The Law Society of British Columbia

2015: No. 2 • SUMMER

BENCHERS' BULLETIN

Keeping BC lawyers informed

FEATURE

Making sure the admission program is current and relevant

by Kenneth M. Walker, QC

I HAVE A particular interest in articled students for an obvious reason: I was one once, back in 1973 and '74. Bob Hunter, who was the Bencher from Kamloops and later became a Supreme Court Justice, started me down the road of involving young students and lawyers in the work that the Law Society does. So, since I became a Bencher, I've been meeting regularly with Kamloops students, trying to encourage them to start thinking about the Law Society.

Today's students don't learn the same way that I learned, and I think we have to recognize that my training 41 years ago may not be the best way for people to learn today. That's one of the reasons that a priority in the Law Society's strategic plan is to "ensure that admission processes are current and relevant," and why our Lawyer Education Advisory Committee is currently reviewing our admission program.

When you examine our admission program in British Columbia, you have to ask, how is it different from or similar to programs elsewhere in Canada? Our Credentials Committee and our Lawyer Education Advisory Committee are examining those very things: what's similar, what's different, what's working, what isn't working?

The various programs across our country have similarities, but they're all different. In Ontario they're experimenting with three alternatives to fulfilling the mentoring part of the admissions process, including one stream that incorporates skills training and mentoring into the law school curriculum. Alberta, Manitoba and Saskatchewan share a program that seems to be serving them well enough, and a component of that program is distance learning.

Of course, we're proud of our own admission program here in BC, and we have reason to be. It has served the profession, the public and students well for the last 30 years. But we have to recognize that all programs have room for improvement, and it's worth asking, how can we make this program better?

One of my concerns is that PLTC classes are currently held in Victoria, Vancouver and now Kamloops, with the new law school at Thompson Rivers University. But for students who live elsewhere in the province, the 10-week, in-person program represents a significant cost, to them and also to the profession. The question I have is, can we design a program that still creates competent, credentialed entry-level lawyers, but without those costs and barriers? How would we do that? I don't know, but those are some of the questions the Education Advisory Committee is considering.

... we're proud of our own admission program here in BC, and we have reason to be. It has served the profession, the public and students well for the last 30 years.

I do know that reviewing our admissions process will take time, particularly as we're doing it in conjunction with the Federation of Law Societies as it strives to develop national standards. But because students have always been important to me, I thought it was important to at least start the process of examining our admission program this year.

One thing hasn't change in the 41 years since I was called, and it is just as important today as it was back then: I am a firm believer that the one-on-one

BENCHERS' BULLETIN

The *Benchers' Bulletin* and related newsletters are published by the Law Society of British Columbia to update BC lawyers, articled students and the public on policy and regulatory decisions of the Benchers, on committee and task force work and on Law Society programs and activities. BC lawyers are responsible for reading these publications to ensure they are aware of current standards, policies and guidelines.

Suggestions on improvements to the *Bulletin* are always welcome — contact the editor at communications@lsbc.org.

Electronic subscriptions to the *Benchers' Bulletin*, *Insurance Issues* and *Member's Manual* amendments are provided at no cost. Print subscriptions may be ordered for $70 per year ($30 for the newsletters only; $40 for the *Member's Manual* amendments only) by contacting the subscriptions assistant at communications@lsbc.org.

Current and archived issues of the *Bulletin* are published online at lawsociety.bc.ca (see Publications).

PHOTOGRAPHY

Brian Dennehy Photography: cover and pages 5, 8 and 10

Publications Mail Agreement No. 40064480

mentoring during the articling period is very important.

Taking on an articled student can be a big decision, particularly for a small firm. When I was articling in Kamloops, my principal was Wally Wozniak. His attitude toward taking on articled students was, I've already got one, and he's working out okay. And he said that for about 30 years. So we didn't have a student for a long time.

After Wally passed away, the firm became my responsibility. My first articled student was my son Kevin, and of course I'm very proud of him. At that time I was also a Bencher, and as I spent more and more time on Law Society business I realized our firm could use some help, so we brought in one of the first graduates from Thompson Rivers University. Yes, he had to go through the PLTC program. We had to pay his wages and also lost the productivity while he was away, and that was an important consideration. But he's come through; he has articled, and he was just called in May this year. I'm pleased to say that it hasn't cost us that much and it was a good experience. We couldn't do it every year, but perhaps in a year or two, we'll look at it again.

So while some things change, some remain the same. No computer or technology can replace that exchange of experience and knowledge that can only happen through one-on-one mentoring.

My firm in Kamloops is very small. Well, we do have computers (I was considering a return to quill pens, but Kevin wouldn't go for it), but we can't be leading-edge with some of the technology. The technology is there, and the information is there, but that's not what concerns our clients. People are still looking for help providing simple, basic stuff. They don't want to know about all the information I have at my fingertips. They want to know, what should I do now?

Regardless of how the admission program evolves, nothing will change the fact that the answers my clients expect from me require experience, some knowledge and some learning.❖

UPDATE: TRINITY WESTERN UNIVERSITY'S PROPOSED LAW SCHOOL

Date set for TWU hearing

AT A JUDICIAL management conference on April 28, a date was set for the hearing of TWU's petition against the Law Society. The hearing before Chief Justice Hinkson will take place in BC Supreme Court commencing August 24 for five days. The Law Society has also filed an Amended Response.

In May, Chief Justice Hinkson heard applications from several organizations seeking standing as interveners in the Petition. While noting the importance of having a wide range of views on the issues as well as his concerns about the potential for duplication, Chief Justice Hinkson granted the following organizations intervener status:

Canadian Council of Christian Charities;

Christian Legal Fellowship;

Justice Centre for Constitutional Freedoms;

Outlaws UBC, Outlaws UVic, Outlaws TRU, QMUNITY ("LGBTQ Coalition");

Association for Reformed Political Action (ARPA) Canada;

Evangelical Fellowship of Canada and Christian Higher Education Canada;

Roman Catholic Archdiocese of Vancouver, Catholic Civil Rights League and Faith and Freedom Alliance;

Seventh-Day Adventist Church in Canada; and

West Coast Women's Legal Education and Action Fund.

More information on matters related to TWU's proposed law school can be found on the Law Society's website.❖

In memoriam: Benjimen Meisner

THE LAW SOCIETY was saddened by the sudden passing of Appointed Bencher Benjimen Meisner on April 2. He was 76.

Ben was a long-serving and valued member of the Law Society Bencher table. During his tenure, he served on the Law Society's Credentials Committee and Unauthorized Practice Committee.

Originally from Saskatchewan, Ben worked for nearly 60 years in the media as a news reporter, writer and, for much of his career, a talk show host. His outstanding contribution to broadcast journalism has been acknowledged with a Lifetime Achievement Award by the Radio and TV News Directors' Association of Canada. He was also a recipient of the Queen's Golden Jubilee Medal in recognition of his volunteer efforts to help people who live along the Nechako River.

The Law Society extends its condolences to Ben's wife Elaine, his children, and the rest of his family and friends.❖

Continuing innovation in educating tomorrow's lawyers

by Timothy E. McGee, QC

THIS ISSUE OF the *Benchers' Bulletin* is putting the spotlight on a strategic initiative that is of great importance to the Law Society and the profession as a whole – evaluating the way we educate and train new lawyers.

In recent years, the legal profession has been faced with enormous challenges and changes. Economics, technology, client demands and lawyers themselves are all contributing factors to this new reality, as the way law is practised continues to evolve. Education and training are the key to addressing many of these issues and the way we train today's new lawyers will benefit future generations.

Thirty-one years ago, the Law Society recognized this and created the Professional Legal Training Course (PLTC). As the Law Society's bar admission course, PLTC is part of the Law Society Admission Program, and successful completion of the course is one of the requirements for becoming a lawyer in British Columbia.

In the three decades since PLTC's inception, it has been a very successful program in providing BC lawyers with practical skills training. The course teaches new lawyers fundamental skills, such as practice management, drafting, legal writing, advocacy, negotiation, mediation, interviewing and the like, in addition to the rules and ethics of law practice. No doubt, PLTC has helped countless new lawyers bridge the gap between law school and law practice and has served the profession and the public very well.

In our 2015-2017 strategic plan, the Law Society committed to reviewing our core operations to find ways to be a more effective and innovative regulator. Part of that review is to evaluate the process by which we train and educate new lawyers.

The goal is to evaluate the current program – both PLTC and articling – to ensure success in the years ahead. The Lawyer Education Advisory Committee, chaired by Bencher Tony Wilson, is taking a critical but reflective look at our training programs. The conversations are underway, but in the end, we want to make sure that our programs meet the needs of new lawyers, the profession and the public, and that we continue to deliver excellence in every aspect of training.

Expect to see developments from the Lawyer Education Advisory Committee and the Law Society as we embark on this important work.❖

Law Society 2014 Report on Performance and audited financial statements

The Law Society's 2014 Report on Performance and audited financial statements are now available on our website (go to Publications > Annual Reports and Financial Statements). Our annual report describes the achievements under the Law Society's 2012-2014 Strategic Plan, including a review of strategic initiatives related to:

- regulation of law firms;
- improving affordability of legal services;
- regulation of all legal services providers;
- retention of women lawyers;
- mentoring Aboriginal lawyers.

For the eighth year, we also review key performance measures for our core regulatory functions to evaluate the overall effectiveness of Law Society programs. These performance measures form a critical part of our regulatory transparency, informing the public, government, the media and the legal community about how we are meeting our regulatory obligations.

MILESTONES IN THE PROFESSION

The Benchers hosted a luncheon in Vancouver on May 27 to honour lawyers who are celebrating milestone anniversaries in the profession.

