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FROM THE PRESIDENT:

Approach Will Lead to Adoption of 2010 Strategic Plan

By Peter Michalyszyn, QC, President, Law Society of Alberta

IN 2009, the Benchers and the Law Society have adopted an increasingly strategic approach to achieving the goals and objectives of the Law Society of Alberta (LSA). It's an important initiative which we expect will result in the adoption of a strategic plan in 2010.

Our readers – both the lawyers we regulate and who elect us, and the public to whom we are accountable as our constituents – will legitimately ask: what are the LSA's goals and objectives?

As a starting point, the LSA's mission statement states that we "...serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession."

The LSA's goals are, not in order of importance:

1. To serve the public interest by promoting and ensuring high ethical standards and high standards of competence on the part of all those seeking admission to and practising law in Alberta;
2. To preserve and demonstrate the value of a self-regulated and independent legal profession; and
3. To uphold and preserve the fundamental principles of justice, including the rule of law, the independence of the bench and bar, effective and equal access to justice and to promote equity and diversity in the legal profession.

This mission and these goals sum up the work of the Law Society of Alberta. If the LSA did all of these things well, we'd be well advanced in

our vision to be a model regulator in the public interest.

The LSA does tremendous work pursuing its vision, mission and goals. But of course we could do better, and resources are always limited. And if existing resources are to be used strategically, then the LSA through the Benchers in partnership with our administration need to make informed choices. Around every choice we should ask: how does this activity or that initiative work to ensure that our goals are being met?

As you continue reading this and future issues of the Advisory and other communications from the LSA, I'm hopeful you'll view our activities and initiatives through the high-minded lens we've constructed as set out above. And I'm hopeful you'll let us know if you think we're moving in the right strategic direction. ❖



EXECUTIVE DIRECTOR'S REPORT:

National Standards Approved for Canadian Common Law Degree

By Don Thompson, QC, Executive Director, Law Society of Alberta

A NATIONAL STANDARD for a Canadian law degree will provide greater clarity on bar admission standards for both students and law societies across the country.

The Benchers of the Law Society of Alberta approved, at their December 2009 meeting, the Final Report compiled by a Task Force of the Federation of Law Societies of Canada (FLSC) on the Accreditation of the Common Law Degree.

The Final Report, issued in mid-October 2009, recommends:

- uniform national standards for a Canadian law degree as the basis for entry to law society bar admission programs or licensing processes in common law jurisdictions,

- a process by which law school standards would be verified, and
- provisions on how the recommendations would be implemented.

Last year, a draft of the consultation report was reviewed and endorsed by the Credentials & Education Committee and the Law Society. What does this mean for law societies and students-at-law?

The national standards would provide law schools with guidance on what students need for law society admission processes. By 2015, all applicants (including students-at-law) seeking to enter a bar admission program must meet national standards. This transition period will

accommodate students who have already begun their studies, and applicants currently being considered by the FLSC's National Committee on Accreditation, and will give law schools time to make modifications to their programs.

For law societies, implementing these recommendations will provide greater transparency and accountability to the public in how applicants are admitted to the bar. National academic requirements will further enhance national mobility of lawyers across the country. It will provide a common, transparent method for entry to any of the common law bar admission programs in Canada.



President-Elect, Executive Elected for 2010

The Benchers of the Law Society of Alberta elected Douglas R. Mah, QC, as the President-Elect for 2010 at their meeting in Edmonton, December 3-4, 2009.

As well, the Benchers elected a slate of members for the 2010 Executive Committee. The Committee will include: Ron Everard, QC; Carsten Jensen, QC; Steve Raby, QC; and Dale Spackman, QC. The non-lawyer public representative on the Executive will continue to be Larry Ohlhauser, MD. The new Executive takes office in February 2010 when current President,

Peter Michalshyn, QC steps down and current President-Elect Rod Jerke, QC assumes the role of President.

Doug Mah, QC earned his Bachelor of Arts degree from the University of Calgary (1978) and his law degree from the University of Western Ontario (1981). He was called to the Alberta Bar in 1982, and practiced as a litigation

associate for six years in the Edmonton office of a major law firm. He then commenced a legal career with the Worker's Compensation Board – Alberta and is currently its Secretary and General Counsel.

