other bar admission programs in the common law world. Since it was

introduced in 1984, the program has evolved, and the key improvement in 2004 was a re-vamping of its legal research component.

The Credentials Committee, chaired in 2004 by First Vice-President Ralston Alexander, QC, is responsible for overseeing the enrolment, education and call to the bar of articulated students, the transfer of lawyers from other provinces and other countries and the reinstatement of former lawyers.

Each applicant for enrolment, for call to the bar, for transfer or for reinstatement must satisfy the Law Society that he or she is a person of good character and repute and is fit to become a barrister and solicitor of the Supreme Court.

Most admissions work is carried out by staff of the Law Society's Member Services Department. When the character or fitness of any applicant needs to be addressed, the Credentials Committee decides whether to order a formal credentials hearing. The Committee is also responsible for reviewing applications relating to a student's failed standing in PLTC and to any other matters relating to a student's articles.

### Other Canadian lawyers coming to BC

Lawyers from elsewhere in Canada may come to BC to practise law on a temporary basis if their home law societies allow BC lawyers reciprocal access under the National Mobility Agreement and if they meet other eligibility criteria. Those planning to practise in BC in the longer term may apply to the Law Society to transfer.

There was good news in 2004 for lawyers who had originally transferred to BC as in-house counsel but who later seek new practice situations. The Credentials Committee can now relieve a lawyer of the restriction of practising only as in-house counsel if the lawyer completes a prescribed reading requirement. This opportunity is available to a lawyer who is entitled to practise law in a reciprocating jurisdiction under the National Mobility Agreement (or who at the time of transferring to BC was entitled to practise law in a jurisdiction that is now a reciprocating jurisdiction). The rule places all in-house counsel from reciprocating jurisdictions on an equal footing, regardless of when they transferred to BC. Other lawyers who

### Lawyers called and reinstated in BC (2002 – 2004)

	2002	2003	2004
<b>Call and admission</b>			
Recent graduates of BC law schools	188	210	196
Recent graduates of other Canadian law schools	109	93	99
Graduates of foreign law schools	14	9	17
Lawyers transferring from other jurisdictions	<u>56</u>	<u>63</u>	<u>79</u>
<b>Total</b>	<b><u>367</u></b>	<b><u>375</u></b>	<b><u>391</u></b>
<b>Reinstatement</b>	25	42	30



# Professional Regulation & Services

have been in-house counsel in BC for two years are also eligible.

## Post-call education up for review

The quality of lawyer education is a priority for the Benchers, and a comprehensive review of Law Society educational requirements is the responsibility of the Lawyer Education Task Force, chaired by Cariboo Bencher Patricia Schmit, QC.

In 2004 the Benchers asked the Task Force to explore reforms to promote the excellence and competence of lawyers through post-call learning and also to probe the continuing education needs of newly called lawyers and sole practitioners.

The Task Force targeted five new areas of possible reform — 1) improving access to education resources, 2) ensuring that lawyers acquire practice management skills, 3) introducing limited licensing for lawyers who are newly called or inexperienced in certain areas of practice, 4) introducing a program of specialization and 5) introducing mandatory continuing legal education. These approaches are under initial consideration in 2005.

## Law Society members (as at December 31, 2004)

	Male	Female	Total	% of profession
Practising members	6,384	2,846	9,230	85.1%
Non-practising members	632	737	1,369	12.6%
Retired members	<u>236</u>	<u>13</u>	<u>249</u>	2.3%
Total	7,252	3,596	<u>10,848</u>	
	66.9%	33.1%		

## A snapshot of the profession today

As of December 31, 2004, there were 10,848 BC lawyers: 9,230 with practising status, 1,369 with non-practising status and 249 with retired member status. For the first time, women made up almost one-third of BC's legal profession overall and just over 30% of practising lawyers.

More than three out of four practising lawyers are in private practice, offering legal services to the public in diverse areas, including real estate law, corporate law, family law, administrative law and criminal law. Other lawyers provide

legal services exclusively for a company, society or union or for government, such as on behalf of the provincial Ministry of Attorney General or federal Department of Justice. There are still other lawyers who opt not to practise law, but find their legal training invaluable in business and other endeavours.

A background in law opens many doors, and BC lawyers can build careers that are personally satisfying, whether in traditional practice or in complementary areas such as alternative dispute resolution.

## Practice Support for BC's Lawyers

### Keeping up on the law

How do BC lawyers stay on top of their areas of practice? An Ipsos-Reid telephone survey of 400 lawyers, commissioned by the Law Society and published in early 2004, showed that BC lawyers rely primarily on legal publications and, in significant numbers, on continuing legal education programs. Some 94% of lawyers surveyed said they used publications as an educational resource (43% frequently) and a large number also consulted continuing legal education course material. On the electronic front, survey respondents praised the CLE Society for its website content and the *Case Digest*

*Connection* e-newsletter, which provides timely case updates.

With lawyers now reporting annually on their professional development activities — both formal courses and self-study — the Law Society expects to find out even more about how lawyers learn.

### Have you dropped by the library lately?

The BC Courthouse Library Society (BCCLS) has 31 branches across the province, open to lawyers, articulated students and members of the public. In addition to its print collections, some BCCLS branches offer no-cost searches of a

number of legal databases, including QPLegalEze (current statutes and regulations), Western Decisions, CLE Online (case digests) and the HeinOnline database of over 700 legal periodicals. Each practising lawyer in BC contributed \$130 to the courthouse libraries in 2004, through Law Society fees.

### Click into CanLII

The non-profit Canadian Legal Information Institute (CanLII) offers a free internet database of many primary sources of Canadian law — including federal and provincial statutes (most of them fully consolidated), regulations and caselaw. CanLII's collections have expanded



# Professional Regulation & Services

greatly over the past year, proving a valuable resource for both the legal profession and the public. CanLII is funded by all law societies through the Federation of Law Societies of Canada (with almost a third of BC's portion coming from the Law Foundation of BC).

## CLE's online offerings

The CLE Society launched online versions of several practice manuals in 2004, along with its case digest collection and all of its course materials. The "CLE Online" collection, available by subscription, makes it easier for lawyers to gain access to these resources — anytime, anywhere.

The newest educational wave is online courses. In the spring of 2004, over 500 BC lawyers and support staff from 65 communities across the province attended web-conferenced CLE

Society courses on the e-filing systems at the Land Title Office, the Corporate Registry and the Manufactured Home Registry. A variety of CLE courses are also offered online in 2005.

The Law Society helped low-income lawyers attend live, video and online courses in 2004 by funding a CLE bursary program.

## Helping lawyers practise better

The Law Society office fielded over 4,600 enquiries from lawyers in need of practice or ethics advice during the year. Most of these were handled by two practice advisors and an ethics advisor on the Law Society staff. Lawyers can also turn to a Bencher for guidance on any issue. The Law Society's online practice resources were very popular, with lawyers accessing over 55,000 web pages, downloading more than 34,000 articles and other resources in 2004

(up almost 50 over 2003) as well as over 40,000 practice checklists.

## Helping lawyers stay healthy

The Law Society funds two confidential, independent services to help lawyers, articulated students and their families maintain healthy relationships and to tackle stress, substance abuse or work-related concerns.

Interlock, one service provider, offers professional counselling and referrals to community services. Close to 400 lawyers, students and family members consulted Interlock in 2004.

Another service is the Lawyers Assistance Program (LAP). Based on the approach of "lawyers helping lawyers," LAP provides peer support to lawyers and interventions on a range of personal issues, in particular, alcohol and drug addictions.

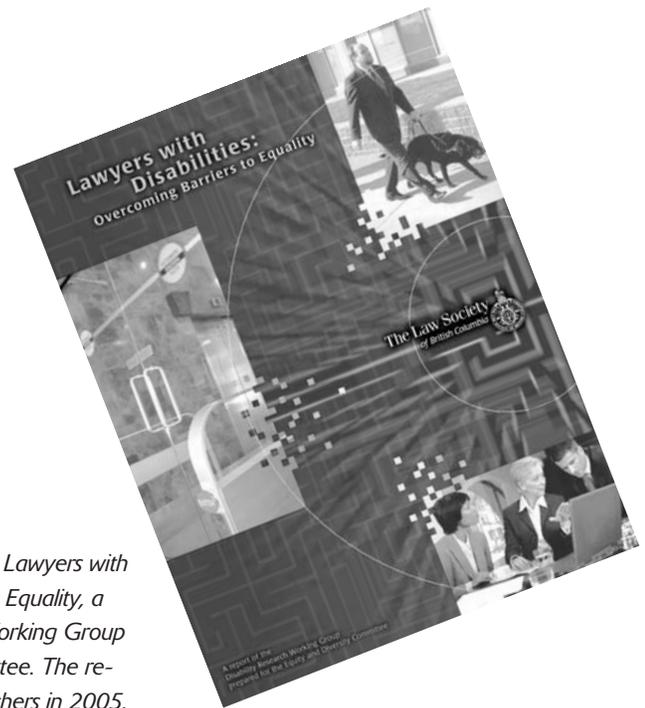
## Equity and Diversity

The clients of BC lawyers are of every colour, culture and faith, and of many different communities. They include men, women and transgendered people. Straight, gay and bisexual people. Those with disabilities. Those whose first language is not English. And people from countries where the justice system is corrupt and not to be trusted.

A bridge of trust between BC lawyers and all clients is essential to achieving equal access to justice.

The Law Society is committed to promoting equity and diversity within the profession and to helping all lawyers better understand the communities they serve.

Chaired by Anne K. Wallace, QC in 2004, the Equity and Diversity Committee carried out much of this work, with the assistance of several working groups and Law Society staff.



*In 2004 the Law Society published **Lawyers with Disabilities: Overcoming Barriers to Equality**, a report of the Disability Research Working Group of the Equity and Diversity Committee. The report will be considered by the Benchers in 2005.*



## The Equity Ombudsman



Anne Chopra

To help counter workplace discrimination and encourage equitable workplace practices, the Law Society funds the services of an Equity Ombudsman, Anne Chopra.

Ms. Chopra assists anyone who works in a firm in resolving concerns over possible discrimination, as well as law firms that wish to prevent discrimination and promote a healthy work environment.

In her role as Ombudsman, Ms. Chopra is independent of the Law Society. Her services are confidential and available to law firm staff, law students, articling students, lawyers, human resource administrators and managing partners in law firms at no cost.

## Lawyers with disabilities

A key accomplishment of the year was publication of *Lawyers with Disabilities: Overcoming Barriers to Equality*, a report of the Disability Research Working Group, chaired by Vancouver lawyer Halldor K. Bjarnason. The report focuses on solutions to problems of discrimination, prejudice and access barriers that make it difficult for lawyers with disabilities to practise law.

The report, to be discussed by the Benchers later in 2005, recommends the Law Society adopt model workplace policies to provide guidance to law firms that employ lawyers with disabilities, a mentoring program to support new lawyers and a program to encourage law firms to commit to tangible objectives on the recruitment, hiring, retention, advancement and compensation of lawyers with disabilities.

Making a business case for law firms to employ lawyers with disabilities is another approach suggested by the Working Group, since law firms profit from having a broader pool of qualified practitioners. Lawyers with disabilities can often help their firms to provide better service to clients with disabilities.

Dispelling fears or presumptions that some lawyers may have about practising with other lawyers who have disabilities is also critical. The November-December issue of the *Benchers' Bulletin* profiled BC lawyers with disabilities and

underscored a key point: Not only are lawyers with disabilities capable and talented, but the accommodations they require are often straightforward, and not necessarily expensive.

## Gender equality initiatives

Gender equality in the profession is another issue of importance to the Law Society. In 2004 the Women in the Legal Profession Working Group, chaired by Vancouver Benchers Margaret Ostrowski, QC, looked back at the gender equality initiatives of the early 1990s and began to re-examine the current status of women lawyers in BC.

In his President's View column in April, Bill Everett, QC gave his support to this initiative. "We need to know if women are now finding their career opportunities and experiences more equitable, and to see if balance between work and family commitments is possible in our profession," he said. "Are women lawyers where they want to be in their careers, or are they settling for less?"

The Working Group is drawing on the best research from other provinces and plans to make recommendations in 2005. One upcoming initiative is to conduct exit surveys of lawyers who leave practice. The Law Society wants to give all lawyers the opportunity to identify the reasons they are leaving law, including any discrimination or any other barriers they have encountered.

## Other projects

In 2004 the Law Society completed a three-year project to fund Aboriginal law modules for course curricula at the UBC and UVic law schools — to ensure that law graduates are aware of these substantive law issues in practice.

A new challenge for the Law Society is to address issues relating to court interpreters — including ways to help BC lawyers retain and work with interpreters effectively, for the good of all clients and witnesses who may need this assistance.

“When it comes to making real improvements in our world, it is necessary to go a step beyond criticizing. It is necessary to find positive, often creative ways to make changes.”

— Halldor K. Bjarnason, Chair of the Disability Research Working Group, from *Lawyers with Disabilities: Overcoming Barriers*

## Ethical Standards

The practice of law is more than a business; it is a profession, and BC lawyers commit to high standards of professional responsibility throughout their careers. Clients need to be able to rely fully on the legal expertise of lawyers and to trust their integrity unconditionally. Lawyers are bound to conduct their work competently and efficiently, respect confidences, keep clients informed, safeguard client funds and property and always work in the client's best interests.

The Ethics Committee and Law Society staff support the Benchers in setting ethical standards, reflected in the *Professional Conduct Handbook* and Law Society Rules. The Committee identifies current professional responsibility issues and develops policy recommendations that may lead to changes in the *Professional Conduct Handbook*.