Receiving 50-year certificates unless otherwise noted, were, front row, left to right: Eric B. Rutledge, Edward P.J. Chibber, John Kurta, R. Dale Janowsky, QC, Paul D.K. Fraser, QC and R. Alan Hambrook

Back row: Winton K. Derby, QC, R. Paul Beckmann, QC, Lawrence P. Page, QC, James M. Poyner, Walter J.W. Boytinck, Ronald Wilson, Jakob S. de Villiers, QC, M. Peter Geronazzo, Gary R. Anderson, G. Sholto Hebenton, QC, J. Thomas English, QC and David Chong (60 years)

Also honoured this year, but not pictured: Keith B. Allan, Ronald I. Cheffins, QC (60 years), Ronald C. Cook, QC, Charles Flader (60 years), P. Charles Gorick, J. Frank Harrop, Keith A. L. Hillman (60 years), John D.L. Morrison, Terence C. O'Brien , Ian Gordon Pyper (60 years), Morley D. Shortt, QC, Stanley G. Turner, Allan R. Watson and David L. Youngson (60 years).

IMPORTANT REMINDER

Law Society Rules 2015 in effect July 1

ON APRIL 10, the Benchers adopted revised and consolidated Law Society Rules, which come into effect July 1, 2015.

The primary objectives of the revision and consolidation are to:

- re-number all rules and subrules in consecutive whole number order to eliminate decimal numbering;
- add headings to cross-references to aid recognition;
- consider the logical placement of provisions and relocate as necessary;
- ensure consistency and economy of language;
- identify substantive issues for consideration outside of the consolidation project.

The Law Society Rules 2015 are published in the June 2015 *Member's Manual* amendment package, as well as on the website; see the Publications section. A historical table showing the new and old numbers assigned to each rule with the dates of past changes since the 1998 Rules is available for download.❖

Articling offers by downtown Vancouver firms to stay open to August 14

ALL OFFERS OF articling positions made this year by law firms with offices in downtown Vancouver must remain open until 8 am on Friday, August 14, 2015. Downtown Vancouver is defined as the area in the city of Vancouver west of Carrall Street and north of False Creek.

Set by the Credentials Committee under Rule 2-31, the deadline applies to offers made to both first and second-year law students. The deadline does not affect offers made to third-year law students or offers of summer positions (temporary articles). Law firms are encouraged to set an acceptance deadline for 8 a.m. on August 14; if the offer is not accepted, the firm can make a new offer to another student within the same day. Law firms cannot ask students whether they would accept an offer if an offer was made, as this places students in the very position Rule 2-31 is intended to prevent.

If a law student advises that he or she has accepted another offer before August 14, the firm can consider its offer rejected. If a third party advises a lawyer that a student has accepted another offer, the lawyer must confirm this information with the student. Should circumstances arise that require the withdrawal of an articling offer prior to August 14, the lawyer must receive prior approval from the Credentials Committee. The committee may consider conflicts of interest or other factors that reflect on a student's suitability as an articled student in deciding whether to allow the lawyer to withdraw the offer.

For further information, contact Member Services at 604.605.5311.❖

Unauthorized practice of law

UNDER THE LEGAL Profession Act, only trained, qualified lawyers (or articled students or paralegals under a lawyer's supervision) may provide legal services and advice to the public, as others are not regulated, nor are they required to carry insurance to compensate clients for errors and omission in the legal work or claims of theft by unscrupulous individuals marketing legal services.

When the Law Society receives complaints about an unqualified or untrained person purporting to provide legal services, the Society will investigate and take appropriate action if there is a potential for harm to the public.

Between February 19 and May 15, 2015, the Law Society obtained undertakings from six individuals not to engage in the unauthorized practice of law.

The Law Society has obtained orders against the following individuals and business related to the unauthorized practice of law:

- On May 6, 2015, Madam Justice Fisher granted an order prohibiting **David Alexander Parsons**, doing business as **www.cakehole-law.org**, of Quathiaski Cove, BC, from commencing, prosecuting or defending proceedings in any court on behalf of others, regardless of whether he charges a fee. The court found that Parsons had a history of prosecuting actions on behalf of others "to promote his 'personal war' with the justice system." The order does not prevent Parsons from representing himself in any legal proceeding or from appearing in court with leave of the court or assisting others to prepare documents for court on an occasional or isolated basis, provided that any such assistance is done without the expectation of any fee or reward.
- On April 23, 2015, Madam Justice Griffin granted an order prohibiting **Walter Anderson**, of Surrey, from commencing, prosecuting or defending proceedings in any court, unless representing himself as an individual party to a proceeding, acting without counsel, solely on his own behalf. In 2013 and 2014, Anderson prosecuted proceedings on behalf of others in the Supreme Court without the expectation of a fee, gain or reward. In one proceeding, the court denied Anderson audience, finding his prosecution of the matter inappropriate and contrary to the *Legal Profession Act*. The order does not apply when Anderson commences, prosecutes or defends a proceeding on behalf of a company, provided that he is a registered officer or director of that company and such acts are purely incidental to his appointment.
- On the court's own motion, Associate Chief Justice Cullen dismissed an action that **R. Charles Bryfogle**, of Kamloops, had commenced against the Law Society. Bryfogle commenced the action without first obtaining leave, as was required by virtue of a previous court order declaring Bryfogle a vexatious litigant. The Associate Chief Justice ordered that Bryfogle must not, except with prior leave of the court, initiate any legal proceedings in any court. The court ordered that any document or process filed contrary to the order is a nullity, even if a registry inadvertently files the document or process. Further, the court declared that no person is obliged to respond to any process filed contrary to the order. (March 9, 2015)
- On the court's own motion, Chief Justice Hinkson dismissed an application that **Glen Robbins**, **Ita Robbins** and **Frana Matich**, of Port Coquitlam, had commenced against several parties in the New Westminster registry. Robbins, his wife and mother-in-law had initiated the

application without first obtaining leave, as was required by virtue of previous court orders declaring them vexatious litigants. The Chief Justice ordered that no person is obliged to respond to any document or any process filed contrary to the order, even if a registry inadvertently accepts the document or process for filing. (March 24, 2015).

- On May 28, 2015, Madam Justice Griffin found **Robert Arnold Gunderson**, of Duncan, BC, in contempt of a 1999 court order prohibiting Gunderson from engaging in the practice of law, including giving legal advice, drafting trust documents and other legal documents. At the hearing, Gunderson admitted that, between 2012 and 2015, he prepared trust documents and demand letters and gave legal advice to various people and companies for or in the expectation of a fee, contrary to the order. In addition, Gunderson admitted that he prepared various corporate documents and incorporated a company, contrary to the *Legal Profession Act*. The court ordered Gunderson to pay a $5,000 fine and perform 240 hours of community service within one year, and pay the Law Society's costs fixed at $5,000 within six months of the order. The court also expanded the 1999 order to prohibit Gunderson from preparing corporate documents for or in the expectation of a fee, gain or reward, direct or indirect from the person for whom the services are performed.❖

FROM THE LAW FOUNDATION OF BC

Scotiabank improves rate of return

LAW FOUNDATION CHAIR, Warren Milman, commends Scotiabank for its commitment to paying a competitive rate of return on lawyers' pooled trust accounts. Recognizing the overall negative impact of protracted low interest rates on the Law Foundation's revenues, Scotiabank agreed to a new interest agreement effective March 1, 2015. This will provide a welcome increase to the Foundation's overall trust revenues.

Thanks go to Paula Merrier, Director, and Brian Miller, Senior Manager of Western Canada Global Transaction Banking, at Scotiabank for the leadership shown in making this new agreement possible.

Increased revenues enable the Law Foundation to fund programs that make the justice system accessible to the people of British Columbia. The programs include professional legal education, public legal education, law reform, legal research, legal aid and law libraries.

The Law Society, the Canadian Bar Association, BC Branch and the Law Foundation encourage lawyers to consider which financial institutions provide the best support to the Foundation when deciding where to place their trust accounts.❖

In Brief

JUDICIAL APPOINTMENTS

Grace Choi, of Jenkins Marzban Logan LLP in Vancouver, was appointed a judge of the Supreme Court of BC, replacing Justice R. Crawford, who elected to become a supernumerary judge.

Laura Bakan, of Guild Yule in Vancouver, was appointed a judge of the Provincial Court in Vancouver.

Patrick Doherty was appointed a judge of the Provincial Court in Surrey.

Edna Ritchie, claims counsel with the Lawyers Insurance Fund of the Law Society, was appointed a judge of the Provincial Court in Abbotsford.

Dwight Stewart, Crown counsel, was appointed a judge of the Provincial Court in Prince Rupert.❖

PLTC instructor Don Cherry leads a class on Real Estate: Practice & Procedure.

Admission program under review

IN A TIME-HONOURED tradition, hundreds of graduating students in Vancouver, Victoria and Kamloops are donning cap and gown this spring and crossing the stage to accept their law degrees. Following the celebrations, they will embark on the final stage of their journey to the bar: nine months of articling under the supervision of an experienced principal, and ten weeks of professional classroom training.

That admission program has served the British Columbia legal profession well for more than 30 years, but as the profession evolves, admission programs, here in BC and across Canada, have come under review.

One of the pressures on current admissions practices is the increasing number of law-school graduates. This has been particularly acute in Ontario, where demand from a rising number of graduates has outstripped the legal profession's supply of articling positions, prompting the Law Society of Upper Canada to experiment with alternatives. Ontario's legal practice program, offering practical skills training and a co-op placement as an alternative to articling, is in pilot testing at Ryerson University (in English) and the University of Ottawa (in French). Another pilot trial incorporating a co-op placement into the degree program is underway at Lakehead University in Thunder Bay.

"The tsunami hasn't hit British Columbia yet," says Law Society of BC President Ken Walker, QC, but he adds that, with Thompson Rivers University graduating its second class of law students this year, the number of BC law school graduates continues to climb. "When you look at what's going in the US and in Canada, more universities are asking for more opportunities to graduate more law students. The question ultimately becomes, can the profession continue to place the students in the existing admission programs?"

Another pressure on current admission programs stems from the increasing

mobility of lawyers throughout Canada. The National Mobility Agreement, originally signed by most of Canada's law societies in 2002 and updated in 2013 to permit interprovincial mobility of Quebec lawyers, has brought to the fore the disparity of admissions standards across the country.

Mr. Walker notes that smaller law societies in Canada – some with membership in the hundreds – cannot afford to design and administer an admission program as rigorous as the one we have in BC. The disparity in admission standards, he says, will have an impact on the practice of law here: "With absolute mobility across our country, you have to ask, if there are some programs that are easier to get through than others, why wouldn't the student go through that program and then transfer to British Columbia?"