Doug was elected Bencher in 2003, 2005 and 2008. He has served on the following Law Society of Alberta committees: Governance; Finance; Audit; Executive; Appeal; Equality, Equity, and Diversity. He has also served as Committee Chair for: Conduct, Credentials and Education, Practice Review, Insurance, Pro Bono, Communications and Joint Library. ❖

EXECUTIVE DIRECTOR'S REPORT: *continued... from page 1*

Welcome to new Deputy Executive Director - Regulation

I AM VERY pleased to announce that Howard Kushner has joined the Law Society of Alberta as Deputy Executive Director – Regulation.

Howard brings significant and relevant experience to this position, having worked most recently as the Chief Legal Officer at the Law Society of British Columbia, and prior to that as Ombudsman in BC. His roots are in Alberta, having been called to the Bar here in 1976.

As Chief Legal Officer with the Law Society of BC, he oversaw all of its regulatory programs, including complaint resolution, investigations, discipline and custodianships. As Ombudsman, Howard's leadership and creative management was credited in guiding the Ombudsman's office through a time of budgetary constraints. Under his leadership, he introduced a mobile intake office to handle complaints and an annual provincial "roadshow".

Born and raised in Edmonton, he graduated from the University of Alberta with a Bachelor of

Science (Honours) degree (1972) then attended the University of Toronto law school. After articling and spending a year with the Alberta Department of Justice, he earned his LL.M from the University of London.

After teaching constitutional law, administrative law, municipal law and corporate law at the University of BC, Howard returned to Alberta Justice where he held several senior legal and management positions. He served as special advisor to then Premier Don Getty in the historic Meech Lake negotiations in June 1990 in Ottawa. He also was a sessional instructor at the Faculty of Law, University of Alberta from 1986 to 1996.

Howard also served from 1996 to 1999 as Director of Legal Services for the Yukon government.

In his new role, Howard will assist the Law Society of Alberta in meeting its strategic objectives in all regulatory areas in the Law Society. ❖



Howard Kushner

Several Issues Identified in First Alternate Delivery of Legal Services Report

By Doug Mah, QC, Chair, ADLS Committee and Benchers, Law Society of Alberta

CITIZEN PROTECTION, the unclear definition of the practice of law and the lack of information on the delivery of legal services were among several issues identified in the first phase of the Alternate Delivery of Legal Services project.

The report, titled Alternate Delivery of Legal Services (ADLS) Project: Phase 1 Issues Identification, was prepared for the Law Society

by the independent consulting firm Sierra Systems and reports on the range of issues identified by justice system stakeholders regarding the delivery of legal services by non-lawyers.

The Benchers received the Phase 1 report at their meeting on September 24-25, 2009, and have directed that the ADLS project proceed to Phase 2. The Phase 2 Project Plan

envisions a comprehensive research component to explore each area of inquiry and will incorporate various research methodologies including a general consumer survey and a survey of the legal profession amongst others. The independent public opinion research firm Ipsos Reid has been retained by the Law Society to conduct the general consumer survey and the survey of the legal profession.

The ADLS project plan, adopted by the Executive Committee in November 2008, envisions a three-year project with six phases. It is estimated that phase two will be the most time-intensive part of the project and will be conducted over the next 10 months.

The Law Society of Alberta recognizes the importance of access to justice for all Albertans and, in collaboration with its partners, including Alberta Justice, is committed to exploring policy options to improve access to the availability of legal services for all Albertans.

If you have any questions or comments, please contact Doug Mah, QC Chair of the ADLS Committee or the Project Director, Susan Billington, QC (403) 229-4705; or toll free 1 (800) 661-9003.

The Phase one report on alternate delivery of legal services is now available on the Law Society website at www.lawsociety.ab.ca. ❖

The report identifies five main areas of inquiry or propositions to explore in the next phase of the project as follows:

Area of Inquiry	Proposition
Access to the Justice System	Legal services provided by non-lawyers can have an impact on improving access to the justice system for citizens.
Consumer or Citizen Protection	In many cases, users of alternative services are not sufficiently protected or aware of their risks.
Public and Legal Profession Impacts	The impact on and response of the legal profession and the public to the increased delivery of legal services by non-lawyers and the role that non-lawyers should play is unclear.
Definition and Understanding of "Legal Services"	The definition of legal services is complex and the boundaries and the scope of the practice law are not clear or fully defined.
Lack of Information	There is not sufficient and commonly understood information upon which to make recommendations and decisions for change to the current state of the delivery of legal services.