Given the complexity of modern legal practice, another key role of the Committee is to interpret existing rules for individual lawyers or Law Society committees and to publish opinions on ethics issues that will help all BC lawyers practise in compliance with ethical standards. All lawyers are welcome to contact the Ethics Staff Lawyer or the Committee for assistance.

In 2004 the BC Supreme Court approved the opinion of the Ethics Committee that the requirements for a lawyer to witness a document as an officer under the *Land Title Act* could not be met by interactive videoconferencing because of the uncertainty in the lawyer being able to ascertain the identity of the document and the individual executing it. The court dismissed a petition brought by First Canadian Title Insurance Company Ltd. which had argued that lawyers could witness the signatures of borrowers on mortgages without being physically present to do so.

Another issue receiving attention was conflicts of interest, in particular how lawyers should guard against conflicts when practising in large national law firms and serving large corporate clients.

The Committee, chaired by Vancouver Bencher David Zacks, QC, took time to consult with BC lawyers. One current topic is what confidentiality safeguards are necessary for a law firm to act against a former client on an unrelated matter. Another is whether there should be scope for a law firm to act both for and against a sophisticated current client (such as a large corporation) on unrelated matters. Since these issues affect lawyers across Canada, they have been referred to the Federation of Law Societies for further study in 2005, with the participation of the Law Society of BC.

Several other matters moved from the Committee to the Benchers, and resulted in changes to the *Professional Conduct Handbook*:

- **Combatting money laundering.** The Law Society of BC became the first in Canada to adopt restrictions, effective May 7, 2004, on the amount of cash a lawyer can receive in trust. This measure was put in place to discourage anyone who might seek to use a lawyer's trust account to launder money.
- **Restrictions on employing applicants for admission.** Without Law Society permission, a lawyer cannot employ any person who has failed to complete a bar admission program (in any jurisdiction) or who has been ordered to attend a credentials hearing.
- **Delegation to staff in real estate sales.** To

ensure that BC lawyers are exempt from the licensing provisions of the new *Real Estate Services Act* when selling real property for clients, the Law Society came to an understanding with the BC Real Estate Association that the licensing exemption for lawyers would not extend to non-lawyers employed by law firms. As a result, a change to the *Professional Conduct Handbook* specifies that a person employed by a lawyer must not show real property to prospective buyers or carry out certain other sales functions.

- **Prosecutorial discretion.** In light of new court decisions, the Benchers reviewed Chapter 8 of the *Handbook*, which provides that a prosecutor's prime duty is not to seek a conviction, but to see that justice is done. A new footnote recognizes that the rule is not intended to interfere with the prosecutorial discretion.
- **Sharing fees with foreign lawyers.** A BC lawyer may pay a referral fee to another lawyer, may act for a client when another lawyer has been paid for the referral or may share fees with another lawyer. In this context, "another lawyer" is now defined as including a lawyer "who is a member of a recognized legal profession in any other jurisdiction and acting in compliance with the law and any rules of the legal profession of the other jurisdiction."

*All lawyers should bear in mind that they can maintain the high traditions of the profession by steadfastly adhering to the time-honoured virtues of probity, integrity, honesty and dignity.*

*Canons of Legal Ethics, Professional Conduct Handbook*



## Trust Assurance

### Trust assurance standards and reports

BC lawyers routinely handle trust money for clients in the course of practising law. This is a serious responsibility, and the Law Society requires lawyers to meet high standards of trust assurance and to file annual compliance reports.

In 2004 the Law Society introduced a more comprehensive form of trust report. For efficiency, law firms now file the report online and all individual lawyers in the firm file their annual practice declarations at the same time.

Each law firm makes various disclosures in its trust report. These include the firm's method for maintaining books and records, a complete listing of its bank accounts, a confirmation of trust activities, a list of authorized signatories on its trust accounts, a report on any trust shortages and confirmation that these were remedied as required, a report on CDIC insurance and a confirmation that the firm has met other requirements, such as payroll and GST and

PST remittances.

A law firm that has held or handled over \$5,000 in trust funds during its 12-month reporting period is required to engage a qualified, independent accountant. The accountant performs tests of the firm's books and records, reviews trust reconciliations and reports to the Law Society on any non-compliance with the Law Society Rules.

The trust report is designed to help the Society assess what other steps, if any, need to be pursued with a particular firm.

The new form of trust report will also yield data about the profession overall. This data may help identify if there are particular risks that attach to such factors as the number of trust transactions a firm handles, the size of those transactions, the size of a firm, the nature or volume of practice or the experience of lawyers.

Trust assurance standards are critical to ensuring public confidence in the security of all trust

transactions.

### Unclaimed trust funds

Lawyers have a duty to account to their clients for all money held in trust for their benefit. Occasionally a lawyer is unable to locate a client. Money held for the client — such as unused retainer fees — sometimes remains unclaimed in such a case.

A lawyer who has held money in trust for two years without being able to find the client or other rightful owner may pay the money to the Law Society to manage. The Society will continue to attempt to locate the owner or that person's heirs. If the owner cannot be found within five years, the Law Society remits the money to the Law Foundation in accordance with the *Legal Profession Act*.

The Law Society honours all valid claims for the return of unclaimed trust money and, if a claim is made subsequent to a remittance to the Law Foundation, the Foundation will reimburse the Society.

## Complaints

The Law Society has responsibility to review the conduct and competence of BC lawyers, including lawyers in private practice and lawyers employed as in-house counsel in companies, associations, unions and government. The Society may also review a lawyer's conduct outside the practice of law if it may tend to harm the standing of the profession.

Most complaints to the Law Society come from clients, opposing parties or other lawyers, but the Society will consider information from any source that suggests a disciplinary violation by a lawyer.

As a regulatory body, the Law Society looks at a complaint to determine if there is a conduct or competency concern about the lawyer that

merits correction or remediation for protection of the public. Whenever possible, the Society seeks to resolve a complaint between a lawyer and client and preserve their working relationship.

Sometimes people who approach the Law Society are contemplating legal action against a

lawyer or a claim for a reduction in a lawyer's bill for services. These remedies fall outside the Law Society's jurisdiction. If an informal resolution, including mediation, is possible, the Law Society will assist. Otherwise clients are advised to seek legal advice to explore their options.

Any member of the public who has concerns

*“Thank you for the prompt, courteous reply and for honesty and fair judgement.”*

*— A complainant*

# Professional Regulation & Services

## 2004 complaint files by type of conduct alleged

Type of file	2002	2003	2004	
<b>Complaints:</b>				
Abuse of process	21	21	20	(1.5%)
Advertising	7	13	16	(1.2%)
Breach of Act or rules	33	44	33	(2.5%)
Breach of confidentiality	11	18	16	(1.2%)
Breach of undertaking	50	53	50	(3.8%)
Conduct unbecoming	25	23	33	(2.5%)
Conflict of interest	56	77	66	(5.1%)
Counselling/engaging in unlawful conduct	5	7	6	(.5%)
Court: missed appearance/disrespect	7	7	11	(.8%)
Criminal/quasi-criminal conduct	11	16	16	(1.2%)
Delay/inactivity	64	72	68	(5.2%)
Discrimination	4	1	5	(.4%)
Dissatisfaction with legal service	253	224	185	(14.2%)
Error/negligence/incompetence	55	57	52	(4.0%)
Failure to communicate/respond	130	129	131	(10.0%)
Failure to follow/obtain client instructions	15	35	31	(2.4%)
Fees	63	71	73	(5.6%)
Miscellaneous/unclassifiable	64	47	80	(6.1%)
Misleading/dishonest conduct	74	71	58	(4.4%)
Office management/employee supervision	13	8	7	(.6%)
Opposing party: direct contact/dissatisfaction	159	136	120	(9.2%)
Personal problems affecting practice	4	7	1	(.1%)
Rudeness	32	30	31	(2.4%)
Sharp practice	20	24	14	(1.1%)
Threatening	25	35	30	(2.3%)
Trust defalcation	15	26	31	(2.4%)
Unpaid creditor/disbursement	94	64	71	(5.4%)
Withdrawal from case	10	14	19	(1.5%)
Withholding file/funds	56	32	32	(2.4%)
<b>Total complaint files opened</b>	<b>1,376</b>	<b>1,362</b>	<b>1,306</b>	
<b>Public enquiry files opened*</b>	<b>214</b>	<b>226</b>	<b>228</b>	
<b>Total complaints and public enquiries</b>	<b>1,590</b>	<b>1,588</b>	<b>1,534</b>	
<b>Files closed</b>	<b>1,655</b>	<b>1,602</b>	<b>1,480</b>	

(For disposition of files closed, see page 18.)

\* In addition to complaint files, the Law Society opens files for all written public enquiries about lawyer conduct (in which no particular lawyer is identified) or enquiries that do not relate to lawyer competency or conduct, but to some aspect of the legal system. The Professional Conduct Department staff also routinely offer information by telephone about lawyers in general, the Law Society and the justice system, handling over 3,400 public calls in 2004.

## 2004 complaint files by area of practice\*

Family	28.2%
Civil litigation (other)	21.2%
Real estate	14.2%
Wills and estates	8.2%
Motor vehicle	7.7%
Criminal	7.6%
Corporate/commercial/securities/tax	5.6%
Administrative	4.8%
Multiple/miscellaneous	1.4%
Creditors remedies	1.1%
	100.0%

\* This table reflects the percentage of complaint files by area of law for all 2004 complaints in which the area of law is identified.

about a lawyer's conduct, but is not certain whether to pursue a complaint, is welcome to call the Law Society's Complaints Officer. The Law Society also fields many questions from the public about the lawyer-client relationship.

### Complaint intake

The initial intake and assessment of all complaints about the conduct or competency of a BC lawyer are handled by the Law Society's Professional Conduct Department, staffed by both lawyers and legal assistants. There were 1,306 complaints received in 2004 (down 4% from 2003) and 228 other enquiries.

When the Law Society receives a complaint about a lawyer's conduct or competence, staff open a file and disclose the complaint to the lawyer. If the matter is within the Law Society's jurisdiction, the staff will generally ask for the lawyer's response and decide what review or investigative steps are warranted.

### Investigation

After receiving the lawyer's response to a complaint, the staff may request further information from the complainant, the lawyer or anyone else involved. The Departmental staff are

continued on page 19



## Disposition of complaints and public enquiries closed in 2004

	# of files	% of all files
Reconciled/resolved <sup>1</sup>	250	16.9%
Minor misconduct	59	4.0%
Minor error	36	2.4%
Referred to Discipline Committee	144	9.7%
Referred to Practice Standards Committee	14	1.0%
Misconduct not established after investigation <sup>2</sup>	601	40.6%
Complaint withdrawn/abandoned	43	2.9%
Outside Law Society jurisdiction: complainant advised of possible civil remedies <sup>3</sup>	<u>333</u>	22.5%
<b>Total</b>	<b><u>1,480</u></b>	

*Note 1: Almost 17% of all complaints were reconciled or resolved between the lawyer and client, sometimes with Law Society assistance, such as through telephone complaint reconciliation. When there was minor misconduct or a minor error, this was often acknowledged by the lawyer and the acknowledgement conveyed to the client, without need for a discipline referral. Just over 10% of complaints were sufficiently serious to warrant a referral to either the Discipline or Practice Standards Committee.*

*Note 2: After investigation, the Professional Conduct Department may determine that a complaint is invalid or that there is insufficient evidence to substantiate the allegation. When a complainant finds a staff determination unsatisfactory, he or she may in some circumstances have the matter reviewed by the Complainants' Review Committee.*

*Note 3: The Law Society frequently receives complaints that fall outside its jurisdiction, most commonly complaints of dissatisfaction over a lawyer's fees or services that do not amount to a conduct or competency concern for the Society. The Society explains the difference between its regulatory jurisdiction over lawyers and the complainant's legal options, which may include a fee review before a registrar. If both the complainant and the lawyer would like a less formal option, the Law Society offers fee mediation.*

## Actions taken by Discipline Committee

	2002	2003	2004
Citations	33	54	36
Letters from Discipline Chair	16	30	16
Conduct reviews	<u>33</u>	<u>47</u>	<u>52</u>
<b>Total</b>	<b><u>82</u></b>	<b><u>131</u></b>	<b><u>104</u></b>

*Note: For more on the work of the Discipline Committee, see page 20. For Practice Standards Committee actions, see page 21.*

## Disposition of citations

	2002	2003	2004
Admissions of guilt (Rule 4-21)	4	1	3
Resignations	—	—	1
Disbarments	2	1	1
Suspensions	4	9	7
Fines	7	8	11
Reprimands	6	6	9
Citation rescissions by Discipline Committee*	5	5	7
Citation dismissals by hearing panels	—	—	<u>2</u>
<b>Total citations completed</b>	<b><u>28</u></b>	<b><u>30</u></b>	<b><u>41</u></b>

\* May include matters referred for conduct review.

## Disposition of 2004 reviews by Complainants' Review Committee

No further action	83
Referred to Discipline Committee	3
Referred to staff for further investigation	<u>1</u>
<b>Total</b>	<b><u>87</u></b>

*Note: A complainant who is dissatisfied with the staff's disposition of a complaint may ask the Complainants' Review Committee, chaired by a Lay Benchler, to reconsider the disposition. The Committee could find no grounds for further action on 95% of the matters reviewed in 2004.*

assisted on complaints investigations by commercial crime investigators and forensic accountants as needed.

The Law Society's investigation of a complaint is confidential, which means it is discussed only with a lawyer and complainant. Confidentiality over complaints is necessary to ensure fairness to both of them and the integrity of the Law Society's investigation overall. When a matter is already known to the public, such as through newspaper reports, the Law Society can confirm the status of its investigation to other people, including members of the media.