In response to disparities in provincial admission programs, the Federation of Law Societies of Canada has undertaken a major initiative to develop national standards for admission to the legal profession. The first phase of that initiative defined the competencies expected upon entry to the profession. That phase was completed in 2012, with the Law Society of BC joining the other societies in adopting a profile of competencies, pending completion of the national initiative.

One of the pressures on current admissions practices is the increasing number of law-school graduates.

The second phase of the Federation's initiative is currently underway and promises to be considerably more complex. The Federation is currently seeking consensus from law societies on how to ensure that those standards are met, including identifying appropriate methods for assessing whether applicants meet them.

The Law Society of BC continues to contribute to the Federation's national initiative, together with law societies across the country. However, it has decided not to wait for the results before proceeding with an examination of its own admission program. The Lawyer Education Advisory Committee, chaired by Vancouver Bencher Tony Wilson, is currently conducting a review of the admission program, taking its direction from three avenues of investigation specified in the 2015-2017 strategic plan:

"With absolute mobility across our country, you have to ask, if there are some programs that are easier to get through than others, why wouldn't the student go through that program and then transfer to British Columbia?"

– Ken Walker, QC

- evaluating the current admission program (PLTC and articles), including the role of lawyers and law firms, and developing principles for what an admission program is meant to achieve;
- monitoring the Federation's development of national standards and the need for a consistent approach to admission requirements in light of interprovincial mobility;
- examining alternatives to articling, including Ontario's new legal practice program and Lakehead University's integrated co-op law degree program, and assessing their potential effects in British Columbia.

The committee expects to issue its recommendations within the time frame of the 2015-2017 strategic plan, although any significant changes are not likely to be implemented before the Federation concludes its review. "It may be that our committee comes back to us and says, let's not do anything drastic until we see what happens at the Federation level," says Mr. Walker. "But at least we'll be on the road and we'll be in a better position to do something when the Federation comes in with its results."

Mr. Walker has made a review of the admission program a priority during his presidency, and while he realizes he won't see it through to completion during his tenure, he is confident the outcome will benefit students and the profession.

Ken Walker, QC, President

Tony Wilson, Bencher and Chair of the Lawyer Education Advisory Committee

"Maybe we have to look on this project as having a longer lifetime than Ken Walker's presidency," he says, "but I expect there will be some recognition that, whatever the program is, it will be a consistent program that creates good skills and advocacy for our students."

In response to disparities in provincial admission programs, the Federation of Law Societies of Canada has undertaken a major initiative to develop national standards for admission to the legal profession.

As the committee continues its investigation, it has narrowed the scope of its focus. Below is a snapshot of some of the main issues the committee is investigating, as outlined in its 2014 year-end report.

NATIONAL MOBILITY

The committee is considering lawyers' ability to transfer under the National Mobility Agreement rules and whether it is the Federation's responsibility to address

national disparities in testing standards and standards for bar admission training and articling.

ARTICLING

The committee is reviewing current alternatives to the 12-month combined articling and PLTC requirement, including experiential learning programs, like the Law Practice Program at Ryerson and the University of Ottawa, and Lakehead University's combined law degree and bar admission program. The committee will consider whether those compromise the quality of the training experiences.

The committee considered other aspects of articling, but concluded they fall under the mandate of the Credentials Committee: whether any changes to criteria for eligibility to serve as an articling principal are warranted; and whether the student and articling principal's mid-term report might be more structured.

Mr. Wilson reports that, while the committee continues to survey students and lawyers, what he has heard anecdotally does not suggest an appetite for substantive change.

"If I were to provide any anecdotal observations at the moment, I think most of the profession is satisfied with articling, and we don't need to change for the sake of change," Mr. Wilson said. "I'm sure there are those in the profession who would say, let's get rid of it, but I don't think that that's a universally held view. There may be arguments to shorten it, but I don't see a huge appetite within the profession to get rid of what has worked well in the province, and in Canada, for generations. We don't have an articling crisis in British Columbia like they have in Ontario."

PLTC

The committee is considering PLTC students' course evaluations and the Law Society key performance measure data gathered each year from newly called lawyers and their articling principals. It is currently polling lawyers who have been called for two years and asking them specific questions about their experience in PLTC.

Although the committee has yet to complete its survey of students and continues to gather input from lawyers and legal educators, Mr. Wilson says that he has not heard of any widespread call for change to the PLTC component of BC's admission program.

"I've done straw polls of the students in my office and in other offices over the years, and all of them suggest PLTC was a good transition and a good program for the things they don't teach you in law school," Mr. Wilson noted. Given that the program is administered largely from Law Society's offices in Vancouver, BC may not have the economic and other drivers that motivated other provinces to provide online training or, in the case of Ontario's traditional articling program, no training at all. However, given that the program hasn't been reviewed in detail in over a decade and in light of what other provinces are doing, a review is in order. "Is it something that can be improved? Everything can be improved."❖

"We don't have an articling crisis in British Columbia like they have in Ontario."

– Tony Wilson

PRACTICE TIPS, by Dave Bilinsky, Practice Management Advisor

Nidus Personal Planning Resource Centre and Registry

♫ We'll build a nest
With twigs and branches
Leaves and pebbles
Flowers and mud
We'll make it pretty
We'll build it steady
And we'll get it ready
To hold our love … ♫

Lyrics and music by Ruth Moody

WHAT IS NIDUS?

Nidus (www.nidus.ca) is a new web service for lawyers, notaries and the public. Nidus enables BC residents 19 and over to create a personal information record and then register documents with the Nidus registry. This service ensures a person's wishes are known to their representatives and other third party professionals if they become incapable of communicating at some point in their life and ensures that important documents can be found.

The founding groups for the Nidus Registry (previously known as RARC – the Representation Agreement Resource Centre) were the Alzheimer Society of BC, BC Association for Community Living, BC Coalition of People with Disabilities, Council of Senior Citizen's Organizations, Family Link, and Network of Burnaby Seniors.

Nidus is currently the only community-based resource in BC devoted to personal planning. Resources of this nature will become increasingly important in addressing the critical needs of an aging population.

The mandate of the Nidus Personal Planning Resource Centre is to provide BC residents with education, support and assistance with personal planning, to enable them to:

1. use representation agreements as a legal alternative to adult guardianship, in the case of those needing help with decision-making today; and
2. use representation agreements and enduring powers of attorney, to prepare for the possibility of mental incapacity due to illness, injury or disability in the future.

WHO CAN USE NIDUS?

BC residents over 19 can create an account with Nidus, after which they can register their own information and documents. While some will require assistance to enter information onto the site, applicants will need to type in their own private password. A security fact sheet provides further details (www.nidus.ca/PDFs/registry/Nidus_Registry_SecurityFactSheet.pdf).

Alternatively, someone with legal authority can create an account for someone else if they are:

- a representative appointed in a representation agreement

Nidus is currently the only community-based resource in BC devoted to personal planning. Resources of this nature will become increasingly important in addressing the critical needs of an aging population.

- an attorney appointed in an enduring power of attorney
- a court-appointed committee.

A lawyer or notary who wishes to create accounts on behalf of their clients must become an authorized registration agent. A listing of authorized registration agents can be found at www.nidus.ca/?page_id=11071.

WHAT CAN BE STORED?

Nidus was designed to allow individuals to create a personal information record and then to register documents.

The personal information record is an inventory of a person's contacts and relevant personal information. The contacts could be a spouse or significant other (who may be in a care home, hospital, institution

Services for lawyers

Law Society Practice Advisors

Dave Bilinsky
Barbara Buchanan
Lenore Rowntree
Warren Wilson, QC

Practice Advisors assist BC lawyers seeking help with:

- Law Society Rules
- Code of Professional Conduct for BC
- practice management
- practice and ethics advice
- client identification and verification
- client relationships and lawyer/lawyer relationships
- enquiries to the Ethics Committee
- scams and fraud alerts

tel: 604.669.2533 or 1.800.903. 5300.

All communications with Law Society Practice Advisors are strictly confidential, except in cases of trust fund shortages.

◆

Optum Health Services (Canada) Ltd. – Confidential counselling and referral services by professional counsellors on a wide range of personal, family and work-related concerns. Services are funded by, but completely independent of, the Law Society and provided at no cost to individual BC lawyers and articled students and their immediate families.
tel: 604.431.8200 or 1.800.663.9099.

◆

Lawyers Assistance Program (LAP) – Confidential peer support, counselling, referrals and interventions for lawyers, their families, support staff and articled students suffering from alcohol or chemical dependencies, stress, depression or other personal problems. Based on the concept of "lawyers helping lawyers," LAP's services are funded by, but completely independent of, the Law Society and provided at no additional cost to lawyers.
tel: 604.685.2171 or 1.888.685.2171.

◆

Equity Ombudsperson – Confidential assistance with the resolution of harassment and discrimination concerns of lawyers, articled students, articling applicants and staff in law firms or other legal workplaces. Contact Equity Ombudsperson, **Anne Bhanu Chopra** at tel: 604.687.2344 or email to achopra1@novuscom.net.

or some other address), children, physician, lawyer, financial advisor and associated institution and other important people in a person's life.

The documents that can be registered and uploaded into the registry and made available to registered contacts, are:

- representation agreements;
- enduring powers of attorney;
- advanced directives;
- advance care plans or living wills;
- revocation notices;
- last will and testament.

In addition, individuals can use the service to register and upload:

- lists of prescription and non-prescription medications;
- memorial arrangements;
- no-CPR forms.

An individual may grant access to certain people to their whole account or only to specific documents in the Registry (for example, an individual may not wish to grant access to an uploaded copy of their last will to the party appointed as their Attorney).

WHAT ARE THE BENEFITS?

This service provides secure Canadian cloud-based storage of important documents, conveniently saving personal planning information in a single location for easy access.

Hospitals, health care institutions, and financial institutions would be able to check who an individual has appointed to look after various matters, as well as determine an individual's wishes (such as an advanced directive).

WHO CAN ACCESS THE INFORMATION?