(reproduced from page 24 of the Sierra report)

Is the Law Society of Alberta Acting "In the Public Interest"?

THE LAW SOCIETY of Alberta declares at every turn that it acts "In the Public Interest". What do we mean when we say that? And what is the Law Society doing to give effect to that bold commitment?

The Law Society of Alberta's plenary session at the Alberta Law Conference on Thursday, January 28, 2010 at the Westin Hotel in Calgary will explore the principled basis for acting "In the Public Interest".

We will discuss how we advance this vision through core regulatory functions, and through principled governance of the LSA's policy work. Specific Law Society initiatives - the Safety of

Trust Property and Alternate Delivery of Legal Services -- will be analyzed from this 'Public Interest' perspective.

Law Society of Alberta President Peter Michalshyn, QC and President-Elect Rod Jerke, QC will be joined by panellists Gordon Turriff, QC, outgoing President of the Law Society of B.C.; former Law Society of Alberta non-lawyer public representative to the Benchers, Yvonne Stanford; and Professor Alice Woolley, Faculty of Law, University of Calgary.

To register, please visit www.cba-alberta.org. ❖



Yvonne Stanford



National Pro Bono Law 2010 Conference Coming to Calgary

By Kevin Feth, QC, Director, Pro Bono Law Alberta and Bencher, Law Society of Alberta

PRO BONO ACTIVITIES in Alberta and beyond will take centre stage when Pro Bono Law Alberta co-hosts the third National Pro Bono Conference in Calgary on September 15-17, 2010.

The conference will bring stakeholders from across Canada to discuss issues around access to justice and the role that pro bono organizations play in addressing these issues. As well, the conference will create a forum for organizations to share program information, project ideas and initiatives.

Within the national spotlight, Alberta pro bono activities and projects may receive a higher profile with the media and within the legal profession. By drawing attention to the pro bono movement and to the clinics and organizations involved in pro bono service delivery, the conference is viewed as a means to promote volunteerism, and to engage managing partners and other law firm and professional leaders in pro bono programs and partnerships.

Raising the Pro Bono Bar

National Pro Bono Week ran from October 25 through 31, 2009 and Pro Bono Law Alberta (PBLA) and the Canadian Bar Association - Alberta Branch collaborated to co-host volunteer lawyer recruitment events in both Calgary and Edmonton. Receptions were held at the Canadian Bar Association offices and invitations were extended to newly admitted and young lawyers. Both events were aimed at providing information and encouragement for new lawyers to engage in the delivery of pro bono legal services at legal clinics and organizations across the province. Ms. Gillian D. Marriott, QC, President, CBA - Alberta and the Executive Director of PBLA attended both events, welcoming attendees and leading the introductions.

The Edmonton event was held on October 27, 2009 and featured keynote speakers: the Honourable Mr. Justice Allan H. Wachowich, former Chief Justice of the Court of Queens Bench and Ms. Sarah Eadie, Staff Lawyer with Edmonton Community Legal Centre (ECLC). Representatives from ECLC, Pro Bono Students Canada (University of Alberta) and Student Legal Services of

Edmonton had the opportunity to network with new lawyers and articling students and speak to them about the benefits of volunteering within the legal community.

The Calgary event, held on October 28, 2009, featured keynote speakers Mr. Bruce Churchill-Smith, President, PBLA, and Ms. Lawna Hurl, Calgary Legal Guidance (CLG) Board Member and 2007 Volunteer of the Year Recipient. Mr. Rod Jerke, QC, President -Elect, Law Society of Alberta and past President of PBLA and the Honourable A. Gail Vickery, Chief Judge of the Provincial Court of Alberta also spoke about their passion for pro bono.