## Complaints resolution

A breakdown in communications between a client and a lawyer can lead to problems, and the client's best first step is to approach the lawyer or the lawyer's firm to resolve the problem. Many misunderstandings can be worked out through this approach, and the Law Society helps whenever possible. The Professional Conduct Department staff were successful in helping to resolve almost 17% of complaints in this fashion in 2004.

When fees are in dispute, lawyers and clients can access a voluntary fee mediation program offered by the Society or have the matter formally decided in a fee review before a BC Supreme Court registrar or master.

If a matter involves an allegation of discrimination against a lawyer, the Law Society offers the services of an Equity Ombudsperson who can arrange a mediation if both sides agree or canvass options with the complainant.

## Referrals for further action

If a complaint discloses a serious ethical problem or competency concern about a lawyer, one that cannot be informally resolved, the Professional Conduct Department can refer it for further action:

- to the Practice Standards Committee, in the case of a competency issue
- to the Discipline Committee, in the case of an ethical concern or breach of the Law Society Rules.

The department referred 144 complaints (9.7% of files reviewed) to the Discipline Committee for consideration and 14 (1%) complaints to the Practice Standards Committee in 2004. Of all the complaints reviewed by staff in 2004, 333 (22.5%) were found to be outside the Law Society's jurisdiction and 601 (40.6%) did not establish a conduct or competency problem: see *Disposition of complaints and public enquiries closed in 2004* on page 18.

## Complainants' Review Committee

If the staff determine no further action is warranted on a complaint, in some circumstances a complainant may request a review before the Complainants' Review Committee (CRC). The CRC is chaired by a Lay Bencher — in 2004, Dr. Maelor Vallance.

The CRC has authority to review the complaint and make further enquiries. The CRC may decide to refer the complaint to the Discipline Committee or Practice Standards Committee or confirm the staff's decision to take no further action.

## New Protocol with the Courts

The Benchers concluded a protocol with the Provincial Court in 2004 to guide any Provincial Court judge or judicial justice of the peace (JJP) who may be considering making a complaint about a lawyer and to guide any BC lawyer who is contemplating making a complaint about a judge.

The protocol — available in the Practice Support section of the Law Society website — is not intended to discourage complaints or to replace existing complaints processes. Instead it recognizes that a judge, a JJP or a lawyer may benefit from advice or assistance in making a complaint, or in deciding whether it is appropriate to make a complaint.

An earlier protocol concluded in 1997 between the Law Society and the Supreme Court of BC specifically addresses how lawyers and judges may handle concerns in the course of an ongoing court proceeding.

“*The Professional Conduct lawyer did an excellent job of keeping me informed and calm while still maintaining her impartiality. While this was a very stressful experience, I was happy with the respectful and prompt way it was dealt with.*”

— A lawyer

## Discipline

### Discipline Committee

The Discipline Committee, composed of Benchers and non-Bencher members, reviews complaints referred by the Professional Conduct Department and the Complainants' Review Committee. The 2004 Discipline Committee was chaired by Westminster Bencher Peter J. Keighley, QC until his appointment as a master of the Supreme Court of British Columbia in March, and then by Vancouver Bencher Anna K. Fung, QC.

In considering each complaint, the Discipline Committee does one of the following:

- Asks the Chair of the Discipline Committee to send the lawyer a letter to address the conduct in question
- Orders that the lawyer attend a conduct review
- Recommends that the chair authorize a citation leading to a formal discipline hearing.

With respect to those matters requiring further action, the Committee authorized 16 letters from the Discipline Chair, 52 conduct reviews and 36 citations in 2004.

### Conduct reviews

A conduct review is not a hearing, but an informal review carried out by a Conduct Review Subcommittee — composed of one or two Benchers or of a Bencher and a non-Bencher practitioner.

A conduct review gives a lawyer the opportunity to recognize and overcome problems so as to avoid future complaints.

A Conduct Review Subcommittee reviews the conduct issues and prepares a report for the Discipline Committee. If the lawyer appears willing and able to rectify practice deficiencies, the Subcommittee will usually recommend that the Discipline Committee take no further action.

### Citations

If the Discipline Committee believes the lawyer's conduct warrants a formal hearing, the Chair will authorize a citation against the lawyer. The citation is a public document setting out the allegations against the lawyer and details of the hearing.

In some cases, a lawyer subject to a citation may choose to make a conditional admission of a discipline violation directly to the Discipline Committee. If the Discipline Committee accepts the admission, it will be recorded on the

lawyer's professional conduct record and a summary will be published. In these circumstances, the citation or parts of the citation are resolved by the lawyer's admission and will not proceed to a hearing. In some instances, the Discipline Committee may require the lawyer to give one or more undertakings as part of the admission.

### Hearings

Law Society discipline hearings are formal proceedings and usually take place at the Law Society office in Vancouver. These are open to the public, subject to a hearing panel's jurisdiction to order that portions of a hearing be held *in camera* to prevent the unauthorized disclosure of privileged or confidential client information. A full schedule of upcoming hearings is available on the Law Society website.

At a hearing, discipline counsel for the Law Society presents evidence to the hearing panel in support of the allegations in the citation. The lawyer who is the subject of the citation is usually represented by his or her own counsel.

A hearing panel is composed of three Law Society Benchers or former Benchers who decide the facts, verdict and (if applicable) penalty in a case.

### Findings of fact and verdict

Discipline cases proceed in two stages. In the first stage, the panel hears evidence to decide the facts of the case and determine whether the allegations in the citation have been proven.

At the completion of this stage, the panel may dismiss the citation, which brings the proceedings to a close. Alternatively, the panel may find that the lawyer is guilty of professional misconduct, incompetence, conduct unbecoming a lawyer or breach of the Law Society Rules. If the panel makes an adverse determination, a second hearing will be held to determine the appropriate penalty.

In some cases, the lawyer will admit to the

## Regulatory Information Online

To ensure the greatest possible transparency, the Law Society publishes extensive regulatory information online. Visit the Law Society website at [www.lawsociety.bc.ca](http://www.lawsociety.bc.ca) for:

- The *Legal Profession Act*, Law Society Rules and *Professional Conduct Handbook*
- Upcoming hearing dates
- Discipline citations
- Discipline and credentials hearing reports
- Discipline news releases and summaries
- Special Compensation Fund claim summaries (see *Benchers' Bulletin*)
- Unauthorized practice undertakings and injunctions (see *Benchers' Bulletin*).

allegations in the citation prior to the hearing and consent to a specific penalty. If both the Discipline Committee and hearing panel accept this admission, the panel will issue written reasons reflecting the facts, the admission and the penalty imposed.

## Penalties

When a panel makes an adverse determination, it imposes one or more sanctions, specifically to:

- reprimand the lawyer
- fine the lawyer an amount not exceeding \$20,000
- impose conditions on the lawyer's practice
- suspend the lawyer from the practice of law generally or from practice in one or more fields of law for a specified period of time

## Practice Standards

All lawyers have a professional duty to be competent in the practice of law. The Practice Standards Committee and its staff support the profession as a whole to this end by helping individual lawyers overcome competency problems.

When a lawyer comes before the Practice Standards Committee, it is usually because the Law Society has received complaints from clients or other people that raise concerns about the lawyer's quality of practice. The Professional Conduct Department staff, who handle the intake and assessment of complaints about lawyers, often make the initial referral. In other cases, the referral comes from the Complainants' Review Committee, Discipline Committee or Credentials Committee or from a hearing panel.

Some lawyers recognize their own need for assistance, and the Practice Standards Committee is one resource available to them.

To assess a lawyer's practice, the Committee

*continued on page 22*

- disbar the lawyer.

The Law Society also has disciplinary authority over articulated students. If there is an adverse determination about a student, the panel may impose a fine or conditions, extend the student's articles over a longer period or set aside the student's enrolment, which means he or she will be ineligible for call and admission.

All hearing panels issue written decisions, and these are available on the Law Society website.

## Reviews and appeals

The Discipline Committee has the right to apply for a review of a hearing panel decision on verdict. Both the Law Society and the lawyer have the right to apply for a review of a decision on penalty. Such reviews are heard by at least seven Benchers. The lawyer also has the right to appeal either the verdict or penalty to the BC Court of Appeal.

## 2004 referrals to the Practice Standards Committee

New lawyers referred	14
Other lawyers referred (existing files)	2
Results of referrals:	
Practice review ordered	7
Meeting with senior lawyer	4
Referred to Discipline Committee	–
No further action	1
Disposition of ongoing files:	
New practice restrictions	10
Practice supervision put in place	4
Referred to Discipline Committee	–
Matter completed to satisfaction of Practice Standards Committee (file closed)	19
Costs ordered	\$22,500

*The Practice Standards Committee considers referrals from Professional Conduct Department staff, the Discipline Committee or other sources, and takes remedial, rather than disciplinary, action to assist a lawyer who is having difficulty in practice.*

## Custodianships

Safeguarding client files and property is a high priority for the legal profession. On retiring or withdrawing from practice, lawyers are required to report to the Law Society on their disposition of open and closed client files, important documents and records, valuables, trust accounts and trust funds.

When a lawyer practises in a firm, other lawyers in the firm typically assume responsibility for client files and property. In the case of sole practitioners, they may return the files, transfer them to another firm, with client consent, or place them in storage.



On occasion, the Law Society will ask the Supreme Court to appoint a custodian of a lawyer's practice. This is sometimes necessary when a lawyer becomes ill, dies, resigns or terminates membership in the Law Society without having made arrangements for dealing with client property. A custodian is often appointed in those rare instances in which a lawyer neglects or abandons a practice or is disbarred or suspended from the practice of law.

A court-appointed custodian arranges for the temporary conduct of the practice or winds it up, depending on the terms of the order.

The provisions on custodianship protect the legal interests of all clients during a transition in a law practice.



**“I would like to confirm** that I found the “chat” very useful and I have no doubt that it will assist me in my practice in the area of organizing my office and in relating to my clients in a timely fashion as well as improving file documentation. As a sole practitioner, I found this consultation very instructive and I have taken steps to rectify the gaps identified in my practice.”

— A lawyer, commenting on the practice standards program

often arranges for a senior practitioner to meet with the lawyer and review files. Alternatively, the Committee may decide to order a full practice review, during which a volunteer practitioner and a Law Society staff lawyer evaluate the lawyer’s files, procedures and office systems and report back to the Committee.

The goal of a review is to pinpoint problems and to help set a lawyer back on track. Practice reviews, follow-up reviews, study assignments and practice recommendations are designed to assist the lawyer to practise law safely and effectively. Lawyers are responsible for paying the cost of the necessary remedial measures.

The table *2004 referrals to the Practice Standards Committee* on page 21 shows there were 14 matters (12 new lawyers) referred to the Committee in 2004 and notes their disposition. The Committee often asks a lawyer to restrict

his or her practice to certain types of services or certain areas of law when this is in the public interest. In some cases, the lawyer may be asked to practise only under the supervision of another lawyer.

Apart from the restrictions and conditions that it recommends to lawyers, the Committee also oversees some of those imposed by discipline or credentials hearing panels.

For lawyers struggling in practice, heavy workload, procrastination and inattention to detail are common problems. Personal problems, medical conditions and financial difficulties, may underlie these difficulties and need to be tackled through appropriate treatment or counselling.

The Law Society anticipates changes to the *Legal Profession Act* to allow the Practice

## Family Law Mediation

With the assistance of a family law mediator, people have the opportunity to reach an informed, consensual settlement of issues relating to their marriage, cohabitation, separation or divorce.

The Law Society accredits lawyers as family law mediators, and this program is overseen by the Practice Standards Committee.



Standards Committee to impose on a lawyer practice restrictions or conditions that have been recommended in a practice review — if the lawyer would otherwise refuse the recommendations or fail to comply with them. The Benchers intend to adopt rules to ensure there are procedural safeguards for lawyers who appear before the Committee once the legislative amendment is passed.

## Unauthorized Practice

*Under the Legal Profession Act, only lawyers may offer legal services for a fee. Non-lawyers who purport to offer legal services often do so as a business sideline and simply do not grasp how their lack of knowledge can easily result in a loss of rights or serious financial consequences for clients who rely on them.*

The Law Society is responsible for ensuring that only lawyers deliver legal services to the public for a fee and that unqualified people do not.

The Unauthorized Practice Committee and the staff lawyers of the Policy and Legal Services Department investigate all complaints about

non-lawyers engaging in the practice of law, advertising legal services or misrepresenting themselves as lawyers.

Non-lawyers who purport to offer legal services often do so as a business sideline and simply do not grasp how their lack of knowledge can

easily result in a loss of rights or serious financial consequences for clients who rely on them.

### 2004 unauthorized practice actions

Undertakings	36
Court injunctions (one by consent)	2
Contempt order	1
Total	39



# Professional Regulation & Services

In many cases, it is sufficient for the Law Society to explain to a non-lawyer that the activities amount to the illegal practice of law. It is straightforward in those cases to have the non-lawyer provide an undertaking that he or she will no longer engage in unauthorized practice.

If the non-lawyer refuses to provide an undertaking, the Society can apply for an injunction in the BC Supreme Court. The Law Society has a high rate of success on these applications.

In 2004 the Unauthorized Practice Committee — chaired by Vancouver Benchers James D. Vilvang, QC — shut down 39 cases of unauthorized practice by non-lawyers, obtaining 36

undertakings, two court injunctions (one by consent) and one contempt order. The contempt order was made against a non-lawyer who breached an earlier court injunction.

The Law Society publicizes unauthorized practice undertakings and court actions, both in its communications to the profession and in the general media. Through this publicity, the public can learn of the Society's mandate to regulate the delivery of legal services and can better understand the risk posed by unqualified people attempting to do legal work. Equally important, both lawyers and the public will know they can report new or recurring unauthorized practice to the Law Society.