An account holder determines who is allowed access and whether it is to the whole account or only to specific documents. For example, an account holder can allow a financial advisor or physician to see the documents relevant to their area of expertise.

Those given access typically include health authorities (including hospitals), financial institutions, the Public Guardian and Trustee and other government services. Institutions must apply and be authorized by the Personal Planning Registry.

WHAT DOES IT COST?

An individual registry account costs $25 for the first registration. Each additional document that is registered is $10. There is no fee to update a document in the system, such as replacing a will with a newer version.

HOW DO I START USING IT?

A lawyer must first apply to be an authorized registration agent. There are FAQs and access user guides on the Nidus website.

WHY SHOULD LAWYERS USE NIDUS?

There are at least two reasons for lawyers to use Nidus.

The first is that Nidus is a value-added service for clients needing personal planning documents and information. It is also a way for clients to be comforted knowing that their Personal Information Record will be found along with copies of their important documents.

The second reason for lawyers to use Nidus arises when lawyers wish to retire and can no longer locate the clients for which they have been storing documents, such as last wills.

Nidus is one way for a lawyer to upload documents that are holding to accounts that they create for their clients so that they can be retrieved at some future date.

Nidus states that they are willing to discuss favourable financial accommodation to lawyers and firms that wish to register and/or upload stores of old wills and other documents.

WHAT DOES "NIDUS" MEAN?

Nidus is a Latin word for "nest." It is a symbol of safety, support and self-development.❖

Practice watch

by Barbara Buchanan, Practice Advisor

LAWYER ACTING AS SURETY

IN THE *BC Code*, a "conflict of interest" means the existence of a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's own interest or the lawyer's duties to another client, a former client, or a third person (rule 1.1-1). The rules under section 3.4, provide detailed guidance about conflicts and include specific rules with respect to a lawyer acting as a surety:

> **Judicial interim release**
>
> 3.4-40 A lawyer must not act as a surety for, deposit money or other valuable security for, or act in a supervisory capacity to an accused person for whom the lawyer acts.
>
> 3.4-41 A lawyer may act as a surety for, deposit money or other valuable security for or act in a supervisory capacity to an accused who is in a family relationship with the lawyer when the accused is represented by the lawyer's partner or associate.

Accordingly, if a lawyer acts as a surety for an accused person, the lawyer should not concurrently act as the accused person's lawyer. A lawyer's judgment and freedom of action on a client's behalf should be as free as possible from conflicts; otherwise the client's interests may be seriously prejudiced. Any relationship or interest that affects a lawyer's professional judgment is to be avoided, including ones involving a relative, partner, employer, employee, business associate or friend of the lawyer (rule 3.4-26.1, commentary [1]).

Unlike BC, the Law Society of Alberta's *Code of Conduct* does not include specific rules regarding a lawyer acting as a surety for an accused. As has been reported in the case of Omar Khadr, one of the terms of the Alberta court order releasing him pending the appeal of his conviction in the US is that he must live with his lawyer in Edmonton. Our Ethics Committee has not considered whether a person in Khadr's position as an appellant would be considered an "accused person" under rule 3.4-40 and, consequently, whether it would be open to a BC lawyer to act as a surety during an appeal rather than in the first instance. Lawyers who wish to act as a surety are encouraged to contact a practice advisor for ethics advice.

HELP THWART SCAMS – FOLLOW THE CLIENT ID RULES AND BEWARE OF CHANGES TO PAYMENT INSTRUCTIONS

Scammers continue to pose as prospective clients and approach BC lawyers, using the phony debt collection scam or other ruses. Their goal is usually to coerce a lawyer to deposit a fraudulent financial instrument (often a bank draft or certified cheque) into a trust account, and then to trick the lawyer into electronically transferring funds to the scammer before the lawyer finds out the instrument is no good. A recent scam of a different nature targeted a BC lawyer disbursing trust funds. The scammer sent an email, purportedly from the client, with a change in payment instructions, directing that the funds be wired to a different account (see the May 7, 2015 Notice to the Profession).

The scammer sent an email, purportedly from the client, with a change in payment instructions, directing that the funds be wired to a different account.

Scams range from the obvious to the very sophisticated and everywhere in between. What can you do to protect yourself?

Verify the client's identity as required by Law Society Rules 3-98 to 3-109 (Rules 3-91 to 3-102 before July 1, 2015). Appreciate that compliance with the rules is a prerequisite for coverage under the compulsory insurance policy if a lawyer suffers a trust shortfall as a result of the bad cheque scam.

Use a checklist. See the updated checklist and frequently asked questions available in the Practice Resources section of our website. Appendix 1 of the checklist is a sample attestation for the verification of identity of a client who is in Canada, but not physically present before the lawyer. Appendix II is a sample agreement between the lawyer and the lawyer's agent to verify the identity of a client who is outside of Canada. Appended to the agreement is a sample attestation form for the agent's use. Select the commissioner, guarantor or agent yourself, rather than allowing a potential scammer to provide you with a phony attestation.

Get familiar with the common characteristics of these scams and the risk management tips on our website. Read the fraud notices from the Law Society (go to Fraud: Alerts and Risk Management). Review the bad cheque scam names and documents web page as part of your firm's intake process.

Watch the free webinar for lawyers: *The bad cheque scam – don't get caught*. Videos from the webinar presented by the Law Society (Lawyers Insurance Fund lawyers Margrett George and Surindar Nijjar and practice advisor Barbara Buchanan) and the Continuing Legal Education Society of BC are available on CLE's website. Check out the archive of the client identification and verification rules online course (Roy Millen and Barbara Buchanan), originally webcast by CLE, and available in the practice resource section of our website.

Appoint someone in your firm to keep lawyers and relevant staff up to date with new information from the Law Society. Since scammers may impersonate you, regularly perform internet searches of your own name and firm to see what turns up.

As insurance is available on the commercial market for these kinds of risks, talk to your broker. For a list of brokers, see the Lawyers Insurance Fund information regarding excess and other commercial liability insurance products on our website.

Report potential new scams to a practice advisor at 604.669.2533. Reporting allows us to notify the profession, as appropriate, and update the list of names and documents on our website.

CHANGES TO HEALTH CARE COSTS RECOVERY REGULATION

Effective February 13, 2015, section 7 of the Health Care Costs Recovery Regulation was amended with respect to the notices to the government prescribed for the purposes of sections 4, 10, 12 and 13 of the *Health Care Costs Recovery Act*. The Ministry of Justice, Legal Services Branch, Health & Social Services Group has advised that the notices were amended to clarify the information required by the Ministry of Health to effectively manage its obligations as defined in the Act. Note that the form required pursuant to section 13 of the Act, the Notice of Proposed Terms of Settlement, requires payors to include the proposed total amount of the settlement, the amount for health care costs, the consent dismissal order and releases, in addition to other information.

Lawyers who act for clients in relation to personal injury and wrongful death claims should familiarize themselves with the changes. Section 24 of the Act sets out exclusions to the legislation (such as personal injury or death arising out of a wrongdoer's use and operation of a motor vehicle where ICBC insures the defendants, and personal injury or death claims covered by the *Workers Compensation Act*).

ISSUES CONCERNING OFF-SITE WORD PROCESSING

Are you contemplating an arrangement with a non-lawyer to do word processing at a location outside of your firm (e.g., at a home office)? Is it possible that the word processor may also work for another law firm? In such cases, review *BC Code* sections 3.3 (confidentiality) and 3.4 (conflicts) and Law Society Rules 10-3 (requirements for storing or processing records outside of a lawyer's office; Rule 10-4 before July 1, 2015) and 10-4 (security of records; Rule 10-5 before July 1, 2015). Enter into a written agreement with the word processor consistent with your professional obligations.

The Ethics Committee has provided guidance on the issue of off-site workers in opinions dated March 1, 2001 and April 9, 2015 (see the annotated *BC Code* in the Publications section of our website). In the event a lawyer does employ an off-site contractor who also works for another law firm, the firm must exercise due diligence to ensure that both the firm and the contractor preserve client confidentiality, not only of that firm's clients, but of the clients of the other firm. Such due diligence would include:

- requiring the contractor to advise the firm of the names of any other firms for whom the contractor is working, and
- obtaining the express consent of clients to make use of the contractor's services on the client's behalf or to disclose the client's name to the contractor for the purpose of permitting the contractor to conduct a conflicts check.

In 2001, the Ethics Committee approved of American Bar Association Opinion 95-398, which specifically recognizes that law firms may use a computer maintenance company that would have access to the firm's client files. The ABA opinion recognizes that law firms use outside agencies for numerous functions such as accounting, data processing and storage, printing, photocopying, computer servicing and paper disposal and that it is proper practice to do so. It was the committee's view that, although lawyers who use the services of such outside contractors do not breach their obligations of confidentiality by doing so, they must use due diligence to ensure that the information remains confidential. The committee also pointed out that the due diligence required must take account of all the circumstances, but would usually include, at a minimum, giving the contractor written notice of the requirement to preserve confidentiality. Law Society Rules 10-3 and 10-4 (Rules 10-4 and 10-5 before July 1, 2015) came into effect in October 2014, with further requirements that must be taken into account, including a mandatory written agreement with any entity storing or processing records outside of a lawyer's office.

LAWYERS WITH A JD DEGREE MAY NOT USE "DR." IN MARKETING MATERIALS

From time to time, lawyers who have obtained a juris doctor degree (JD) or a JSD (a degree that may be awarded following graduate study in law), have asked if they may use the title "Dr." in front of their names. The Ethics Committee considered this question on April 9, 2015, and was of the view that the title "Dr." may inadvertently mislead the public into thinking that such lawyers hold an MD, an SJD or a PhD. It was the committee's opinion that using the title "Dr." for JD or JSD degrees is contrary to Code rule 4.2-5(d) and (e).❖

Conduct reviews

THE PUBLICATION OF conduct review summaries is intended to assist lawyers by providing information about ethical and conduct standards.