The Calgary event highlighted the organizations and legal clinics that offer volunteer opportunities in Calgary for lawyers. Representatives from Calgary Legal Guidance, the Children's Legal and Educational Resource Centre, the Women's Centre - Legal Advice Clinic, Student Legal Assistance and Pro Bono Student's Canada (University of Calgary) were in attendance. Lawyers had the opportunity to hear first-hand how providing pro bono volunteer services in the legal community assists in increasing access to justice for Albertans.

New lawyer recruitment events will be taking place in Lethbridge, Red Deer and Grande Prairie in the spring of 2010.

New Partnership with Pro Bono Students Canada

Pro Bono Law Alberta partnered with the Career Services Office at the University of Calgary Faculty of Law and Pro Bono Students Canada to host "Pro Bono/Public Interest Career Forum - Remember Your Personal Statements" in September 2009.

The objective of this forum was to provide students with examples of how pro bono work can be incorporated into public interest career paths. Information about Pro Bono Law Alberta was provided and a 'soup kitchen' took place at which students were encouraged to give back to the community by providing a donation of soup or other non-perishable goods. Donations were provided to Sonshine Community Services, a lo-

cal not-for-profit charitable organization. This is the second consecutive year that PBLA has partnered with the U of C Faculty of Law to address law students, and encouraging them to consider pro bono service as part of their legal careers.

Roster Program Model Under Development

Pro Bono Law Alberta received funding from Alberta Justice to complete a feasibility study and develop a model for a roster program for limited scope retainer and pro bono services.

A contractor has created a project plan for completion by Alberta Justice's March 31, 2010 year end. Pro Bono Law Alberta intends to use the best features from other provinces' programs in creating a unique Alberta model. The roster program will match not only individual clients to lawyers, but also not-for-profit corporations through the continuation of the Volunteer Lawyers Service Program (VLS).

Volunteer Lawyers Service operated out of the PBLA office

Volunteer Lawyers Service is a pro bono program initiated by the United Way of Calgary and Area, the Canadian Bar Association, the Law Society of Alberta, and the Association of General Counsel of Alberta. The VLS assists eligible non-partisan charitable organizations in obtaining pro bono legal services that would otherwise be unavailable to them due to a lack of financial resources.

Pro Bono Law Alberta assumed responsibility for this program in August 2009 after consultations with stakeholders resulted in a positive affirmation that PBLA was well suited to assume administration for this project. PBLA provides the administrative and staffing resources necessary to maintain the service. Currently the VLS program is funded in part by the United Way. PBLA hopes to expand this service, as there has been significant interest in the program in recent months by both lawyers who want to get involved, and by not-for-profit groups seeking assistance. ❖

Long Service Awards Honour Eight Alberta Lawyers

An excerpt of a speech made by Peter Michalyshyn, QC, President of the Law Society of Alberta



On December 3, 2009 in Edmonton, Law Society of Alberta President Peter Michalyshyn, QC (far left) presented long service awards to the following recipients (from left to right): Roy A. Phillion, 50 years of service; James D. Ross, 50 years of service; William G. Chipman, QC, 60 years of service; The Honourable Mr. Justice A.H. Wachowich, 50 years of service; and The Honourable Mr. Justice P.S. Chrumka, 50 years of service. (Missing are: Kenneth R. Biddell, QC, 50 years of service; Roderick A. McLennan, QC, 50 years of service; the Honourable Samuel S. Lieberman, QC, 60 years of service; and the Honourable Joseph J. Stratton, QC, 60 years of service.)

ON BEHALF OF the Law Society of Alberta, I am honoured to welcome you to the 2009 Long Service Awards to commemorate those members who have provided 50 and 60 years of service in the legal profession.

This year, we are honoured to have five individuals who will be presented with 50-year long service certificates and three individuals who will be presented with 60-year long service awards.

60-Year-Long Service Recipients

The year 1949 was notable for the following major international, national and provincial events: the North Atlantic Treaty Organization treaty signed and ratified, Louis Stephen St. Laurent was the Prime Minister of Canada, Ernest Manning was the premier of Alberta, and the John Howard Society of Alberta was formed.