In 2004 the Unauthorized Practice Committee also looked into a "purchase mortgage solution" program introduced by First Canadian Title Insurance Company. At the time, First Canadian offered institutional lenders in BC a package of services that included mortgage preparation. The Unauthorized Practice Committee told First Canadian Title its view that, by preparing these mortgages, the company was engaged in the unauthorized practice of law. First Canadian subsequently decided that it would cease preparing mortgages and would restructure its mortgage program. The Unauthorized Practice Committee will continue to monitor issues that arise with title insurance companies.

## Lawyers Insurance Fund

*Proactive claims management often spares lawyers, their clients and the Lawyers Insurance Fund from the many negative consequences that can flow from just one mistake.*

The Lawyers Insurance Fund (LIF) provides all BC lawyers in private practice with high quality professional liability insurance.

Two types of coverage are mandatory for lawyers in private practice and integrated into the group policy:

- professional liability insurance for negligence (Part A of the policy)
- trust protection coverage to protect innocent members of the public from financial loss arising from theft of money or property by a BC lawyer (Part B of the policy).

Part A of the policy offers \$1 million of

coverage per error or omission, to a maximum of \$2 million for all errors reported during the year. Part B, introduced on May 1, 2004, has no limit per lawyer, claim, error or claimant, but is subject to a profession-wide annual aggregate limit of \$17.5 million.

BC lawyers have been diligent about reporting potential negligence claims at an early stage, and this has allowed for better management of claims and incidents.

In 2004 LIF received 971 reports, of which seven were made under Part B. Roughly one-third of all reports over the past five years were categorized as actual claims and the

balance as incidents (potential claims): see *Insurance claim and incident reports 2000–2004* on page 24. There was no payment of either settlement funds or defence costs on 71% of files from all years closed in 2004, and there were no payments made for Part B claims.

When audited for its claims management in 2003, the Lawyers Insurance Fund was described as "the envy of the insurance industry." Claims counsel repair claims or potential claims whenever possible and are successful in doing so on approximately 12% of files. Proactive claims management often spares lawyers, their clients and the Insurance Fund from the many negative consequences that can flow from just one mistake.

**“***Claims counsel was very practical, competent and effective. My interests were carefully dealt with and a fair result was achieved for all concerned.***”**

— a lawyer

### LIF services 2004 satisfaction survey

*Lawyers ranking LIF 4 or 5 on a scale of 1 to 5.*

Handling of claim	95%
Outcome of claim	92%
Defence counsel services	90%
Claims Counsel services	96%

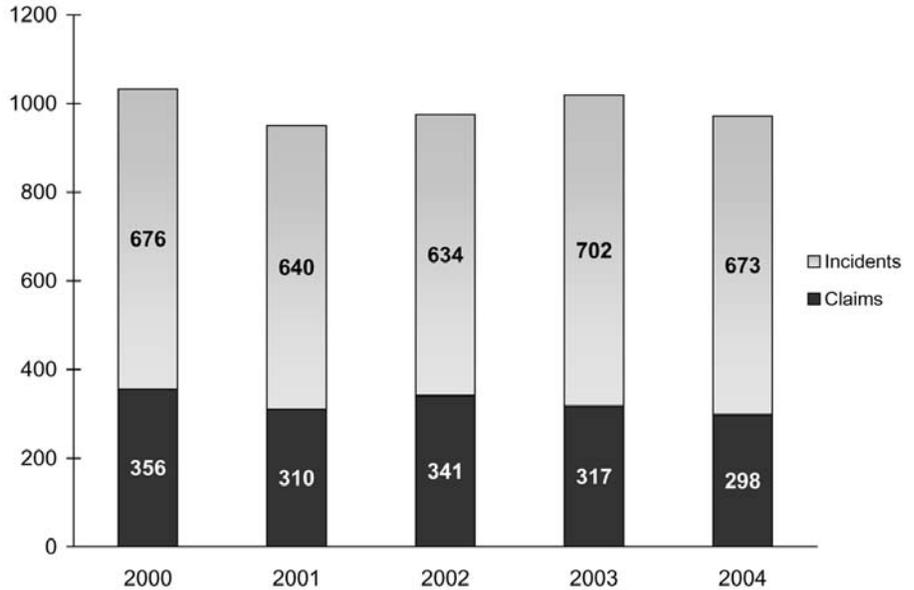


# Professional Regulation & Services

## Insurance reports by area of law – 2004

Civil litigation – plaintiff	19%
Motor vehicle – plaintiff	17%
Real estate – residential	11%
Family	8%
Securities	7%
Commercial - other	6%
Wills and estates	6%
Civil litigation – defendant	5%
Real estate – commercial	4%
Creditors remedies – plaintiff	3%
Administrative	3%
Tax	2%
Corporate	2%
Commercial lending – lender	2%
Intellectual property	1%
Motor vehicle – defendant	1%
Commercial lending – borrower	1%
Criminal	1%
Creditors remedies – defendant	1%

## Insurance claim and incident reports 2000 – 2004



For lawyers to avoid claims of negligence, they need to understand the risks. LIF is the primary source of information on professional liability losses. To help the profession avoid claims of negligence, the program co-sponsors the Law Society’s practice advice program and publishes loss prevention information.

When files are closed, the Lawyers Insurance Fund seeks service quality feedback from lawyers. 2004 survey results confirm that lawyers are extremely satisfied with LIF’s claims handling. In 2004 95% of survey respondents gave a high approval rating (4 or 5 on a scale of 1 to 5) on the handling of their claims. 92% of respondents gave the same satisfaction rating on the outcome of their claims, 90% on the services provided by defence counsel, and 96% on the work of LIF claims counsel. When asked what they most appreciated about the service provided, lawyers were generous in their praise of claims counsel:

“Claims counsel’s non-judgmental and understanding attitude, the ability and

willingness to get to the real issues efficiently, and her tendency to navigate the ship rather than steer it.”

“Claims counsel was understanding and supportive in every way. I was grateful for his calming influence at a time of high anxiety for me, and for his thoroughness and his ability to provide solutions.”

As part of this service evaluation and for loss prevention purposes, LIF encourages lawyers to describe what they believe to be the underlying reasons for a claim or potential claim, and to suggest how other lawyers might avoid a similar situation.

The table *Insurance reports by area of law – 2004* sets out the percentage of reports received in 2004, broken down by area of practice. Civil litigation (plaintiff) and motor vehicle (plaintiff) continue to be the areas of practice giving rise to the greatest numbers of insurance reports. Many of those reports arise from missed limitations and deadlines, accounting for 23% of all matters reported during the year.

Fortunately, if reported in a timely manner, many of these potential claims can be successfully repaired, avoiding a loss to the client, a lawsuit against the lawyer and often irreparable damage to the solicitor-client relationship.

Across all areas of practice, lawyers need to take care to review matters sufficiently and apply the appropriate legal analysis or strategy. It is also important that a lawyer manage the expectations of clients from beginning to end – and also be prepared to decline a prospective client who is focused on a result that the lawyer does not think he or she can achieve.

The profession can have confidence in the stability and integrity of the Lawyers Insurance Fund to provide reasonable protection from the risks of malpractice and also to provide trust protection coverage to compensate the public in those rare instances of lawyer defalcation. For financial information, see the Lawyers Insurance Fund financial statements on pages 41 to 44 and also “Law Society Finances,” on page 26.



# Professional Regulation & Services

## Special Compensation Fund

Since 1949 the Law Society has maintained a Special Compensation Fund, financed by all practising lawyers, to reimburse clients and other persons who have lost money or other property as a result of defalcation by a lawyer.

Lawyers exercise scrupulous care over funds in trust and are subject to Law Society trust assurance standards. Yet it takes just one lawyer handling funds dishonestly to sully the reputation of the profession. To collectively stand behind the work they do, lawyers all fund a program to compensate members of the public for any losses resulting from theft.

As of May 1, 2004, claims for compensation arising from lawyer defalcation are handled under new trust protection coverage, which forms part of the liability insurance policy of the Lawyers Insurance Fund. The Special Compensation Fund, however, remains responsible for claims discovered prior to May 1.

In 2004 the Special Compensation Fund Committee, chaired by Robert W. McDiarmid, QC, continued to assess outstanding claims, in particular those relating to the practice of former lawyer Martin Wirick. As has been widely publicized in the profession and general media, Mr. Wirick resigned in 2002 and was disbarred shortly thereafter for the misappropriation of trust funds in real estate transactions and for applying those funds to other purposes, in breach of his undertakings.

The Law Society took immediate steps to protect Mr. Wirick's clients, by conducting an audit and investigation, seeking the appointment of a custodian for his practice and ensuring the claims of innocent homeowners were given priority consideration.

Details on Special Compensation Fund finances, including the payment of claims and claim costs, are set out in the financial statements on pages 38 to 40.

Martin Wirick's actions resulted in significant claims for compensation which will take several more years to resolve and require the Benchers to make decisions on financing. In the midst of the bad news, there are two points worth noting. First, as reflected in the financial statements, the Special Compensation Fund was insured for \$15 million of the losses for that period under a commercial insurance bond. Second, in many transactions, the amount of actual loss proved much less than the total amount originally claimed. This was so because of multiple parties making duplicate claims.

The Special Compensation Fund Committee did not need to provide compensation in over 40% of the Wirick-related claims assessed in 2004, primarily because of claims duplication.

Without purporting to describe any particular claim or any outstanding claim relating to Martin Wirick, here is a sample illustration of how some duplicate claims occurred.

As is well-known, Mr. Wirick acted for a Vancouver real estate developer, Tarsem Gill, or one of Mr. Gill's nominees as the vendor of a property in various real estate transactions. In some cases, a mortgage was registered on the title of a property (held by "Bank A").

When Mr. Wirick's client (the vendor) sold the property, the new purchaser obtained financing for the transaction (for example, a mortgage loan from "Bank B"). Bank B's mortgage should have been a first charge on title. Mr. Wirick

typically failed to use the sale proceeds from the purchaser to pay out and discharge Bank A's first mortgage on title, contrary to his obligations and undertaking. Instead, he paid out the sale proceeds on the instructions of his client for other unrelated purposes. As a result, the new purchaser would own a property encumbered by two mortgages: 1) Bank A's mortgage, which should have been discharged (but remained as a first charge on the property) and 2) Bank B's mortgage, which should have been a first charge (but was in fact lower in priority).

When claims were made to the Law Society's Special Compensation Fund in such a scenario, typically claims would be made by 1) Bank A (for payment and discharge of its mortgage), 2) Bank B and 3) the purchaser. Generally, Bank B's claim and the purchaser's claim would be for financial losses they might suffer if Bank A's mortgage was not paid and discharged.

These would be essentially duplicate claims because when the Special Compensation Fund Committee paid out Bank A's claim and that mortgage was discharged, the purchaser and Bank B were restored to the positions they should have been in.

At each of their monthly meetings, the Benchers receive status reports on the Wirick claims. Interested members of the profession, the media and the public can consult an updated synopsis of these claims on the Law Society website and summaries of claim decisions in the *Benchers' Bulletin*.

In addition to assessing and paying claims relating to Martin Wirick, the Committee also paid 16 claims relating to seven other former lawyers.

Since May 2004 the Lawyers Insurance Fund has offered trust protection coverage for defalcation losses, and the Benchers plan to review the mandate of the Special Compensation Fund in 2005 and chart its future course. In the meantime, Fund continues work on outstanding claims.

*“The combination of our excellent counsel and your substantive process resulted in a very good process for us. We were also very worried about the situation and would like to thank you for the decent and courteous way we were treated.”*

*— a Special Compensation Fund claimant*



## Law Society Finances

BC lawyers fund the Law Society, their governing body, through annual membership fees and other assessments.

The Law Society maintains three funds: the General Fund, Lawyers Insurance Fund and Special Compensation Fund.

The 2004 audited financial statements for these funds are set out on pages 32 to 44 of this report. The statements reflect the presentation and disclosure standards of the Canadian Institute of Chartered Accountants respecting not-for-profit organizations. As part of the audit process and to determine the appropriateness of claim liabilities, the Law Society also receives an opinion from an actuary who is recognized by the Canadian Institute of Actuaries.

The Audit Committee, chaired by Vancouver Benchers David Zacks, QC in 2004, assists the Benchers in determining that Law Society staff properly manage the financial affairs of the Society. This includes:

- reviewing periodic financial statements of the General, Lawyers Insurance and Special

*In 2004 the component of the practice fee that funds the Law Society's general operations was \$825, which is \$78 lower than in 2003. The Benchers were able to recommend a fee reduction thanks to carefully controlled costs and the strong position of the General Fund.*

### Compensation Funds

- reviewing investment performance as managed by investment counsellors Phillips Hager and North
- providing an annual Audit Committee report to the Benchers
- reviewing with the Law Society auditors their approach, scope and audit results.

All three funds are financed and accounted for separately. The Lawyers Insurance Fund and Special Compensation Fund each make a proportionate contribution to the General Fund for Law Society facilities, administrative services and some program expenses. These expenses are incurred within the General Fund budget and recovered from the other two Funds.

and investigations, Benchers expenses, communications, general administration, discipline and complaints and legal expenses. Most of these were planned and budgeted; however, there were some unexpected costs associated with discipline files and general legal files.

The table *2004 General Fund expenditures* shows the gross program costs of the main Law Society programs as a percentage of the General Fund's total cost. Each program's total cost includes its related space and staffing costs.

Overall, as a result of strong revenues and expenses being under budget in several areas, the General Fund recorded a budget surplus of \$481,000 for 2004 and ended the year with a reserve of just over \$4 million.