A conduct review is a confidential meeting between a lawyer against whom a complaint has been made and a conduct review subcommittee, which may also be attended by the complainant at the discretion of the subcommittee. The Discipline Committee may order a conduct review pursuant to Rule 4-4, rather than issue a citation to hold a hearing regarding the lawyer's conduct, if it considers that a conduct review is a more effective disposition and is in the public interest. The committee takes into account a number of factors, including:

- the lawyer's professional conduct record;
- the need for specific or general deterrence;
- the lawyer's acknowledgement of misconduct and any steps taken to remedy any loss or damage caused by his or her conduct; and
- the likelihood that a conduct review will provide an effective rehabilitation or remedial result.

CONFLICT OF INTEREST BETWEEN LAWYER AND CLIENT

A lawyer prepared for her clients wills that included a bequest to the lawyer's son, without recommending that the testator obtain independent legal advice. Chapter 7, Rule 1(b) of the *Professional Conduct Handbook* then in force states that a lawyer must not perform any legal services for a client if "anyone, including a relative …, has a direct or indirect financial interest that would reasonably be expected to affect the lawyer's professional judgment." A conduct review subcommittee advised the lawyer that her conduct was inappropriate because she failed to adequately pursue her own misgivings about the bequest to her son.

Further, the clients were spouses who passed away a year and a half apart. The subcommittee noted that the lawyer could have arranged for independent legal advice, either at the time the wills were prepared or after the first spouse died. The lawyer accepted responsibility for her lapse in judgment. The subcommittee accepted that her failure to recognize the seriousness of the ethical dilemma was not prompted by any expectation of financial gain for herself or her son. (CR 2015-06)

FAILURE TO SUPERVISE EMPLOYEE AND MISLEADING ADVERTISING

A lawyer hired a Korean-speaking law school graduate from the United States to attract Korean-speaking clients through advertising. The lawyer did not speak or read Korean. The lawyer approved several advertisements, but did not have the ads translated and did not know that the ads described the law school graduate as a "lawyer" and that his web page stated in English, "our lawyers speak Korean." The lawyer failed to directly supervise his employee and permitted his employee to be held out as a lawyer, contrary to rules 6.1-1 and 6.1-3 of the *Code of Professional Conduct for British Columbia*, and authorized a marketing activity that was inaccurate and reasonably capable of misleading the public, contrary to rule 4.2-5. The lawyer made an error in judgment in relying upon the employee to advertise and market the law practice without supervision, and not taking steps to have the advertising translated so he could review what had been written. He made a further error in judgment in assuming that being qualified to practise law in the US meant that the employee could advertise himself as a lawyer in British Columbia. The conduct was careless but not deliberate. In future, the lawyer will engage a professional third-party language translator for all law practice communications in languages other than English, Mandarin and Cantonese. (CR 2015-07)

SUPERVISION OF STAFF PREPARING COURT DOCUMENTS

A lawyer caused three inaccurate affidavits to be filed in court, contrary to Chapter 2, Rule 1 of the *Professional Conduct Handbook* then in force, and failed to properly supervise his legal assistant who prepared the affidavits, contrary to Chapter 12, Rule 1. In response to an application to set aside a default judgment, the lawyer's legal assistant, who was also his wife, swore three affidavits. The court found that the affidavits were inaccurate in some respects and that the lawyer's failure to verify the affidavits amounted to serious misconduct, though the conduct fell short of deliberately trying to mislead the court.

A conduct review subcommittee said the lawyer's conduct was inappropriate as it led to a situation where his integrity was called into question in court. The lawyer acknowledged his duty to fully supervise staff at all times and to ensure the accuracy of material he puts before the court. The subcommittee was satisfied that he had analyzed the circumstances and learned from his mistakes. The lawyer explained that, at the time the conduct occurred, he was under an unusual amount of stress and he had relied too heavily on his staff. He has taken steps to reduce his workload and stress. (CR 2015-08)

DUTY OF CANDOUR TO THE COURT / DISHONORABLE OR QUESTIONABLE CONDUCT

A lawyer prepared an affidavit on instructions from senior counsel and relied on that affidavit, sworn by senior counsel, in an *ex parté* application, even though she had substantial doubts about the accuracy of the affidavit. In a subsequent related application, she swore and relied on her own affidavit, which lacked candour, contrary to the duty owed to the court and contrary to Chapter 2, Rule 1 of the *Professional Conduct Handbook* then in force. The lawyer admitted that she erred in relying on the senior lawyer's less than candid affidavit and that she ought to have disclosed to the court that she had some doubts about some of the content. She also admitted that her affidavit lacked candour and ought to have set out all the facts forthrightly.

continued on page 23

Credentials hearings

Law Society Rule 2-69.1 provides for the publication of summaries of credentials hearing panel decisions on applications for enrolment in articles, call and admission and reinstatement.

For the full text of hearing panel decisions, visit the Hearing decisions section of the Law Society website.

IMRAJ SINGH GILL

Hearing (application for enrolment): March 4 and 5, 2015

Panel: Gregory Petrisor, Chair, Peter Warner, QC and Benjimen Meisner (approved the decision in draft, but passed away before it was finalized)

Decision issued: March 5, 2015 (2015 LSBC 16)

Counsel: Gerald Cuttler for the Law Society; Michael Shirreff for Imraj Singh Gill

BACKGROUND

When Imraj Singh Gill applied for enrolment, he disclosed that he had faced a charge of narcotics possession in 2006. In response to further inquiries from the Law Society, he further disclosed a history of driving prohibitions, including a charge of having open liquor in a motor vehicle.

In 2004 and 2005, when he was 17 and 18, Gill received three 24-hour driving prohibitions for having consumed alcohol prior to driving with a novice driver's licence.

Gill was 19 in 2006 when he was charged with possession of narcotics for the purpose of trafficking. The car he was driving had been pulled over by the police for failing to stop at a red light. A search of the car found the drugs in the glove compartment and, according to the police report to Crown counsel, Gill admitted that the drugs were his and that he sold drugs for his own profit. However, Gill testified at his hearing that he never sold drugs and that the drugs belonged to his friend, who was a passenger in the car at the time. Gill testified that he had asked his friend to take responsibility for owning the drugs and to speak to Gill's lawyer. Although there was no evidence that the friend did talk to Gill's lawyer, the charges against Gill were stayed.

In 2008 Gill was again issued a 24-hour driving prohibition for having consumed alcohol prior to driving with a novice driver's licence.

In 2009 he was charged with having open liquor in a vehicle, and Gill testified at his hearing that his friend had been driving at the time of the charge, and that the beverage belonged to his friend. Gill disputed the charge, and the officer who issued the charge did not show up for the hearing.

Gill attended a responsible drivers course in approximately 2009, which he says had such an impact on him that he now has a "zero tolerance policy" toward drinking and driving. The Credentials Committee found that there is no evidence that he has had any driving suspensions since then, nor that he has any alcohol-related difficulties today.

Gill obtained a degree in criminology from Simon Fraser University and a law degree from Bond University. He proposes to article with Avtar Dhinsa, who practises in Burnaby.

In his application for enrolment, Gill did not disclose his 24-hour driving prohibitions. He explained at his credentials hearing that, after consulting with Dhinsa, he did not consider those prohibitions to be "charges," and so thought that they did not need to be disclosed.

Gill also did not disclose his charges for having open liquor in a vehicle. He testified that he did not remember the open liquor and traffic violation when he was preparing his application.

DECISION

Gill conceded that, at the time he was charged with possession of narcotics for the purpose of trafficking, he would not have been able to prove that he was of good character and repute. The panel found that the evidence established that he had rehabilitated himself, that he took responsibility and made the effort to improve his situation. The panel concluded that Gill was able to change his life's trajectory and has earned the respect of people who have written letters of reference and who gave evidence in the hearing.

The panel found that Gill has shown diligence, discipline, honesty, an appreciation of right from wrong, a willingness to do right in the face of adverse consequences and a desire to assist others in the community. He appears to have learned from past mistakes and has matured, and has shown he is fit to become a barrister and a solicitor.

The panel granted Gill's application for enrolment in the Admission Program, and ordered that he pay $4,000 in costs.

NELSON SELAMAJ

Hearing (application for enrolment): February 24, 25 and 27, 2015

Panel: Jamie Maclaren, Chair, Gavin Hume, QC and John Lane

Oral reasons: February 27, 2015

Decision issued: April 1, 2015 (2015 LSBC 12)

Counsel: Gerald Cuttler for the Law Society; Craig Jones, QC for Nelson Selamaj

BACKGROUND

Nelson Selamaj secured employment with a law firm in the summer of 2013 between his second and third years of law school. His prospective principal encouraged him to apply to the Law Society for temporary articles so that he may occasionally appear in court.

Selamaj discovered that an application for temporary articles is due 30

days prior to a student's proposed start date. In his rush to submit an application, he brushed over the specifics of several criminal and other charges and offences, forgot to submit the application fee and failed to include information regarding his former places of residence, employment and education.

The Law Society wrote Selamaj to request the missing details and documentation. Around this time, Selamaj was dealing with a serious health issue; however, he continued to work at the law firm. While he was under enormous stress about his health, he responded to the Law Society's inquiries with a letter that lacked full accuracy and candour. It included misleading information, deflections of culpability, and misplaced criticisms of police conduct.

Selamaj was denied enrolment for temporary articles.

Selamaj applied for enrolment as an articled student in April 2014. His application included 14 pages of revised descriptions of the context and nature of his charges. The details of his descriptions were supported by 180 pages of official documentation. It featured candid and mindful expressions of accountability for his criminal charges, and no defensive explanations or deflections.

DECISION

The discrepancies between Selamaj's two applications and the lack of accuracy and candour in his temporary articles application and letter raised serious questions about his character, separate and apart from his criminal behaviour as a younger man.

At the hearing, Selamaj explained how his circumstances as a young refugee finding his way in a new land and culture contributed to a series of irresponsible decisions and unlawful acts. He assumed full responsibility for those decisions and acts, and the panel accepted that the criminal charges and the behaviour leading to them did not reflect his current character.

Selamaj demonstrated a highly evolved respect for the rule of law, despite his reckless and criminal behaviour as a younger man. He had numerous positive character references from prominent members of BC's legal community who knew about his past.