At the Law Society of Alberta, Henry Stuart Patterson, KC was the president and the significant event of the year was transfer by the Law Society of the complete administrative and financial control of the law libraries to the Department of the Attorney General.

In the year 1949 the following were called to the Alberta Bar:

William G. Chipman, QC, born in Bridgetown, N.S., received his arts degree from Acadia University (1943). After serving with the

Royal Canadian Air Force, he earned his law degree from Dalhousie University (1948), and was admitted to the Nova Scotia bar the same year. He was called to the Alberta bar on August 9, 1949 and was duly sworn in by the Honourable Mr. Justice S.J. Shepherd.

The law firms that he worked for in his 60-year law career were varied and included his own practice, McLaws & Company, Parlee McLaws LLP, Chipman, Koch & Company. He currently works with Gunn Prithipaul & Hatch. Mr. Chipman was appointed QC in 1962.

The **Honourable Samuel S. Lieberman, QC**, born in Edmonton, earned his arts degree (1947) and law degree (1947) from the University of Alberta. He was called to the bar on August 10, 1949 before the Honourable Mr. Justice H.H. Parlee.

In his extensive career, the Honourable Mr. Lieberman served as Judge of the District Court of Northern Alberta, Justice of the Trial Division of the Supreme Court of Alberta, Justice in the Court of Appeal of Alberta and the NWT and Deputy Judge of the Supreme Court of the NWT. He retired from the Bench in 1997 and practises law with the firm Miller Thompson LLP. He was appointed QC in 1962.

The **Honourable Joseph John Walter Stratton, QC**, born in Calgary, joined the Royal Canadian Navy and served on convoy escort duty

during WWII. He earned his arts degree (1947) and law degree (1947) from the University of Alberta. Before the Honourable Mr. Hugh John Macdonald, he was admitted to the bar on June 1st, 1949.

The Honourable Mr. Stratton began his varied career in law with Nolan Chamber and later formed his own firm of Stratton Lucas. He was appointed to the Court of Queen's Bench in 1980 and to the Court of Appeal of Alberta in 1987. He returned in 1995 to private practice with Davis LLP. He was appointed QC in 1968.

50-Year-Long Service Recipients

The year 1959 was notable for the following major international, national and provincial events: Queen Elizabeth and US President Eisenhower opened the St. Lawrence Seaway, making it the largest inland waterway, the prime minister of Canada was John Diefenbaker, and Ernest Manning continued his reign as Alberta premier.

At the Law Society of Alberta in 1959, the significant event of the year was a decision made by the Benchers to engage a full-time secretary. The secretary of the Law Society had been part-time when Benchers decided to make the position full-time. Today that role is fulfilled by the Executive Director.

Also in 1959, the following were called to the Alberta bar:

Kenneth Roy Biddell, QC, born in Regina, Sask., earned his bachelor of education degree (1954) and law degree (1958) from the University of Saskatchewan. He was called to the bar June 10, 1959 before the Honourable Mr. Justice Cairns.

He began his 50-year law career with the firm Biddell, Risher & Link. In 1990, the firm name changed to Biddell & Link. He began a solo law practice in 1995 in the Biddell Law Office in Medicine Hat. He was appointed QC in 1985.

The **Honourable Mr. Justice Paul S. Chrumka**, born in Tilley, AB, received his arts degree (1955) and his law degree (1958) from the University of Alberta. He was called to the bar June 5, 1959 before the Honourable Mr. Justice J.W. Riley.

Mr. Justice Chrumka practised law with Edward J. McCormick QC and, in 1961, joined the Calgary Crown Prosecutors Office. In 1975, he became Chief Crown Prosecutor for Calgary and the Judicial District of Calgary. He was appointed to the Court of Queen's Bench of Alberta (1982), Deputy Judge of the Supreme Court of Yukon (1991), Deputy Judge of the Supreme Court of NWT (1991), and Deputy Judge of the Nunavut

continued on page 6...

Law Society of Alberta Welcomes New Leaders of the Court of Queen's Bench

THE LAW SOCIETY of Alberta welcomes The Honourable Neil C. Wittmann who was appointed Chief Justice of the Court of Queen's Bench on October 22, 2009. He replaces the Honourable Allan H.J. Wachowich who has elected to become a supernumerary judge.