### 2004 General Fund expenditures

General office administration	26.9%
Discipline and professional conduct	20.0%
Benchers, legal and task forces	10.5%
PLTC (gross cost)	10.4%
Audit and investigation	5.4%
Communications	5.2%
Member services	4.9%
Practice standards and advice	4.7%
Policy and planning	4.1%
Credentials	3.3%
Unauthorized practice	1.2%
Member assistance programs	1.1%
Ethics	.7%
Federations of Law Societies	.7%
Equity and diversity	.5%
Annual Report and meeting	.4%

### General Fund

In 2004 BC lawyers paid \$825 for the Law Society's general operations. The balance of the practice fee funded the CBA, the BC Courthouse Library Society, the Lawyers Assistance Program (LAP) and the Vancouver Bar Association to provide a subscription of *The Advocate* to all lawyers.

The Law Society component of the fee in 2004 was \$78 lower than in 2003. The Benchers were able to recommend the fee reduction thanks to carefully controlled costs and the strong position of the General Fund.

Total revenues were less in 2004 than in 2003, primarily because of the reduced practice fee. Other revenues in the General Fund met or exceeded budget projections. Expenses increased in a number of program areas, including audit

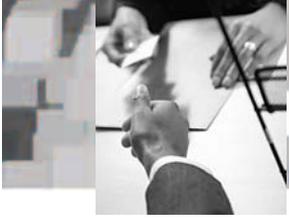
### Special Compensation Fund

The purpose of the Special Compensation Fund is to reimburse those who suffer a loss as a result of lawyer theft.

2004 was another challenging year. The Benchers spent a significant amount of time managing the financial resources of the Special Compensation Fund in light of the large claims liability the Fund has faced, primarily those claims related to former lawyer Martin Wirick.

Unlike the Lawyers Insurance Fund, this Fund does not set a claims reserve. All claim expenses are shown as an expense, net of any recoveries from the insurer or the lawyer with respect to whom a claim is made.

By the end of 2004, the Fund's reserve had dropped to just under \$1.2 million. The Fund had a commercial insurance policy that applied



# Professional Regulation & Services

*The financial strength of the Lawyers Insurance Fund is reflected both in its strong reserve and in the fact that, for a fifth year running, BC lawyers paid a \$1,500 premium in 2004, the lowest since 1986.*

to the period in which the Wirick claims were discovered. Under the terms of the policy, the Fund is responsible to pay a \$2.5 million deductible, and the insurer must reimburse the Fund for the balance of paid claims, to a limit of \$15 million. That limit will be exhausted in 2005.

The Special Compensation Fund has been funded through a \$600 assessment of each practising lawyer in both 2003 and 2004. The assessment was needed to cover audit and investigation costs, to pay claims and to maintain the Special Compensation Fund reserves. The Benchers are assessing financing options and will decide a long-term funding plan for payment of the remaining claims of the Fund.

Defalcation claims discovered May 1, 2004 or later are covered under Part B of the mandatory liability insurance policy issued to BC lawyers by the LSBC Captive Insurance Company.

## Lawyers Insurance Fund

The Lawyers Insurance Fund provides liability insurance for BC lawyers in the event they are negligent in the delivery of professional services. In May 2004, the program also began providing trust protection coverage, which protects the public in cases of defalcation by a lawyer.

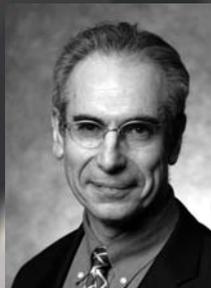
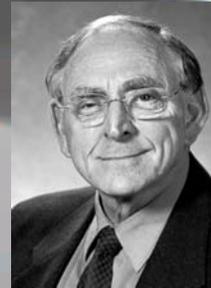
In 2004 the Lawyers Insurance Fund posted revenues of \$14.3 million and net expenses of \$550,540 (including a net reduction in total claim reserves of \$3.3 million). The Fund ended the year with a claims provision of \$64.4 million and a fund reserve of just under \$29.7 million, an increase of \$12.7 million from 2003.

The financial strength of the Lawyers Insurance Fund is reflected both in its strong surplus and in the fact that, for a fifth year running, BC lawyers paid a \$1,500 premium in 2004, the

lowest since 1986.

In 2004, the Benchers diversified the Lawyers Insurance Fund investments. They approved the purchase of a 73,000 square foot commercial building at 750 Cambie Street in Vancouver. Although vacant at the time, the building has since been fully leased to tenants with top credit ratings, including Intercon Security, Canadian Direct Insurance, Canadian Western Trust and the Vancouver Opera Association. The majority of the leases are 10 years in length, with the earliest lease commencing on April 1, 2005. In 2004 and throughout 2005, the building is being renovated and made ready for full occupation by January 1, 2006. This investment makes up approximately 10% of the book value (9% of market value) of the Fund's investments overall.

Given the strength of the Lawyers Insurance Fund, the Benchers approved the Fund helping to cushion the impact of claims against the Special Compensation Fund by providing interim financing of claims. This is a short-term loan from the Lawyers Insurance Fund to the Special Compensation Fund. As the Special Compensation Fund completes its determination of outstanding claims, the Benchers will decide its funding options for the coming years.



## 2004 Committee Chairs

*(Top row)* President William M. Everett, QC (Executive and Public Affairs Chair), Peter J. Keighley, QC (Discipline Chair),  
First Vice-President Ralston S. Alexander, QC (Credentials, Futures and Technology Chair),  
Second Vice-President Robert W. McDiarmid, QC (Audit, Futures and Special Compensation Fund Chair)

*(Middle row)* Anna K. Fung, QC (Discipline Chair), Margaret Ostrowski, QC (Access to Justice Chair),  
Ross D. Tunnicliffe (Legal Information and Practice Standards Chair), Dr. Maelor Vallance (Complainants' Review Chair)

*(Bottom row)* James D. Vilvang, QC (Unauthorized Practice Chair), Anne K. Wallace, QC (Equity and Diversity Chair), David A. Zacks, QC (Ethics Chair)

# Committees, Task Forces & Appointments



# 2004 Committees, Task Forces & Appointments

## Committees

### Executive

**Benchers:** W.M. Everett, QC (Chair), R.S. Alexander, QC, A.K. Fung, QC, J.J.L. Hunter, QC, P.J. Keighley, QC, R.W. McDiarmid, QC, J. Preston, D.A. Zacks, QC

**Staff:** J. Matkin, QC, S. Heberton, QC, J. Hoskins, D. Newell

### Access to Justice

**Benchers:** M. Ostrowski, QC (Chair), W. Jackson, P. Nagle, D.J. O'Byrne, QC, G.C. Taylor, QC, G.J. Lecovin, QC (Life Bencher), M. Martin (Life Bencher)

**Non-Benchers:** Ian Caldwell, David Mossop, QC, Vicki Trerise

**Staff:** C. Ensminger, L. Cooney, K. Foo

### Audit

**Benchers:** R.W. McDiarmid, QC (Chair), G.H.G. Hume, QC, D.J. Sigalet, QC, D.A. Zacks, QC, R.W. Gourlay, QC (Life Bencher)

**Non-Benchers:** Richard Stewart, Ted Strocel

**Staff:** J. Matkin, QC, N. Stajkowski

### Complainants' Review

**Benchers:** M. Vallance (Chair), I. Donaldson, QC, P. Nagle, L. To, J.D. Vilvang, QC

**Non-Benchers:** Peter Gorgopa

**Staff:** J. Boyce

### Credentials

**Benchers:** R.S. Alexander, QC (Chair),

C.W. Hickman, R.W. McDiarmid, QC, P.L. Schmit, QC, G. Turriff, QC, M. Vallance

**Non-Benchers:** Myron Claridge, Laura Donaldson, Bruce Kulla, John Leathley, Stephen Richards, Peter Warner, QC

**Staff:** A. Treleaven, L. Burns, L. Small, M. Lucas, P. Scheller

### Discipline

**Benchers:** P.J. Keighley, QC (Chair, Jan-Feb), A.K. Fung, QC (Chair, Mar-Dec), I. Donaldson, QC, J.J.L. Hunter, QC, W. Jackson, P. Nagle, J. Preston, A.E. Vertlieb, QC, D.W. Gibbons, QC (Life Bencher), J.S. Shackell, QC (Life Bencher), G.R. Toews, QC (Life Bencher)

**Non-Benchers:** Rita Andreone, Jo Ann Carmichael, QC, Diane Turner

**Staff:** S. Cameron, H. Caldwell, M. Currie, J. Dent, T. Follett, J. Gossen, L. Hlus, T. Holmes, K. Kim, R. Long, P. Martinuk, B. Mitovic, G. Myers, M. Robertson, E. van Eck

### Equity and Diversity

**Benchers:** A.K. Wallace, QC (Chair), P. Kelly, M. Ostrowski, QC, L. To

**Non-Benchers:** Aleem Bharmal, Halldor Bjarnason, Gerry Ferguson, Lisa Fong, Elizabeth Hunt, Wynn Lewis, Karen MacMillan, Lila Quastel, Baldwin Wong

**Staff:** K. Foo

### Ethics

**Benchers:** D.A. Zacks, QC (Chair), J. Blom, QC, G.H.G. Hume, QC, G.M. Rideout, A.K. Wallace, QC, W.J. Sullivan, QC (Life Bencher),

W.M. Trotter, QC (Life Bencher)

**Non-Benchers:** Patricia Bond, John Smith, Anne Stewart, QC, Peter Voith, QC

**Staff:** J. Olsen, J. Hoskins

### Futures

**Benchers:** R.S. Alexander, QC (Chair, Jan-Feb), R.W. McDiarmid, QC (Chair, Mar-Dec), J. Blom, QC, W.M. Everett, QC, A.K. Fung, QC, J.J.L. Hunter, QC, P.J. Keighley, QC, M. Ostrowski, QC, J. Preston, G. Turriff, QC, H.R. Berge, QC (Life Bencher)

**Non-Benchers:** Stan Lanyon, QC

**Staff:** D. Newell

### Legal Information (formerly Libraries Task Force)

**Benchers:** R.D. Tunnicliffe (Chair), R.W. McDiarmid, QC, P.L. Schmit, QC

**Non-Benchers:** Catherine Best, Johanne Blenkin, Neil Campbell, Sylvia Teasdale

**Staff:** A. Treleaven

### Practice Standards

**Benchers:** R.D. Tunnicliffe (Chair), M.J. Falkins, T.E. La Liberté, QC, G.G. Ridgway, QC, D.J. Sigalet, QC, G.C. Taylor, QC, G.J. Kambeitz, QC (Life Bencher)

**Non-Benchers:** Rosalyn Manthorpe, Charlotte Morganti, Mark Skwarok

**Staff:** A. Treleaven, K. Gounden, D. DeGaut, D. Bilinsky



# Committees, Task Forces & Appointments

## Public Affairs

**Benchers:** W.M. Everett, QC (Chair), R.S. Alexander, QC, P.J. Keighley, QC, R.W. McDiarmid, QC

**Non-Benchers:** Frank Carson, Hector MacKay-Dunn

**Staff:** B. Daisley

## Special Compensation Fund

**Benchers:** R.W. McDiarmid, QC (Chair), M.J. Falkins, P.J. Keighley, QC, P. Kelly,

B.A. LeRose, P.L. Schmit, QC

**Non-Benchers:** Azim Dato, QC, Peter Ramsay, QC, David Renwick, Ron Skolrood

**Staff:** M.A. Cummings, G. Keirstead, S. Rozen, L. Shore

## Technology

**Benchers:** R.S. Alexander, QC (Chair), J.J.L. Hunter, QC

**Non-Benchers:** Todd McKendrick, Ross McLarty, Leo Raffin, Alexander Szibbo

**Staff:** A. Whitcombe, N. Stajkowski, R. Usher

## Unauthorized Practice

**Benchers:** J.D. Vilvang, QC (Chair), T.E. La Liberté, QC, B.A. LeRose, G.G. Ridgway, QC, M. Martin (Life Bencher)

**Non-Bencher:** Fred Handsord, James Herperger, Ken Kramer

**Staff:** C. Wiseman, J. Hoskins, M. Lucas

## Task Forces

### Alternative Dispute Resolution

**Bencher:** R.S. Alexander, QC

**Non-Benchers:** Deborah Zutter (Chair), Jerry McHale, QC

**Staff:** J. Hoskins, L. Cooney

### Conduct Review

**Benchers:** P.J. Keighley, QC (Chair, Jan-Feb), I. Donaldson, QC (Chair, Mar-Dec), W.M. Everett, QC, M.J. Falkins, J.S. Shackell, QC (Life Bencher), R.S. Tretiak, QC (Life Bencher)

**Non-Bencher:** Ian Sisett

**Staff:** T. Holmes, M. Lucas, K. Copak

### Conveyancing Practices

**Benchers:** R.S. Alexander, QC (Chair), D.A. Zacks, QC, G.J. Kambeitz, QC (Life Bencher)

**Non-Benchers:** Paul Bradley, Kenneth Jacques, James Mooney, Franco Trasolini

**Staff:** J. Matkin, QC, R. Usher

### Disclosure and Privacy

**Benchers:** P.J. Keighley, QC (Chair, Jan-Feb), J.J.L. Hunter, QC (Chair, Mar-Dec), J. Preston

**Non-Benchers:** Maureen Baird, Jean Whittow, QC

**Staff:** C. Wiseman, B. Daisley, T. Follett, J. Gossen, T. Holmes, J. Hoskins, D. Newell, D. Palmer, C. Picard

### Lawyer Education

**Benchers:** P.L. Schmit, QC (Chair), J.J.L. Hunter, QC, D.J. Sigalet, QC, R.D. Tunnicliffe, G. Turriff, QC, M. Vallance, H.R. Berge, QC (Life Bencher)