The panel found that Selamaj was a person of good character and repute and was fit to become a barrister and a solicitor of the Supreme Court. His application for enrolment as an articled student was granted without conditions.

The panel determined that it was appropriate for Selamaj to bear the costs of the credential processes precipitated by his previous lack of candour and forthrightness. The panel ordered that Selamaj pay $6,000 in costs.

LYLE DANIEL PERRY

Hearing (application for enrolment): October 23, 2015
Panel: Gregory Petrisor, Chair, Adam Eneas and Shona Moore, QC
Decision issued: April 2, 2015 (2015 LSBC 13)
Counsel: Gerald Cuttler for the Law Society; Henry Wood, QC for Lyle Daniel Perry

BACKGROUND

Lyle Daniel Perry was raised and educated in South Africa. In August 2010, he was admitted and enrolled as an attorney in the High Court of Australia. After a brief period in a solicitor's practice in South Africa, Perry and his wife immigrated to Canada in 2011.

Upon his arrival in British Columbia, Perry posted an advertisement on Craigslist stating that he could provide legal services at a rate below that of a qualified BC lawyer. In the ad, he described himself as a "lawyer from overseas." In his view, disclosing that he was not fully qualified to practise in BC meant it was up to potential clients to decide for themselves whether to select him to do the work or not. Perry also responded to other advertisements posted online, and through those contacts, performed legal work for two paying clients.

A Law Society investigation ensued, and Perry signed an undertaking in December 2011 that he would not carry out any of the functions of a lawyer for or in the expectation of, a fee, gain or reward. He would also not give legal advice whether for a fee or gratuity. He further specifically undertook not to represent himself as a lawyer or articled student, as a lawyer of another jurisdiction or as a practitioner of foreign law holding a permit. Subsequent to that, Perry turned down legal work from several contacts.

In 2014, Perry filed an application for enrolment in the Law Society Admission Program.

DECISION

The hearing panel was charged with the duty of assessing Perry's character, repute and fitness to be enrolled as an articled student.

The majority of the panel (Aneas, Moore) accepted Perry's evidence that he was not aware that the *Legal Profession Act* prohibited unauthorized lawyers from practising law and that his actions were an honest mistake. They concluded that Perry satisfactorily ceased his unauthorized practice of law when he returned the signed undertaking to the Law Society in December 2011. Further, the majority believed that Perry had learned from the process and gained a full appreciation of the Law Society rules.

The majority found Perry to be of good character and fit to be admitted into the Law Society Admission Program, subject to the condition that, before an articling agreement is entered into, any prospective principal must be informed of this panel's decision and be given a copy of its findings.

The chair of the hearing panel (Petrisor) did not agree with the majority decision. He felt that Perry's refusal of legal work after being notified by the Law Society was done strictly to protect himself and without a full appreciation of the reason why he was sanctioned for unauthorized

continued on page 22

Discipline digest

BELOW ARE SUMMARIES with respect to:

- Kevin Alexander McLean
- Peter Krogh Jensen
- Cameron John Pham
- Wesley Mussio
- John Robert Sandrelli
- William Terrance Faminoff

For the full text of discipline decisions, visit the Hearings reports section of the Law Society website.

KEVIN ALEXANDER MCLEAN

Vancouver, BC
Called to the bar: August 27, 2010
Discipline hearing: December 4, 2014
Panel: Sharon Matthews, QC, Chair, Carol J. Gibson and B. William Sundhu
Decision issued: February 5, 2015 (2015 LSBC 06)
Counsel: Kieron Grady for the Law Society; no one appearing on behalf of Kevin Alexander McLean

FACTS

Two citations were issued against Kevin Alexander McLean arising from two separate Law Society investigations.

The first citation alleged that McLean failed to respond promptly or substantively to communications from the Law Society. The allegation arose from a litigation matter in which opposing counsel complained to the Law Society that McLean failed to respond to correspondence, failed to attend a case planning conference and an examination for discovery, and failed to comply with a court order.

On April 11, 2014, the Law Society wrote to McLean, advising him of the complaint and requesting a response and relevant information. As of the date of the hearing, McLean had not responded to the specific allegations, notwithstanding three requests to do so.

The second citation arose out of an investigation following a compliance audit of McLean's law practice. McLean was not maintaining his accounting records as required by the Law Society rules and his records revealed numerous accounting deficiencies.

On June 3, 2014, the Discipline Committee served McLean with an order requiring production of his law practice records and his cooperation in providing explanations and access to records, including passwords and encryption keys.

Several communications were exchanged with McLean as the Law Society attempted to collect the records and information covered by the order. Society investigators also attended at McLean's office to collect information and interview him. A significant amount of file material and information was collected, but not all of the requirements of the order were met.

McLean asserted that his Blackberry device was inoperative and his other mobile phone was only used for personal purposes. However, these assertions were contradicted by his office autoreply email, which advised that he could be reached by text, BBM or PIN to his mobile.

At the time of the hearing, McLean had not provided access to his home office computer or his working login and password for two online accounts. He had also not provided his cellphone or other mobile devices for imaging.

The first citation was originally scheduled to be heard on September 29, 2014 but was adjourned as a result of non-attendance by McLean, on terms including that the next hearing be pre-emptory on him. The Chambers Bencher subsequently ordered that both citations be heard together on December 4, 2014. McLean did not attend and the panel decided to proceed in his absence.

DETERMINATION

The panel found that McLean committed professional misconduct by failing to respond completely and substantively to requests made by the Law Society in its investigation into a complaint. McLean did not acknowledge his misconduct or take any steps to remediate it. His continued failure to do so was an aggravating factor.

The panel found that McLean committed professional misconduct by failing to comply fully with a Discipline Committee order and failing to provide access to his online accounts, email transmissions, mobile devices and devices for imaging. His failure hindered the investigation that was prompted by concerns raised during a compliance audit. Despite being repeatedly advised that he must provide the requested information and hardware, McLean had refused to comply.

The panel determined that McLean was available on December 4, 2014, was aware that the hearing of these citations was set to proceed on that date, did not attend and provided no reason for his non-attendance.

DISCIPLINARY ACTION

McLean was given notice of the hearing and an opportunity to attend and make submissions and evidence of his personal circumstances. However, the panel was left to determine the appropriate disciplinary measure without his participation.

McLean's professional conduct record shows a history of failing to respond to communications.

For professional misconduct in the first citation, for failing to respond to the Law Society, the panel ordered that McLean pay:

1. a $2,500 fine; and
2. $2,420 in costs.

For professional misconduct in the second citation, for failing to comply with a Discipline Committee order regarding an investigation of his accounting records, the panel ordered that McLean pay:

1. a $4,000 fine; and
2. $1,210 in costs.

PETER KROGH JENSEN

Vancouver, BC

Called to the bar: 1981

Discipline hearings: September 9 to 12, October 23 and December 4, 2013 and January 23, 2015

Panel: Kenneth Walker, QC, Chair, John Hogg, QC and Thelma Siglos

Decisions issued: March 14, 2014 (2014 LSBC 14) and March 25, 2015 (2015 LSBC 10)

Counsel: Mark Skwarok and Cody Mann, articled student (disciplinary action only) for the Law Society; Penny Green (facts and determination) and Ritchie Clark, QC (disciplinary action) for Peter Krogh Jensen

FACTS

In September 2008, a husband and wife agreed to purchase shares in a company and paid US$200,000 to Peter Krogh Jensen in trust for deposit to the credit of the corporate seller of the shares. In January and February 2009 the seller instructed Jensen to transfer most of the funds to another company. The shares were never issued or transferred to the intended purchasers.

Jensen was known to act for the seller of the shares. However, he failed to caution the couple that he was not representing their interests at the time of the share purchase or deposit of the funds. While the wife knew that Jensen was not her lawyer, she believed that the money deposited into the trust account would be protected.

DETERMINATION

Jensen was duty-bound to have made the caution to the unrepresented couple. Had the purchase agreement proceeded, Jensen would have included his normal language confirming that, as a lawyer, he was not representing the couple in the transaction. But the agreement was never drafted. The caution never occurred, the money was transferred from the trust account on the instructions of Jensen's client and the couple complained to the Law Society.

Jensen has consistently believed he made no error and what occurred did not amount to professional misconduct. However, the panel found that, in this situation, the public would expect the caution to be given to permit the unrepresented individual an opportunity to consider independent legal advice. Jensen's failure to caution the couple that he was not protecting their interests in the share transaction was a marked departure from the conduct expected of a competent solicitor and is therefore professional misconduct.

DISCIPLINARY ACTION

The panel found that, had the caution been given, there was the potential that the couple could have taken a step back, realizing that Jensen was not going to protect their interests if this money was deposited into his trust account. Jensen's misconduct, therefore, had a negative impact on the victims.

Jensen is a senior, experienced lawyer with no prior discipline history. He did not financially gain, and there was no personal or commercial advantage involved in this transaction. Jensen was motivated to "help" the couple as lawyers sometimes do for friends, but this requires more caution, not less.

The panel issued a reprimand and ordered that Jensen pay:

1. a fine of $2,000; and
2. $30,000 in costs.

CAMERON JOHN PHAM

Vancouver, BC

Called to the bar: April 30, 2003

Discipline hearing: February 4, 2015

Panel: David Mossop, QC, Chair, Jasmin Z. Ahmad and Graeme Roberts

Oral decision: February 4, 2015

Decision issued: April 2, 2015 (2015 LSBC 14)

Counsel: Alison Kirby for the Law Society; Moses Kajoba for Cameron John Pham

FACTS

Cameron John Pham was cited with two allegations of issuing accounts to clients and withdrawing funds from trust to pay those accounts to "clean up the trust account." Similar allegations were also made in respect of five different clients for billing disbursements not actually incurred or that exceeded the actual amount of the disbursement. These were done either by adding an administrative "mark-up" or by basing the amount billed on an estimate. Pham faced a fourth allegation of improperly recording retainer funds on the wrong client ledger and preparing a fictitious letter and invoice in support of the withdrawal of funds from trust.