The Law Society of Alberta also welcomes The Honourable John D. Rooke who was appointed Associate Chief Justice of the Court of Queen's Bench on October 22, 2009.

The Honourable N.C. Wittmann, Chief Justice:

The Honourable Neil C. Wittmann was born in Grande Prairie, Alberta, and earned his Bachelor of Commerce degree from the University of Manitoba (1964) and his Bachelor of Laws degree from the University of Alberta (1967). He articulated with principal William Robert Brennan, Q.C. at the Calgary firm of Fenerty McGillivray and was called to the Alberta Bar in 1968. In 1976, he was called to the Bar of the Northwest Territories.

Chief Justice Wittmann joined Brownlee Fryett in Edmonton as partner in 1969. In 1972, he returned to Calgary to join Code Hunter Ford Peacock, where he became the managing partner of Code Hunter Wittmann.

In 1985, he was appointed Queen's Counsel. From 1989 to 1997, he served as Bencher of the Law Society of Alberta, and elected President in 1996.

In June 1999, he was appointed to the Court of Appeal of Alberta, and in 2005 to the Court



Chief Justice Wittmann



Associate Chief Justice Rooke

of Queen's Bench of Alberta as Associate Chief Justice.

He was a Fellow of the American College of Trial Lawyers and of the Canadian College of Construction Lawyers, and continues as a Judicial Fellow. He is a Past President and Director of the Canadian Bar Insurance Association, and a member of the Canadian Bar Association. He is a member of the Canadian Superior Courts Judges' Association. He was also member of the Executive Council of the Canadian Judicial Council from 2006 to 2008, for which he now sits as Vice Chair of the Conduct Committee. He has served on the Board of Directors of the Alberta Law Reform Institute since 1993 and has sat as Chair since 1998.

The Honourable John D. Rooke, Associate Chief Justice:

The Honourable John D. Rooke was born in St. Rose du Lac, Manitoba, and in 1970 earned both a Bachelor of Arts degree and a Bachelor of Laws

degree from the University of Saskatchewan. He articulated under Alan V.M. Beattie and was called to the Alberta Bar by the Honourable Chief Justice J.V.H. Milvain in 1971. He was admitted to the Bar of the Northwest Territories in 1978.

He articulated and became partner at Burnet, Duckworth & Palmer in Calgary from 1970 to 1991. He was appointed Queen's Counsel in 1987. In April, 1991, he was appointed to the Court of Queen's Bench of Alberta. Associate Chief Justice Rooke was appointed a Deputy Justice of the Supreme Court of the Northwest Territories in February, 2007.

Associate Chief Justice Rooke was an Accredited Arbitrator with the Alberta Arbitration and Mediation Society, and a Chartered Arbitrator at the Arbitration and Mediation Institute of Canada. He will be awarded a Master of Laws in Dispute Resolution in the June 2010 convocation at the University of Alberta.

Since his appointment to the Court of Queen's Bench in 1991, he has been actively involved in all aspects of the judiciary, including the Queen's Bench Continuing Legal Education Committee, Computer Committee, Rules of Court Committee, Civil Practice and Procedure Committee, Long Range Planning Committee and an ad hoc committee which authored the report entitled "Vision 2000 Plus: The Court of Queen's Bench Commencing the 21st Century."

The Minister of Justice of Alberta has designated Edmonton as Associate Chief Justice Rooke's residence. ❖

Long Service Awards, continued from page 5...

Court of Justice (2002). After a quarter of a century on the bench, he stepped down from the Court of Queen's Bench in Alberta (2007). He was appointed QC in 1976.

Roderick A. McLennan, QC, born in Bracken, Sask., completed his arts degree (1957) and law degree (1958) at the University of Alberta, and was admitted to the bar on May 29, 1959 before the Honourable Mr. Justice Neil Primrose.

He began practising law at McLennan Ross LLP, and for 50 years remained a one-firm lawyer. Mr. McLennan is now senior partner and one of Alberta's most experienced counsel. He has practiced in the areas of commercial litigation, construction law, professional liability and media. He was appointed Queen's Counsel in 1974.