**Non-Benchers:** Mary Childs, Susan Sangha, Peter Warner, QC

**Staff:** A. Treleaven, M. Lucas

### Limited Liability Partnership

**Benchers:** D.A. Zacks, QC (Chair), B.A. LeRose

**Non-Benchers:** Jocelyn Kelley

**Staff:** J. Hoskins, M. Lucas

### Ombudsperson Review

**Benchers:** A.K. Wallace, QC (Chair), M.J. Falkins, G.H.G. Hume, QC

**Non-Benchers:** Wynn Lewis

**Staff:** K. Foo

### Paralegal

**Benchers:** B.J. Wallace, QC (Chair, Life Bencher), R.S. Alexander, QC, W.J. Sullivan, QC (Life Bencher)

**Non-Benchers:** Jaynie Clark

**Staff:** C. Wiseman, A. Treleaven

### Western Law Societies

**Benchers:** W.M. Everett, QC (Chair), R.S. Alexander, QC, P.J. Keighley, QC, R.W. McDiarmid, QC

**Staff:** A. Treleaven



# Committees, Task Forces & Appointments

## Appointments to Outside Bodies (as of December 2004)

### **BC Courthouse Library Society**

R.D. Tunnicliffe  
A.E. Vertlieb, QC  
Warren Wilson, QC

### **BC Law Institute**

James MacIntyre, QC  
D. Peter Ramsay, QC

### **BC Medical Services Foundation**

Mark Skorah

### **Building Permit Board of Appeal, City of Vancouver**

Arlene Henry

### **CBA, National and Provincial Councils**

J.J.L. Hunter, QC  
G.C. Taylor, QC

### **CBA (BC) Benevolent Society**

Karl Warner, QC

### **Canadian Legal Information Institute (CanLII)**

Catherine Best

### **Continuing Legal Education Society**

#### **Benchers:**

A.K. Fung, QC  
A.K. Wallace, QC

#### **Practitioners:<sup>1</sup>**

James Baird  
Danielle Byres  
Thomas Fellhauer  
David E. Jones  
Robert Kasting  
Linda Locke  
William McNaughton  
Michael Roman

Timothy Schober  
Kenneth G. Walker

### **Federal Judicial Appointments Advisory Committee**

Jo Ann Carmichael, QC

### **Federation of Law Societies of Canada**

Delegates:  
W.M. Everett, QC  
R.S. Alexander, QC

#### **Director (B.C. and Yukon):**

Trudi Brown, QC

### **Hamber Foundation**

John Leathley  
Gerald Lecovin, QC

### **Law Courts Education Society**

M. Ostrowski, QC

### **Law Foundation**

Ian Caldwell  
Barbara Cromarty  
Dev Dley  
Christine Elliott  
Grant Gray  
Madam Justice Pamela Kirkpatrick  
Paul Love  
Suzette Narbonne  
Linda Parsons  
Heather Raven  
Peter Warner, QC  
Warren Wilson, QC

### **Legal Services Society<sup>2</sup>**

Brent Adair, QC  
J.M. Hogg, QC  
Mayland McKimm, QC  
Greg Stacey

### **Pro Bono Law of BC**

W. Jackson  
Marina Pratchett, QC  
Mr. Justice Bryan Ralph

### **Provincial Judicial Council**

Peter Wilson, QC

### **Surrey Foundation**

Heather Blatchford

### **UBC Faculty of Law, Curriculum Committee**

Peter Ramsay, QC

### **UBC Faculty of Law, Faculty Council**

Alan Treleaven

### **UVic Faculty of Law, Faculty Council**

R.S. Alexander, QC

### **Vancouver International Airport Authority**

J. Thomas English, QC

<sup>1</sup> appointed jointly with the CBA, BC Branch

<sup>2</sup> appointed after consultation with the CBA, BC Branch



## Financial Statements



# Auditors' Report

# 2004

## Auditors' Report

**General Fund**  
**Special Compensation Fund**  
**Lawyers Insurance Fund**

### To the members of The Law Society of British Columbia

We have audited the statements of financial position of **The Law Society of British Columbia – General Fund, Special Compensation Fund and Lawyers Insurance Fund** as at December 31, 2004 and, for each of these Funds, the statements of revenue and expense, changes in net assets and cash flows for the year then ended. These financial statements are the responsibility of the Funds' management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Funds as at December 31, 2004 and the results of their operations, the changes in their net assets and their cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

**Chartered Accountants**  
April 29, 2005



# Consolidated Financial Statements

## General Fund For the year ended December 31, 2004

### Consolidated Statement of Financial Position as at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	655,444	979,704
Unclaimed trust funds	650,723	522,420
Accounts receivable and prepaid expenses	348,247	523,905
B.C. Courthouse Library Fund (note 2)	236,859	311,677
Due from Lawyers Insurance Fund (note 6)	7,443,808	6,697,498
Due from Special Compensation Fund (note 6)	<u>651,379</u>	<u>1,759,029</u>
	9,986,460	10,794,233
<b>Property, plant and equipment</b>		
Cambie Street property – net (note 3)	12,886,512	12,806,965
Other – net (note 3)	<u>1,345,096</u>	<u>1,251,546</u>
	<u>24,218,068</u>	<u>24,852,744</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable and accrued liabilities	3,022,230	7,033,516
Liability for unclaimed trust funds	650,723	522,420
Current portion of building loan payable (note 5)	500,000	500,000
Deferred revenue	7,668,678	4,277,798
B.C. Courthouse Library Grant (note 2)	236,859	311,677
Deposits	<u>34,500</u>	<u>83,466</u>
	12,112,990	12,728,877
<b>Long-term debt</b>		
Building loan payable (note 5)	<u>8,100,000</u>	<u>8,600,000</u>
	<u>20,212,990</u>	<u>21,328,877</u>
<b>Net assets</b>		
Invested in property, plant and equipment – net	5,631,605	4,958,512
Unrestricted	<u>(1,626,527)</u>	<u>(1,434,645)</u>
	<u>4,005,078</u>	<u>3,523,867</u>
	<u>24,218,068</u>	<u>24,852,744</u>

### Consolidated Statement of Changes in Net Assets

	<u>2004</u>			<u>2003</u>
	Invested in property, plant and equipment – net of associated debt \$	Unrestricted \$	Total \$	Total \$
<b>Net assets – beginning of year</b>	4,958,508	(1,434,641)	3,523,867	1,379,729
Net (deficiency) excess of revenue over expense for the year	(814,307)	1,295,518	481,211	2,144,138
Repayment of associated debt	500,000	(500,000)	–	–
Purchase of property, plant and equipment	<u>987,404</u>	<u>(987,404)</u>	–	–
<b>Net assets – end of year</b>	<u>5,631,605</u>	<u>(1,626,527)</u>	<u>4,005,078</u>	<u>3,523,867</u>

Approved by

President

Chair of Audit Committee



# Consolidated Financial Statements

## General Fund For the year ended December 31, 2004

### Consolidated Statement of Revenue and Expense

	2004 \$	2003 \$
<b>Revenue</b>		
Practice fees	8,077,811	8,628,295
Enrolment fees	797,557	812,128
Application fees	387,542	362,943
Fines and penalties	149,544	315,398
Interest and other income	<u>694,565</u>	<u>1,041,609</u>
	<u>10,107,019</u>	<u>11,160,373</u>
<b>Expense</b>		
Amortization of other property, plant and equipment	363,174	332,359
Annual report and meeting	52,038	83,030
Audit and investigation	736,783	632,940
Benchler and other committee meetings	1,147,749	776,850
Communications and publications	711,465	602,752
Credentials	449,025	407,911
Discipline and complaints	2,727,311	2,204,305
Equity and diversity	66,521	183,928
Ethics	100,443	118,083
Federation of Law Societies' contribution	103,457	82,483
General office administration	3,304,098	3,173,733
Member services	664,880	693,323
Membership assistance programs	149,675	184,780
Non-program legal	293,442	148,888
Policy and planning	557,122	532,871
Practice advice	437,805	498,851
Practice standards	201,104	207,766
Professional Legal Training Course	1,421,082	1,526,456
Unauthorized practice	<u>165,910</u>	<u>194,662</u>
	13,653,084	12,585,971
Costs recovered from Special Compensation and Lawyers Insurance Funds		
Co-sponsored program costs	(1,622,176)	(1,536,282)
Administrative	<u>(2,028,238)</u>	<u>(1,603,744)</u>
	<u>10,002,670</u>	<u>9,445,945</u>
<b>Excess of revenue over expense before the following</b>	104,349	1,714,428
<b>845 Cambie operating revenue – net (note 4)</b>	<u>376,862</u>	<u>429,710</u>
<b>Net excess of revenue over expense for the year</b>	<u>481,211</u>	<u>2,144,138</u>

### Consolidated Statement of Cash Flows

	2004 \$	2003 \$
<b>Cash flows from operating activities</b>		
Net excess of revenue over expense for the year	481,211	2,144,138
Items not affecting cash		
Amortization of Cambie Street building and tenant improvements	451,133	397,269
Amortization of other property, plant and equipment	<u>363,174</u>	<u>332,359</u>
	1,295,518	2,873,766
Decrease (increase) in current assets		
Unclaimed trust funds	(128,303)	16,499
Accounts receivable and prepaid expenses	175,658	(163,616)
B.C. Courthouse Library Fund	74,818	74,147
Due from Lawyers Insurance Fund	(746,310)	(4,775,726)
Due from Special Compensation Fund	1,107,650	2,213,055
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	(4,011,286)	(2,769,984)
Liability for unclaimed trust funds	128,303	(16,499)
Deferred revenue	3,390,880	(2,030,180)
B.C. Courthouse Library Grant	(74,818)	(74,147)
Deposits	<u>(48,966)</u>	<u>(8,840)</u>
	1,163,144	(4,661,525)
<b>Cash flows from financing activities</b>		
Decrease in long-term debt – net	(500,000)	(500,000)
<b>Cash flows from investing activities</b>		
Property, plant and equipment additions – net	<u>(987,404)</u>	<u>(716,848)</u>
<b>Decrease in cash and cash equivalents</b>	(324,260)	(5,878,373)
<b>Cash and cash equivalents – beginning of year</b>	<u>979,704</u>	<u>6,858,077</u>
<b>Cash and cash equivalents – end of year</b>	<u>655,444</u>	<u>979,704</u>
<b>Represented by</b>		
Cash	<u>655,444</u>	<u>979,704</u>



# Consolidated Financial Statements

## General Fund For the year ended December 31, 2004

### Notes to Consolidated Financial Statements

#### 1. Nature of operations and basis of presentation

##### Description of the Fund

The General Fund (the Fund) comprises the assets, liabilities, net assets, revenue and expense of the operations of The Law Society of British Columbia (the Society) other than those designated to the statutory Special Compensation and Lawyers Insurance Funds. The Society is a not-for-profit organization and the Fund is considered to be non-assessable under current income tax legislation.

The Society, as the initial shareholder, incorporated a company called Juricert Services Inc. (Juricert) in September 1999 for the purpose of establishing a process of electronic authentication of lawyers. Juricert commenced initial operations in 2000. As at December 31, 2004, the Society remained the sole shareholder of Juricert.

##### Basis of presentation

These financial statements include the accounts of the company's wholly owned subsidiary, Juricert.

#### 2. Significant accounting policies

##### Allocated administrative expenses

Administrative expenses are recovered by the Fund from both the Lawyers Insurance and Special Compensation Funds. Recoveries are based on budgeted amounts derived either on percentage of use or the percentage of the Fund's staff as compared to the Society's total direct program staff.

##### Allocated rental revenue

The Cambie Street property is treated as a separate cost centre. Allocated rental revenue represents rent allocated to each of the Funds. Rental revenue allocated to the Fund has not been eliminated in the preparation of these financial statements.

##### Amortization

Amortization is provided on a straight-line basis as follows:

Buildings	2½% per annum
Computer hardware	20% per annum
Computer software	10-20% per annum
Furniture and fixtures	10% per annum
Leasehold improvements	10% per annum

Tenant improvements are amortized over the term of the lease to which they relate. The Society recognizes a full year's amortization expense in the year of acquisition.

##### B.C. Courthouse Library Fund

The Society administers funds held on behalf of the B.C. Courthouse Library. Such funds are held in trust and the use of the funds is not recorded in the state-

ment of revenue and expense of the Fund. Beginning 2003, the Society grants money to the B.C. Courthouse Library by fees per lawyer assessment.

##### Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, demand deposits, and short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

##### Revenue recognition

The Society follows the deferral method of accounting for annual fees. Fees are billed and received in advance on a calendar-year basis. Accordingly, fees for the next fiscal year received prior to December 31 have been deferred for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

##### Unclaimed trust funds

The Fund recognizes a liability for unclaimed trust funds on the statement of financial position. If these funds are claimed, the owner of the trust fund balance is entitled to the principal balance plus interest at prime rate minus 2%. Due to the historically low collection rates on these balances, the Fund does not accrue for any interest owing on the trust fund amounts held and recognizes income earned from the unclaimed trust fund investments in the statement of revenue and expense. Unclaimed funds outstanding for more than five years are transferred to the Law Foundation.

##### Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

#### 3. Property, plant and equipment – Cambie Street property and other

##### Cambie Street property

	2004		2003	
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Land	4,189,450	–	4,189,450	4,189,450
Buildings	11,345,096	3,592,242	7,752,854	8,035,714
Leasehold improvements	3,845,230	3,007,510	837,720	428,458
Tenant improvements	<u>1,085,930</u>	<u>979,442</u>	<u>106,488</u>	<u>153,343</u>
	<u>20,465,706</u>	<u>7,579,194</u>	<u>12,886,512</u>	<u>12,806,965</u>



# Consolidated Financial Statements

## General Fund For the year ended December 31, 2004

### Other property, plant and equipment

	2004		2003	
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Furniture and fixtures	2,065,698	1,441,534	624,164	455,071
Computer hardware	1,301,766	1,092,943	208,823	224,997
Computer software	1,453,487	941,379	512,108	571,477
Law libraries – at nominal value	<u>1</u>	<u>–</u>	<u>1</u>	<u>1</u>
	<u>4,820,952</u>	<u>3,475,856</u>	<u>1,345,096</u>	<u>1,251,546</u>

### 4. 845 Cambie operating revenue – net

	2004 \$	2003 \$
Rental revenue	392,787	470,842
Allocated rental revenue	<u>1,139,440</u>	<u>1,142,468</u>
	<u>1,532,227</u>	<u>1,613,310</u>
Expense		
Amortization	451,133	397,269
Insurance	81,564	62,936
Net loan interest	94,175	205,053
Property management salaries	139,595	156,334
Property taxes	260,347	278,376
Repairs and maintenance	278,835	260,559
Utilities	120,572	115,979
Recovery from tenants	<u>(270,856)</u>	<u>(292,906)</u>
	<u>1,155,365</u>	<u>1,183,600</u>
Net operating revenue	<u>376,862</u>	<u>429,710</u>

### 5. Building loan payable

In 1992, the Benchers authorized the lending of monies from the Lawyers Insurance Fund to fund the capital development of the Society's buildings at 839 and 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly yield to maturity earned on the Lawyers Insurance Fund investment portfolio. It is the intention of the Fund to repay a minimum of \$500,000 of the principal each year. During 2004, principal of \$500,000 (2003 – \$500,000) was repaid.

	2004 %	2003 %
Weighted average rate of interest	<u>2.13</u>	<u>2.78</u>

### 6. Interfund transactions

The operations of the Fund, the Lawyers Insurance Fund and the Special Compensation Fund are controlled by the management of the Society. Transactions between the Funds are recorded at fair values at the dates of the transactions.

Amounts due to and from the Lawyers Insurance and Special Compensation Funds arise from transactions of an operating nature, and have no fixed terms of repayment. The amounts due to and from the Special Compensation Fund are non-interest bearing.

Monthly interest on the Fund's net loan position with the Lawyers Insurance Fund is paid by the Fund at a rate equal to the stated monthly bond yield to maturity earned on the Lawyers Insurance Fund investment portfolio. The Fund's net loan position includes the Fund's building loan and other operating balances with the Lawyers Insurance Fund. This net loan position fluctuates during the year as amounts are transferred between the Fund and the Lawyers Insurance Fund to finance ongoing operations.

During the year, interest paid to the Lawyers Insurance Fund totalled \$94,175 (2003 – \$205,053) after deduction of approximately \$99,175 (2003 – \$61,539) of interest revenue received from Fund cash balances held by the Lawyers Insurance Fund.

Other interfund transactions are disclosed elsewhere in these financial statements.

### 7. Related parties

The Benchers are drawn from law firms across the province. These law firms may at times be engaged by the Society in the normal course of business.



# Financial Statements

## Special Compensation Fund For the year ended December 31, 2004

### Statement of Financial Position as at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash and cash equivalents	4,662,989	977,403
Insurance recoverable (note 4)	1,261,480	5,978,376
Assets held for resale	—	<u>346,751</u>
	5,924,469	7,302,530
<b>Investments (note 2)</b>	<u>1,336,684</u>	<u>1,313,912</u>
	<u>7,261,153</u>	<u>8,616,442</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable and accrued liabilities	14,000	9,979
Deferred revenue	5,400,000	2,760,600
Due to General Fund (note 3)	<u>651,379</u>	<u>1,759,029</u>
	6,065,379	4,529,608
<b>Net assets</b>		
<b>Unrestricted net assets</b>	<u>1,195,774</u>	<u>4,086,834</u>
	<u>7,261,153</u>	<u>8,616,442</u>

Claims (note 4)

Approved by

President

Chair of Audit Committee

### Statement of Changes in Net Assets

	2004 \$	2003 \$
<b>Unrestricted net assets – beginning of year</b>	4,086,834	3,977,441
(Deficiency) excess of revenue over expense for the year	<u>(2,891,060)</u>	<u>109,393</u>
<b>Unrestricted net assets – end of year</b>	<u>1,195,774</u>	<u>4,086,834</u>
	* * *	

### Statement of Revenue and Expense

	2004 \$	2003 \$
<b>Revenue</b>		
Annual assessments	5,581,350	5,496,650
Investment and interest income	<u>59,175</u>	<u>(86,716)</u>
	<u>5,640,525</u>	<u>5,409,934</u>
<b>Expense</b>		
Allocated office rent	50,008	39,258
Audit	14,000	16,851
Claims and costs (note 4)	2,824,886	389,816
Contribution to costs of General Fund		
Administrative	923,705	603,785
Co-sponsored program costs	967,132	829,027
Counsel costs	73,084	172,819
Custodians' fees – net of recoveries	1,494,811	1,028,031
Insurance premium	28,713	297,793
Investment brokers' fee	4,573	6,161
Miscellaneous	94,966	146,101
Salaries, wages and benefits	1,025,686	999,144
Spot audits and related costs	<u>1,030,021</u>	<u>771,755</u>
	<u>8,531,585</u>	<u>5,300,541</u>
<b>(Deficiency) excess of revenue over expense for the year</b>	<u>(2,891,060)</u>	<u>109,393</u>



# Financial Statements

## Special Compensation Fund For the year ended December 31, 2004

### Statement of Cash Flows

	2004 \$	2003 \$
<b>Cash flows from operating activities</b>		
(Deficiency) excess of revenue over expense for the year	(2,891,060)	109,393
Decrease (increase) in current assets		
Accrued interest receivable	–	1,969
Insurance recoverable	4,716,896	(3,532,754)
Assets held for resale	346,751	(346,751)
Increase (decrease) in current liabilities		
Accounts payable and accrued liabilities	4,021	(10,997)
Deferred revenue	2,639,400	(947,400)
Due to General Fund	(1,107,650)	(2,213,054)
	3,708,358	(6,939,594)
<b>Cash flows from investing activities</b>		
(Purchase) sale of investments – net	<u>(22,772)</u>	<u>5,584,602</u>
<b>Increase (decrease) in cash and cash equivalents</b>	3,685,586	(1,354,992)
<b>Cash and cash equivalents – beginning of year</b>	<u>977,403</u>	<u>2,332,395</u>
<b>Cash and cash equivalents – end of year</b>	<u>4,662,989</u>	<u>977,403</u>

### Notes to Financial Statements

#### 1. Significant accounting policies and description of the Fund

##### Description of the Fund

The Special Compensation Fund (the Fund) is maintained by The Law Society of British Columbia (the Society) pursuant to section 31 of the *Legal Profession Act* to reimburse persons who sustain a pecuniary loss as a result of the misappropriation or wrongful conversion by a member of the Society of money or other property entrusted to or received by the member in his or her capacity as a barrister or solicitor. The Fund is financed by members' annual assessments, and claims are recorded net of recoveries from the Fund's insurers when they have been approved for payment by the Special Compensation Fund Committee as delegated by the Benchers.

The Society is a not-for-profit organization and the Fund is considered to be non-assessable under current income tax legislation.

##### Allocated administrative expenses

Administrative expenses are recovered by the General Fund of the Society from the Fund. Recoveries are based on budgeted amounts derived either on a percentage of use or the percentage of the Fund's staff as compared to the Society's total direct program staff.

##### Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, demand deposits, and short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of change in value.

##### Financial instruments

The carrying values of cash and cash equivalents, accounts payable and accrued liabilities and deferred revenue approximate their fair values due to their short-term nature.

##### Investments

Bonds are carried at amortized cost, providing for the amortization of the discount or premium on a straight-line basis to maturity. When an investment has experienced a loss in value that is other than temporary, the investment is written down to its estimated net realizable value. Realized gains and losses are included in the determination of excess (deficiency) of revenue over expense for the year.

##### Revenue recognition

The Society follows the deferral method of accounting for annual assessments. Assessments are billed and received in advance on a calendar-year basis. Accordingly, assessments for the next fiscal year received prior to December 31 have been deferred for financial reporting purposes and will be recognized as revenue in the next calendar year.

All other revenues are recognized when receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

(continued on page 40)



# Financial Statements

## Special Compensation Fund For the year ended December 31, 2004

### 1. Significant accounting policies and description of the Fund (continued)

#### Use of estimates

The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

### 2. Investments

	2004 \$	2003 \$
Investments (market value: \$1,470,785; 2003 – \$1,373,422)	<u>1,336,684</u>	<u>1,313,912</u>

Investments consist primarily of domestic government treasury bills, government bonds, and high grade corporate bonds, having a maturity of up to 26 years.

The effective yield to maturity on the total portfolio is 2.53% (2003 – 2.36%).

### 3. Interfund balances

Amounts due to the General Fund are current and non-interest bearing.

### 4. Special Compensation Fund claims

#### a) Outstanding claims

Pursuant to section 31(6) of the *Legal Profession Act*, the payment of Fund claims is at the discretion of the Special Compensation Fund Committee as delegated by the Benchers. No provision has been made in these financial statements for claims not resolved by the Special Compensation Fund Committee. As at December 31, 2004, 381 claims or potential claims (2003 – 590 claims) were known but not yet determined. These claims amounted to approximately \$72,493,866 (2003 – \$72,230,336). If all claims were approved for payment, \$45,464,841 (2003 – \$50,887,594) would be payable by the Fund and \$27,029,025 (2003 – \$21,342,742) by the Fund's insurers. These amounts do not include an estimate for claims attributable to 2004 or prior years that have not as yet been filed. In addition, these amounts include potential duplicate claims with respect to the Wirick case.

For claims reported prior to May 1, 2004, the insurance bond provides that total claims attributable to the period in excess of \$2,500,000 are 100% reimbursed by a commercial insurer up to a maximum of \$15,000,000 for claims against one lawyer and in total.

#### b) Wirick case

In May 2002, the Discipline Committee ordered an audit investigation, pursuant to Rule 4-43, of Martin Keith Wirick's practice. Since then, the Society has continued to investigate the various claims attributed to Mr. Wirick's practice activities. Information continues to be received from financial institutions and other lenders to assist in the investigation of claims. At each Benchers' meeting since May 2002, the Benchers have been given a detailed update of the status of the outstanding claims, investigation costs and any relevant information concerning possible recoveries. This will continue until the file is closed.

	2004	2003
Number of open claims	248	470
	\$	\$
Amount claimed	33,000,000	55,000,000
Amount reviewed (number of claims – 383; 2003 – 165)	57,000,000	30,000,000
Amount denied due to duplication (number of claims – 177; 2003 – 40)	23,000,000	7,000,000
Amount adjourned (number of claims – 90; 2003 – 76)	10,000,000	8,000,000
Total approved for payment	27,000,000	15,000,000
Total paid	19,000,000	12,000,000

Until May 1, 2004, the Fund carried insurance of \$15,000,000 for each bond period (\$17,500,000 total coverage with a deductible of \$2,500,000). The bond period is defined as the year in which the Society becomes aware of evidence indicating a member may have been guilty of an act or acts of misappropriation or wrongful conversion. All claims concerning Mr. Wirick will fall into the 2002 bond period and as such, the Fund has claims greater than its level of insurance. In 2002, the Benchers agreed to allow the Special Compensation Fund Committee to exceed the \$17,500,000 cap they had imposed in the Society rules.

The Insurer's coverage for the 2002 bond period is \$15,000,000. In early 2005, the final proof of loss that reaches this limit was filed.

In accordance with the absolute discretionary nature of the Fund arrangements, the claims become a liability only when approved by the Special Compensation Fund Committee.