Excessive fees

In 2011, Pham was retained by two separate clients on two separate residential property matters. In both cases, funds had been held in trust and some funds were held back. Cheques were issued to the clients, and Pham wrote to the clients stating that, if the cheques were not cashed, he would be at liberty to bill time against the funds. Pham later sent statements equal to the amounts held in trust and withdrew those funds as payment for fees. The fees were based on the amounts held in trust and not on the time spent on the files.

Improper billing of disbursements

In 2012, Pham issued accounts to clients that improperly billed for disbursements. He either charged them for items that were not actually incurred, or charged more than the costs incurred.

Creation of fictitious documents

In the course of acting for clients in the negotiation of a subdivision application, Pham recorded the receipt and disbursement of trust funds received from the client on a trust ledger identifying two other individuals as clients. He then issued a bill containing a fictitious description of services for the purpose of avoiding payment of trust administration fees as required by the Law Society Rules.

ADMISSION AND DISCIPLINARY ACTION

Pham admitted, and the hearing panel accepted, that he committed professional misconduct in all of these matters.

The panel concluded that, while Pham benefitted financially from his conduct on the trust fund matters, his actions were primarily for administrative convenience and not for any purposely deceptive reasons. However, the panel was very concerned with Pham's mishandling of the disbursement charges. Anyone who engages the services of a lawyer should feel confident that any such charges accurately reflect the costs incurred, and are not benefitting the lawyer. Pham's conduct undermines the ability of the public to have trust in lawyers' billing practices and the legal profession in general.

The panel took into consideration Pham's cooperation and admission of misconduct. This indicated that he learned from the proceedings and is not likely to repeat such conduct in the future.

The panel ordered that Pham:

1. be suspended from the practice of law for two months; and
2. pay $1,800 in costs.

WESLEY MUSSIO

Vancouver, BC

Called to the bar: November 15, 1991

Discipline hearing: March 5, 2015

Panel: Lynal Doerksen, Chair, Robert Smith and David Layton

Decision issued: April 7, 2015 (2015 LSBC 15)

Counsel: Alison Kirby for the Law Society; Henry Wood, QC for Wesley Mussio

FACTS

In 2003, Wesley Mussio began practising with a law firm through his own law corporation under a 50-50 fee split arrangement. In December 2005, a client retained the firm to represent her as the plaintiff in a personal injury claim resulting from a motor vehicle accident. The firm's fees would be 30 per cent of the amount recovered. Mussio had conduct of the file and signed the contingency fee agreement on the firm's behalf.

On January 29, 2010 an agreement was reached to settle the client's case for $292,000 plus costs and disbursements of $40,000, for a total of $332,000. In March 2010, Mussio informed counsel for the structured settlement company that the amount of the structured settlement should be $192,500 and that $139,500 would be used to cover the law firm's legal fees and disbursements. Three days later, Mussio approved the structured settlement.

It was the firm's practice throughout Mussio's time there that settlement funds are paid to the firm in trust. Mussio's own law corporation did not have a trust account. Yet the release provided that the cash component of the settlement would be paid to Mussio's law corporation in trust.

In expectation of receiving a cheque payable to the firm, a paralegal provided a billing checklist to the accounting department, setting legal fees at $88,000. The accounting department issued an account to the client for fees in this amount plus disbursements and taxes. However, this account was never executed by Mussio and was later reversed.

The lawyer for the driver defendant and ICBC sent a letter to Mussio enclosing an ICBC cheque for $139,500 payable to Mussio's law corporation in trust, a consent dismissal order and the release. On seeing that the cheque was made out to Mussio's law corporation and not the law firm, the paralegal informed opposing counsel's office that the cheque was made out to the wrong firm. The office responded that was done in accordance with the terms of the release.

The paralegal drew Mussio's attention to this fact, but he did not advise opposing counsel about the error or the fact that his law corporation did not have a trust account. Instead, he signed and returned the consent dismissal order and forwarded the release to his client for signature.

Mussio then instructed the paralegal to direct the accounting department to cancel the account issued to his client and to replace it with a new account for fees totalling $44,000 plus disbursements and taxes. Accounting complied and forwarded a new account to Mussio for execution and delivery. The fees on this new account were equivalent to one-half of the overall entitlement under the contingency fee agreement.

Mussio also prepared a separate account on behalf of his law corporation for fees of $44,000 plus taxes. He then deposited the ICBC cheque for $139,500 to his law corporation's general account. He did so even though he had not yet returned the executed release to opposing counsel, and so remained subject to an undertaking not to release the funds to the client.

Mussio was later paid according to the fee split set out in the revised first quarter billing summary. This resulted in an overpayment of $22,000 for the fees billed to the client.

In June 2010, Mussio issued a cheque from his law corporation's general account to pay the firm's account in this matter.

In January 2012, Mussio left to set up his own firm. In October, a provincial social worker contacted his former firm to ask about the cash component of the settlement received by the client. This led to a review of the billing and accounting records in this file. After a series of email communications

with his former firm, Mussio agreed to return the $22,000 overpayment he had received.

In April 2013 the managing partner of the former law firm made a complaint to the Law Society regarding Mussio's conduct in this matter.

ADMISSIONS AND DISCIPLINARY ACTION

Mussio admitted that he committed professional misconduct involving a number of discrete and serious improprieties: breach of an implied undertaking, failure to comply with the Law Society Rules, and misappropriation of funds belonging to the law firm. On the other hand, it arose out of a single matter and does not involve intentional dishonesty. While Mussio has a disciplinary record, the most pertinent entries predate the events at issue here, and the record includes no findings of professional misconduct.

The panel accepted Mussio's admission of professional misconduct and ordered that he pay:

1. a $14,000 fine; and
2. $2,000 in costs.

JOHN ROBERT SANDRELLI

Vancouver, BC

Called to the bar: September 4, 1997

Discipline hearings: July 21 to 23 and December 15, 2014

Panel: Lee Ongman, Chair, Lance Ollenberger, Brian J. Wallace, QC

Decision issued: September 17, 2014 (2014 LSBC 44) and April 10, 2015 (2015 LSBC 17)

Counsel: Kieron Grady for the Law Society; William Smart, QC and Rebecca Robb (disciplinary action only) for John Robert Sandrelli

FACTS

In October 2012, in the course of representing a corporate client, John Robert Sandrelli instructed his firm's bank to stop payment on a trust cheque payable to a third party.

According to the *Professional Conduct Handbook*, which was in effect at the time, by authorizing the withdrawal of funds from a trust account by cheque, a lawyer undertakes that the cheque will be paid. When Sandrelli stopped payment on the trust cheque without sufficient reason, he committed professional misconduct. Furthermore, in spite of subsequent correspondence from counsel representing the intended recipient requesting a replacement cheque, no cheque was issued until a month later.

DETERMINATION

The panel determined that Sandrelli knew that stopping payment on the cheque was unprofessional, but wrongly allowed himself to be persuaded that there may be an argument that it was not, noting that he had considered and refused to stop payment on this cheque for his client on three previous occasions.

By ordering the stop payment, Sandrelli's client gained an advantage, which was exploited by Sandrelli to try to negotiate better terms for his client before providing a replacement cheque. This conduct violates the promise that a trust cheque will be honoured.

The panel found this to be a serious incident of professional misconduct.

DISCIPLINARY ACTION

Sandrelli had no prior discipline record and had provided exemplary service to the community. The panel felt these were important mitigating factors to be considered in arriving at sanctions that would best protect the public and ensure confidence in the profession.

The panel ordered that Sandrelli:

1. be reprimanded;
2. pay a $10,000 fine; and
3. pay $15,210 in costs.

DISSENTING DECISION

Panel chair Lee Ongman, however, had a dissenting opinion. Ongman felt that the seriousness of Sandrelli's misconduct merited a heavier sanction. To date, there had never been an incident reported to the Law Society in which a lawyer unilaterally stopped payment of a trust cheque. Ongman felt that a more substantial penalty, including a one-month suspension, would make it clear that this kind of misconduct would not be tolerated.

WILLIAM TERRANCE FAMINOFF

Vancouver, BC

Called to the bar: August 1, 1985

Discipline hearing: March 12, 2014 and March 26, 2015

Panel: Nancy Merrill, Chair, William Everett, QC and Graeme Roberts

Decision issued: May 9, 2014 (2014 LSBC 22) and April 28, 2015 (2015 LSBC 20)

Counsel: Susan Coristine for the Law Society; Henry Wood, QC (facts and determination) and Geoffrey Gomery, QC (disciplinary action) for William Terrance Faminoff

FACTS

Between January 2007 and June 2010, eight allegations of professional misconduct were directed against William Terrance Faminoff, primarily focused on accounting and administrative matters. The allegations included backdating clients' statements of account with the intention of misleading the Law Society, improper handling of trust funds, withdrawing funds from trust when there were insufficient funds in the client's account at the time, failure to maintain accounting records, and breaches of undertakings he made to the Insurance Corporation of British Columbia.

Backdating statements of account

In January 2009, Faminoff backdated 44 statements of account and, in doing so, misrepresented to the Law Society that those statements had been issued and delivered to clients on the date set out on the statement.

Improper handling of trust funds

On numerous occasions in 2007 and 2008, Faminoff improperly handled client funds held in trust. These included:

- 10 occasions where he received funds from clients in trust and deposited them directly into his general account, purportedly in payment of fees for services that had not been completed. He also failed to deliver a bill or issue a receipt containing details;
- withdrawing client funds from a trust account and depositing them into his general account, without completion of services or delivering a bill;
- 33 occasions of receiving funds from clients and depositing them into his general account, purportedly in payment of fees for services without a bill or a receipt for the particulars;
- withdrawing client funds from a trust account and depositing them into his general account on 10 occasions without delivering a bill;
- withdrawing funds from a trust account for payment of fees on behalf of a client, when there were not sufficient funds held to the credit of that client.

Failure to maintain accounting records

Between January 2007 and June 2010, Faminoff failed to maintain accounting records in accordance with the Law Society Rules. This included failure to record in his general account the name of each recipient for each disbursement, not recording in accounts receivable ledgers the balance owed by each client, not completing trust reconciliations for several months in 2007, not reconciling monthly trust reconciliations in 2007 and 2008, and not maintaining a cash receipt book of duplicate receipts in 2008.