Roy Albert Phillion, born in Edmonton, earned his arts degree (1954) from the Univer-

sity of Alberta and his law degree (1958) from the University of Saskatchewan. He was sworn into the bar on June 30, 1959 before the Honourable Hugh John Macdonald.

Mr. Phillion immediately hung out his shingle in Edmonton, thus embarking on a 50-year career as a sole practitioner.

James D. Ross, born at Elk Point, Alberta, earned his arts degree (1955) and his law degree (1958) from the University of British Columbia. He was called to the bar and sworn in by the Honourable Mr. Justice Peter Greschuk on July 15, 1959.

The 50-year law practice of Mr. Ross began with the firm of Peterson Ross on the same day he was called to the bar. This association lasted until April 1991, until he formed James D. Ross Professional Corporation where he continues to

practise today.

The Honourable Justice A.H.J. Wachowich, born in Edmonton, received his law degree from the University of Alberta (1958) and was called to the bar on May 29, 1959 before the Honourable Mr. Justice Peter Greschuk.

He began his distinguished law career in private practice focused on insurance law before being appointed to the District Court of Northern Alberta in 1975. Three years later, he was appointed to the Court of Queen's Bench. Mr. Justice Wachowich was appointed in 1993 Associate Chief Justice of the Court of Queen's Bench. In 2000, he was named Chief Justice of the Court of Queen's Bench. Mr. Justice Wachowich has also served as a Deputy Judge of the Yukon, the NWT and Nunavut. ❖



Model Code Sets National Standards of Conduct

By Mona Duckett, QC, Federation of Law Societies of Canada Council Member Appointed to Represent Alberta

The Model Code of Professional Conduct was drafted as a national code for Canadian lawyers, and was approved by the Federation of Law Societies of Canada (FLSC) on October 15, 2009.

Why a Model Code?

The impetus behind the development of the Model Code included the increased mobility of lawyers across Canadian jurisdictions, a belief that there are national and international ethical standards for the practice of law which should be reflected in consistent conduct rules across the country, and external factors such as changes to the money laundering legislation which brought core values of the profession under scrutiny.

This prompted the creation of a FLSC Model Code Committee in November 2004. The Model Code became one of the first "national standards" initiatives taken on by the Federation.

The Committee began its work with two distinct goals in mind, the first to create a national Model Code, and, the second, to subsequently encourage each jurisdiction to adopt the Model Code as its own. The Committee was comprised of both staff of various law societies and volunteers. Past Law Society of Alberta Bencher Brad Nemetz, QC represented Alberta.

Who provided input?

The process of drafting included a review of all professional conduct rules across Canada as well as the CBA Code. After much spirited debate regarding wording, ethical imperatives and practical considerations, provisions were drafted and re-drafted, with some representing positions of compromise and some reflecting no consensus. The Model Code then underwent the following reviews and presentations:

- A draft Code presented to FLSC in May 2007.
- In August 2007, it was sent to law societies in an effort to identify specific issues, and assess whether that law society would be able to accept the Model Code's approach.
- In February 2008, the Law Society of Alberta

Benchers approved the Model Code as a national model for the Federation "in principle".

- From March to November 2008, a Model Code Implementation Committee, which I had the privilege of chairing, reviewed all responses and produced a final draft which was then edited and translated.
- It was sent to all law societies in late September 2009 and went before the FLSC Council in October 2009 at which time it was approved.

What's next?

Law Societies are now being asked to consider adopting the Model Code as their own Code of Conduct, keeping it as close to its current content and format as possible, so that the goal of national uniform ethical standards can be realized.

Two pieces of the Model Code remain outstanding at the Federation level, the first being the Model Code conflicts provision, and the second being the "future harm" exception to confidentiality. A national special Advisory Committee on Conflicts was appointed to examine the law on conflicts of interest and consider both the CBA Conflicts of Interest Task Force work as well as the Model Code conflicts provision. The FLSC Executive Committee is considering how finalization of this rule, and the "future harm" exception rule will best be addressed.