# Consolidated Financial Statements

Lawyers Insurance Fund For the year ended December 31, 2004

## Consolidated Statement of Financial Position as at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
Cash and cash equivalents	11,166,198	7,575,628
Accounts receivable	57,790	50,482
Prepaid expense	84,376	-
Accrued interest receivable	2,070	343
Income tax recoverable	-	4,909
Reinsurers' share of provision for claims	4,572,644	4,888,650
Due from members	1,892,496	1,908,573
General Fund building loan (note 4)	8,600,000	9,100,000
Investments (note 2)	<u>92,997,707</u>	<u>88,689,752</u>
	<u>119,373,281</u>	<u>112,218,337</u>

### Liabilities

Accounts payable and accrued liabilities	823,188	621,068
Income taxes payable	2,384	-
Deferred revenue	5,158,410	2,800,760
Due to General Fund (note 6)	7,443,808	6,697,499
Provision for claims (note 5)	64,440,011	78,195,385
Provision for ULAE (note 5)	7,508,236	6,914,000
Mortgage debt - 750 Cambie Street (note 2)	<u>4,262,707</u>	<u>-</u>
	89,638,744	95,228,712

### Net assets

Unrestricted net assets	<u>29,739,537</u>	<u>16,989,625</u>
	<u>119,378,281</u>	<u>112,218,337</u>

### Approved by

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Chair of Audit Committee

## Consolidated Statement of Changes in Net Assets

	2004 \$	2003 \$
Unrestricted net assets - beginning of year	16,989,625	17,148,858
Excess (deficiency) of revenue over expense for the year	<u>12,744,912</u>	<u>(159,233)</u>
Unrestricted net assets - end of year	<u>29,734,537</u>	<u>16,989,625</u>

\* \* \*

## Consolidated Statement of Revenue and Expense

	2004 \$	2003 \$
<b>Revenue</b>		
Annual assessments	10,232,989	10,024,260
Investment income (note 2)	4,059,336	3,535,582
Other income	<u>36,391</u>	<u>94,242</u>
	14,328,716	13,654,084

### Insurance expense

Actuary, consultant and investment broker fees	252,043	315,154
Allocated office rent	122,120	97,021
Audit	36,000	33,665
Contribution to costs of General Fund		
Administrative	1,107,199	1,002,759
Office	355,730	240,450
Premium taxes	8,935	9,666
Provision for settlement of claims (note 5)	(3,316,000)	10,178,000
Provision for ULAE (note 5)	594,236	(83,000)
Salaries, wages and benefits	<u>1,390,277</u>	<u>1,305,256</u>
	550,540	13,098,971

### Loss prevention expense

Contribution to costs of General Fund		
Co-sponsored program costs	<u>655,044</u>	<u>707,255</u>
	<u>1,205,584</u>	<u>13,806,226</u>

Excess (deficiency) of revenue over expense before the following	13,123,132	(152,142)
Provision for income taxes	(11,384)	(7,091)
Building loss (750 Cambie Street) (note 2)	<u>(366,836)</u>	<u>-</u>
Excess (deficiency) of revenue over expense for the year	<u>12,744,912</u>	<u>(159,233)</u>



# Consolidated Financial Statements

## Lawyers Insurance Fund For the year ended December 31, 2004

### Consolidated Statement of Cash Flows

	2004 \$	2003 \$
<b>Cash flows from operating activities</b>		
Excess (deficiency) of revenue over expense for the year	12,660,536	(159,233)
Items not affecting cash		
Realized gain on disposal of investment	(894,113)	(73,989)
Amortization of 750 Cambie Street building	<u>62,071</u>	<u>—</u>
	11,828,494	(233,222)
Decrease (increase) in assets		
Accounts receivable	(7,308)	(17,871)
Accrued interest receivable	(1,727)	505
Reinsurers' share of provision for claims	316,006	1,274,350
Due from members	16,077	(1,155)
Due to/from General Fund	746,309	4,775,727
Income taxes payable (recoverable)	7,293	(13,909)
Increase (decrease) in liabilities		
Accounts payable and accrued liabilities	202,120	52,292
Deferred revenue	2,357,650	(982,490)
Provision for claims	(13,755,374)	(2,843,134)
Provision for ULAE	<u>594,236</u>	<u>(83,000)</u>
	<u>2,303,776</u>	<u>1,928,093</u>
<b>Cash flows from investing activities</b>		
Sale (purchase) of investments – net	5,912,907	(708,058)
Decrease in General Fund building loan	500,000	500,000
Increase in long-term asset (purchase 750 Cambie Street)	(9,388,820)	—
Increase in long-term debt (mortgage debt)	<u>4,262,707</u>	<u>—</u>
	<u>1,286,794</u>	<u>(208,058)</u>
<b>Increase in cash and cash equivalents</b>	<b>3,590,570</b>	<b>1,720,035</b>
<b>Cash and cash equivalents – beginning of year</b>	<b><u>7,575,628</u></b>	<b><u>5,855,593</u></b>
<b>Cash and cash equivalents – end of year</b>	<b><u>11,166,198</u></b>	<b><u>7,575,628</u></b>

\* \* \*

### Notes to Consolidated Financial Statements

#### 1. Significant accounting policies and description of the Fund

##### Description of the Fund

The Lawyers Insurance Fund (the Fund) is maintained by The Law Society of British Columbia (the Society) pursuant to section 30 of the *Legal Profession Act*. The Society is a not-for-profit organization, and only the subsidiary LSBC Captive Insurance Company Ltd. (the Captive) is considered assessable for income tax under current legislation.

At the December 2003 meeting, the Benchers approved, to be effective May 1, 2004, a Part B amendment to the B.C. Lawyers' Compulsory Professional Liability



# Consolidated Financial Statements

Lawyers Insurance Fund For the year ended December 31, 2004

accepted accounting principles requires management to make estimates and assumptions which affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and revenues and expenses for the period reported. Actual results could differ from those estimates.

## 2. Investments

	2004 \$	2003 \$
Investments – at book value (market value – \$92,687,035; 2003 – \$92,878,903)	83,670,958	88,689,752
750 Cambie Street Building	<u>9,326,749</u>	—
	<u>92,997,707</u>	<u>88,689,752</u>

The effective yield to maturity on the total portfolio is 2.53% (2003 – 2.35%).

	2004			
	Carrying value \$	Gross unrealized gains \$	Gross unrealized losses \$	Estima- ted fair value \$
Bonds				
Pooled Funds	39,091,398	1,092,828	—	40,184,226
Equity				
Canadian Pooled Funds	18,792,370	7,762,279	—	26,554,649
U.S. Pooled Funds	12,172,508	—	(640,869)	11,531,639
Non-North America Pooled Funds	13,240,927	801,839	—	14,042,766
	<u>44,205,805</u>	<u>8,564,118</u>	<u>(640,869)</u>	<u>52,129,054</u>
Short-term investments	373,755	—	—	373,755
	<u>83,670,958</u>	<u>9,656,946</u>	<u>(640,869)</u>	<u>92,687,035</u>

	2003			
	Carrying value \$	Gross unrealized gains \$	Gross unrealized losses \$	Estima- ted fair value \$
Bonds				
Pooled Funds	46,759,304	586,595	—	47,345,898
Equity				
Canadian Pooled Funds	19,177,247	4,412,088	—	23,589,335
U.S. Pooled Funds	12,448,775	—	(399,906)	12,048,869
Non-North America Pooled Funds	9,933,902	—	(54,124)	9,879,778
	<u>41,559,924</u>	<u>4,412,088</u>	<u>(454,030)</u>	<u>45,517,982</u>
Short-term investments	370,524	—	—	15,023
	<u>88,689,752</u>	<u>4,998,683</u>	<u>(454,030)</u>	<u>92,878,903</u>

The estimated fair value of equity share and debt securities is based on quoted market value.

Management has reviewed currently available information regarding all investments whose estimated fair value is less than carrying value, and ascertained that the carrying values are expected to be recovered. Debt securities whose carrying value exceeds market value can be held until maturity.

### Liquidity and interest rate risk

The maturity profile based on the market value as at December 31, 2004 and 2003 is as follows:

	Within 1 year \$	1 to 5 years \$	5 to 10 years \$	Over 10 years \$	Total \$
Bonds Pooled					
2004	9,081,635	9,081,635	9,523,662	12,497,294	40,184,226
2003	2,130,565	16,713,102	16,192,297	12,309,934	47,345,898

	2004 \$	2003 \$
Investment income		
Cash and treasury bills	18	13,117
Bond interest	—	—
Amortization of premium on bonds	—	—
PH&N Pooled Distribution Income	3,071,030	3,220,729
Net interfund loan interest (note 6)	94,175	205,053
Dividends	—	22,694
Gain on sale of investments	<u>894,113</u>	<u>73,989</u>
Net investment income	<u>4,059,336</u>	<u>3,535,582</u>

### 750 Cambie Street Building

	2004			2003
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Land	4,299,850	—	4,299,850	—
Building	4,965,721	62,071	4,903,650	—
Base building improvements	<u>123,249</u>	—	<u>123,249</u>	—
	<u>9,388,820</u>	<u>62,071</u>	<u>9,326,749</u>	—

The Cambie Street Building is held as an investment by the Fund.

Amortization is provided on a straight-line basis as follows:

Building	2½% per annum
Building – improvements	2½% per annum

As part of the terms of purchase, the Fund assumed the existing mortgage. The mortgage matures May 1, 2006 at the interest rate of 6.95%. During 2004, the Fund paid \$76,677 of interest and as at December 31, 2004, the balance remaining was \$4,262,707.

### 3. Errors and omissions insurance claims

Effective January 1, 1990, the Fund began underwriting the program by which errors and omissions insurance is provided to members of the Society. The Society's members have coverage as follows:

	2004 \$	2003 \$
Deductible – member	5,000 or 10,000	5,000 or 10,000
Deductible – the Fund	995,000 or 990,000	995,000 or 990,000
Total coverage per occurrence	<u>1,000,000</u>	<u>1,000,000</u>
Annual aggregate per member	<u>2,000,000</u>	<u>2,000,000</u>

The amount of the member deductible is \$5,000 for each initial claim resulting in the payment of damages and \$10,000 for each additional claim within a three-year period resulting in the payment of damages.

(continued on page 44)



# Consolidated Financial Statements

Lawyers Insurance Fund For the year ended December 31, 2004

### 3. Errors and omissions insurance claims (continued)

For 1996 and previous years, the Captive entered into reinsurance contracts under which all risks in excess of the inner aggregate retentions, which are borne by the Captive, were ceded to reinsurers. The policy of ceding reinsurance does not relieve the Captive of primary liability as the originating insurer.

Since January 1, 1997, the Captive has not renewed its annual reinsurance contracts, and therefore all losses on claims since 1997 will be fully borne by the Captive as primary insurer and reimbursed by the Society under agreement.

Effective May 1, 2004, the Captive's B.C. Lawyers' Compulsory Professional Liability Insurance Policy was amended to include Part B defalcation coverage.

For the 2004 policy period, there is a \$12,000,000 profession-wide aggregate limit.

### 4. General Fund building loan

In 1992, the Benchers authorized the lending of monies from the Fund to fund the capital development of the Society's buildings at 839 and 845 Cambie Street, Vancouver, B.C. The loan has no fixed repayment terms and bears interest calculated monthly at a rate equal to the stated monthly yield to maturity earned on the Fund investment portfolio. It is the intention of the General Fund to repay a minimum of \$500,000 on the principal each year. During 2004, principal of \$500,000 (2003 – \$500,000) was repaid.

	2004	2003
	%	%
Weighted average rate of return	<u>2.13</u>	<u>2.78</u>

### 5. Provision for claims and unallocated loss adjustment expenses (ULAE)

The changes in unpaid claims recorded in the consolidated statement of financial position as at December 31, 2004 and 2003 and their impact on claims for the year are as follows:

	2004	2003
	\$	\$
Provisions for claims – beginning of year	78,195,385	81,038,519
Provision for losses and expenses for claims occurring in the current year	12,990,000	16,800,000
Decrease in estimated losses and expenses for losses occurring in prior years	<u>(16,235,138)</u>	<u>(6,622,000)</u>
Provision for claims liability	<u>74,950,247</u>	<u>91,216,519</u>
Less:		
Payments on claims incurred in the current year	(579,763)	(676,577)
Payments on claims incurred in prior years	(10,917,835)	(10,001,221)
Recoveries on claims	751,362	183,664
Change in reinsurers' share of provision for claims	199,000	(2,520,000)
Change in due from members	<u>37,000</u>	<u>(7,000)</u>
Claims payments – net of recoveries	<u>(10,510,236)</u>	<u>(13,021,134)</u>
Provisions for claims – end of year	<u>64,440,011</u>	<u>78,195,385</u>

The determination of the provision for unpaid claims, and adjustment expenses and the related reinsurers' share requires the estimation of three major variables or quanta, being development of claims, reinsurance recoveries and the effects of discounting, to establish a best estimate of the value of the respective liability or asset.

The provision for unpaid claims and adjustment expenses and related reinsurers' share is an estimate subject to variability, and the variability, as with any insurance company, could be material in the near term. The variability arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time. Variability can be caused by the receipt of additional information, changes in judicial interpretation of contracts, significant changes in severity or frequency of claims from historical trends, the timing of claims payments, the recoverability of reinsurance, and future rates of investment return. The estimates are principally based on the Society's historical experience. Methods of estimation have been used that the Society believes produce reasonable results given current information.

The provision for ULAE is an actuarially determined estimate of the Society's future costs relating to the administration of claims incurred up to the statement of financial position date.

The Society discounts its best estimate of claims provisions at a rate of interest of 5%. The Society determines the discount rate based upon the expected return on its investment portfolio of assets with appropriate assumptions for interest rates relating to reinvestment of maturing investments.

To recognize the uncertainty in establishing these best estimates, to allow for possible deterioration in experience and to provide greater comfort that the actuarial liabilities are adequate to pay future benefits, the Society includes Provisions for Adverse Deviations (PFADs) in some assumptions relating to claims development, reinsurance recoveries and future investment income. The PFADs selected are in the mid range of those recommended by the Canadian Institute of Actuaries.

### 6. Interfund transactions

The operations of the Fund, the General Fund and the Special Compensation Fund are controlled by the management of the Society. Transactions between the Funds are recorded at fair values at the dates of the transactions.

Amounts due to and from the General Fund arise from transactions of an operating nature and have no fixed terms of repayment.

Monthly interest on the Fund's net loan position with the General Fund is paid to the Fund at a rate equal to the stated monthly yield to maturity earned on the Fund investment portfolio. The Fund's net loan position includes the General Fund building loan and other operating balances with the General Fund. This net loan position fluctuates during the year as amounts are transferred between the General Fund and the Fund to finance ongoing operations.

Interest received by the Fund totalled \$94,175 (2003 – \$205,053) after deduction of approximately \$99,175 (2003 – \$61,539) of interest revenue paid to the General Fund on General Fund cash balances held by the Fund during the year.

Other interfund transactions are disclosed elsewhere in these consolidated financial statements.

### 7. Regulatory requirements

The Captive is licensed under the *Insurance (Captive Company) Act* of B.C. The regulations of this Act require the Captive to maintain certain minimum reserves. The Captive was in compliance with those regulations as at December 31, 2004.