Breaches of undertakings

Between January 2007 and April 2010, Faminoff breached 11 undertakings given to ICBC not to disburse settlement funds before obtaining signed releases and returning them to ICBC. On three occasions he paid fees and disbursements to himself before obtaining a signed release; on eight other occasions he paid his fees and disbursements and/or disbursed funds to clients before returning the signed release to ICBC.

DETERMINATION

Faminoff admitted to preparing and backdating the accounts in the Agreed Statement of Facts filed at the hearing. While he denied doing so with any intention to mislead the Law Society, the panel saw it otherwise. He also admitted to the allegations of improper handling of client trust funds, failing to maintain accounting records and breaches of undertakings.

The panel found that Faminoff's conduct constituted professional misconduct.

DISCIPLINARY ACTION

The panel expressed concern about the seriousness of his global misconduct, in particular, his intentional misleading of the Law Society. Yet none of Faminoff's misconduct, including his failure to comply with trust and accounting rules and his breaches of undertakings, involve any misappropriation of funds. The panel found that there was no loss or harm to the public and no advantage gained by Faminoff from his conduct.

The panel was satisfied by Faminoff's efforts to address the administrative and accounting issues in his practice and his cooperation throughout the process.

The panel ordered that Faminoff:

1. be suspended for two months; and
2. pay $8,430 in costs.❖

Credentials hearings ... from page 17

practice of law. It was also the dissent view that Perry did not fully comply with the terms of the undertaking, and that, despite this experience, he failed to learn or evolve his character.

APPLICANT 7

Hearing (application for enrolment): November 27, 2014, January 19 and 20 and February 6, 2015

Panel: Craig Ferris, QC, Ralston Alexander, QC and Linda Michaluk

Decision issued: April 13, 2015 (2015 LSBC 18)

Counsel: Henry Wood, QC for the Law Society; Michael Shirreff and Jessie Meikle-Kahas for Applicant 7

BACKGROUND

In January 2013, Applicant 7 commenced articles with a law firm. In April 2013, members of the firm were searching for a missing trial record needed by a lawyer the next day. When the search turned up nothing, they began to reproduce the documents. Applicant 7 noticed the commotion

and commented to the employee responsible for reproducing the documents that the missing binder was in his office.

Later, Applicant 7 asked the employee what he should do with the binders who in turn told him he should inform the lawyer. His response was that he "would take care of it" and later participated in a discussion concerning shredding the documents. However, in a performance review held later, it was apparent that Applicant 7 did not inform the lawyer and, following an internal investigation, his employment was terminated.

Applicant 7 failed to find a replacement articling position within the 30-day time limit, but in October he secured a paralegal position with another firm. That firm would later offer Applicant 7 an articling position, but he misrepresented the facts of his termination in his application form, triggering this hearing.

DECISION

The panel heard testimony from members of Applicant 7's first firm regarding his behaviour and actions concerning the missing file. His performance as an articled student prior to that incident was already fraught with problems. The panel determined that, in an effort to deflect further problems and protect his employment at the firm, the applicant attempted to cover up the fact that the files were in his possession.

Applicant 7's responses and actions during his second application for enrolment were also worrisome to the panel. Without question, his responses were misleading. The applicant had even contacted the Law Society to seek advice on how to proceed and had been informed that he needed to disclose the facts around his termination. Yet, he did not do so.

In the panel's view, his actions prior to the hearing and during the hearing itself do not speak of good character and repute. Applicant 7 attempted to cover up his actions, mislead others and even failed to tell the truth in sworn testimony. These are not acceptable qualities for a practising lawyer.

On that basis, the panel rejected his application for enrolment in the Law Society Admission Program.❖

Conduct reviews ... from page 15

A conduct review subcommittee emphasized that a lawyer must never mislead the court, either directly or indirectly, and that lawyers must be especially careful in *ex parté* applications to disclose all the material facts, including those that are not supportive of their case. The lawyer expressed genuine remorse over her behaviour, particularly regarding her lack of candour to the court. The subcommittee noted that she demonstrated insight into the importance of speaking up when under pressure and that she has clearly learned from her mistakes, which she is not likely to repeat. The lawyer has taken steps to ensure she is working in a law firm that provides excellent training, support and guidance. (CR 2015-09)

ACTING WITHOUT INSTRUCTIONS / BREACH OF CLIENT CONFIDENTIALITY

A lawyer failed to obtain his client's instructions for an application to adjourn her personal injury trial, contrary to Chapter 3, Rule 3(a) and (k) of the *Professional Conduct Handbook* then in force, and he disclosed confidential client communications in the application and affidavit filed in support, contrary to Chapter 5, Rule 1. The lawyer took responsibility for his misconduct and was fully responsive to all questions of a conduct review subcommittee about how the incident occurred, what steps he took to avoid such conduct in the future, and what steps he took to protect the interests of his client after the trial was adjourned.

The subcommittee told the lawyer it is imperative that he maintain a high level of oversight of any work delegated to paralegals. He was receptive to the remarks of the subcommittee about risk management, lawyer/client confidentiality, and obtaining clear and unequivocal instructions from clients. The lawyer acknowledged the errors and inappropriate conduct and has taken steps to avoid such circumstances occurring in the future. (CR 2015-10)

COUNSELLING / ENGAGING IN UNLAWFUL CONDUCT

A lawyer acted as a director and officer for two corporate clients that had been implicated in criminal and fraudulent activities. A conduct review subcommittee advised the lawyer that his conduct was inappropriate because it was apparent that his clients were using him as a front for their illegal activities. The subcommittee stated that this conduct would cast doubt on the lawyer's professional integrity and reflected adversely on the integrity of the legal profession, contrary to Chapter 2, Rule 1 of the *Professional Conduct Handbook* then in force. The lawyer ought also to have taken positive steps to remove himself from the companies as soon as he became aware of the illegal activities. The lawyer agreed to be on the alert and, more importantly, agreed to consult with other lawyers if such concerns arise in the future. (CR 2015-11) ❖

ELECTED BENCHERS

President
Kenneth M. Walker, QC*

First Vice-President
E. David Crossin, QC*

Second Vice-President
Herman Van Ommen, QC*

Joseph Arvay, QC
Edmund Caissie
Pinder K. Cheema, QC
Jeevyn Dhaliwal
Lynal E. Doerksen
Tom Fellhauer
Craig A.B. Ferris, QC
Martin Finch, QC
Miriam Kresivo, QC*
Dean P.J. Lawton
Jamie Maclaren
Sharon Matthews, QC
Nancy G. Merrill*
Maria Morellato, QC
David W. Mossop, QC
C.E. Lee Ongman
Gregory A. Petrisor
Philip Riddell
Elizabeth Rowbotham
A. Cameron Ward
Sarah Westwood
Tony Wilson*

APPOINTED BENCHERS

Haydn Acheson*
Satwinder Bains
David Corey
Peter B. Lloyd
Claude Richmond

EX OFFICIO BENCHER

Attorney General and Minister of Justice Suzanne Anton, QC

** Executive Committee*

LIFE BENCHERS

Ralston S. Alexander, QC
Rita C. Andreone, QC
R. Paul Beckmann, QC
Howard R. Berge, QC
Kathryn A. Berge, QC
Joost Blom, QC
P. Michael Bolton, QC
Thomas R. Braidwood, QC
Cecil O.D. Branson, QC
Trudi L. Brown, QC
Mr. Justice Grant D. Burnyeat
Bruce I. Cohen, QC
Robert M. Dick, QC
Robert D. Diebolt, QC
Ian Donaldson, QC
Ujjal Dosanjh, QC
Leonard T. Doust, QC
William M. Everett, QC
Anna K. Fung, QC
Leon Getz, QC
Richard C. Gibbs, QC
Carol W. Hickman, QC
John M. Hogg, QC
H. Allan Hope, QC
Ann Howard
Gavin Hume, QC
John J.L. Hunter, QC
Judge William F.M. Jackson
Mr. Justice Robert T.C. Johnston
Gerald J. Kambeitz, QC
Master Peter J. Keighley
Patrick Kelly
Terence E. La Liberté, QC
Mr. Justice Peter Leask
Gerald J. Lecovin, QC
Bruce A. LeRose, QC
Jan Lindsay, QC
James M. MacIntyre, QC
Richard S. Margetts, QC
Marjorie Martin, MSW
Master Robert W. McDiarmid
Peter J. Millward, QC
Karen F. Nordlinger, QC
Thelma O'Grady
Richard C.C. Peck, QC
June Preston, MSW
Emily M. Reid, QC
David M. Renwick, QC
G. Glen Ridgway, QC
Patricia L. Schmit, QC
Norman Severide, QC
Jane S. Shackell, QC
Donald A. Silversides, QC
Gary L.F. Somers, QC
Mary F. Southin, QC
Richard N. Stewart, QC
Marvin R.V. Storrow, QC
William J. Sullivan, QC
G. Ronald Toews, QC
Russell S. Tretiak, QC
William M. Trotter, QC
Gordon Turriff, QC
Dr. Maelor Vallance
Alan E. Vanderburgh, QC
Art Vertlieb, QC
James D. Vilvang, QC
Brian J. Wallace, QC
Karl F. Warner, QC
Warren T. Wilson, QC
David A. Zacks, QC

EXECUTIVE TEAM

Chief Executive Officer and Executive Director
Timothy E. McGee, QC

Chief Legal Officer
Deborah Armour

Director, Lawyers Insurance Fund
Susan Forbes, QC

Tribunal and Legislative Counsel
Jeffrey Hoskins, QC

Chief Financial Officer / Director of Trust Regulation
Jeanette McPhee

Director, Education and Practice
Alan Treleaven

Chief Information and Planning Officer
Adam Whitcombe

The Law Society of British Columbia

845 Cambie Street, Vancouver, British Columbia, Canada V6B 4Z9
Telephone 604.669.2533 | Facsimile 604.669.5232
Toll-free 1.800.903.5300 | TTY 604.443.5700

lawsociety.bc.ca

Lawyers Insurance Fund
Telephone 604.682.8911 | Facsimile 604.682.5842