In order that the goal of national uniform ethical standards be realized, it is hoped that law societies across Canada will make time to consider adopting the Model Code. It is recognized that some minor changes may be required due to unique provincial practices or procedures. Additionally, some jurisdictions have gone beyond the work of the Model Code and adopted new and innovative provisions. For example, B.C. and Alberta have both adopted a conflicts exception

Benchers Welcome Larry Ackerl

The Benchers welcomed Larry Ackerl as the Law Society of Alberta's newest Bencher to replace Shirish Chotalia, QC who has resigned to take on the position of chair, Canadian Human Rights Tribunal.

Larry Ackerl received his BA from the University of Western Ontario and his law degree from Queen's University. He subsequently was appointed Law Clerk to the Chief Justice of the Supreme Court of Ontario. Larry is currently with the Public Prosecution Service of Canada where he oversees all private sector counsel conducting federal prosecutions in Alberta.

Over his 20 years of practice, Larry has held Deputy Director, appellate and trial counsel positions. He has appeared before all levels of court in Alberta and the Supreme Court of Canada. He regularly serves on committees discussing administration of justice issues. Larry has also guest lectured at the University of Alberta law school, advocacy symposiums, and legal conferences.

Larry's volunteer community involvement includes: the Heart and Stroke Foundation, various St. Albert youth hockey and soccer associations, parent advisory council for Vital Grandin Catholic School, University of Alberta Hospital Cardiac Unit and the United Way. Larry is married with four children; his wife, Karen Smith, practises civil litigation in Edmonton. ❖

for pro bono work. Such a provision might be added by adopting jurisdictions.

What does it mean to me?

The Code sets out statements of principles which outline important expected standards of ethical conduct for lawyers. The Code also assists in defining ethical practice and in identifying what is questionable ethically.

The entire Model Code should be considered a reliable and instructive guide that establishes only the minimum standard of professional conduct for lawyers.

Consistent conduct rules across the country will demonstrate to the public and to lawyers that there are national ethical standards for the practice of law. ❖



New Distance Learning Platform Streamlines Learning

By Leona Dvorak, Ph.D. Regional Coordinator, CPLED

THE CANADIAN CENTRE for Professional Legal Education (CPLED) is taking steps to improve its program once again! We have moved our three provincial programs to a new, Canadian-owned distance delivery platform, Desire2Learn. Students, professional staff and volunteers find the new platform much easier to use allowing them to concentrate on the business of learning and teaching.

The new platform offers streamlined assignment submissions, a centralized library and a built-in survey tool that we use to research student opinions of the program as it occurs.

Moving to the new platform has other ben-

efits as well. Desire2Learn is costing us \$75,000 less each year! And we are paying in Canadian dollars rather than US dollars, making our budget process much more stable.

The CPLED Program serves approximately 500 students-at-law each year across Alberta, Saskatchewan and Manitoba for a period of approximately six months. In the online portion of the CPLED Program, we use the special talents and skills of over 50 high level lawyer volunteers yearly. We continually strive to better support our students and their move to professional status in the field of law. ❖

Distance Learning Focus of CPLED Role

By Leona Dvorak, Ph.D. Regional Coordinator, CPLED

Born and raised in Saskatchewan, I started my career in adult education at Regina Plains Community College in the 70s. I designed and taught a series of programs aimed at promoting women, especially Aboriginal women, into new careers in the trades and technologies. I believe this was one of the most rewarding jobs I ever held!

By the late 80s, I felt I needed to enhance my education and decided to get my Master's degree in Education. After much research and soul-searching I decided to go to graduate school in Albuquerque, New Mexico. Here I gained both my Master's in Education, as well as my Doctorate in Educational Technology.

My areas of research were distance education, adult learning theory, and cross-cultural communications. I graduated with my Doctorate late in 1997 and moved back to Winnipeg to begin working in the northern communities in Manitoba. I ended my time in Manitoba working at the University of Manitoba in the Continuing Education Division, designing courses for distance delivery.

Since I own a horse and fancy myself a bit of a cowgirl, I've moved to Alberta where I am now the Regional Coordinator for CPLED. I design online courses for distance delivery. I also spend my summers riding my horse in the mountains near Calgary. ❖

What is CPLED?

CPLED, the Canadian Centre for Professional Legal Education, refers to both the bar admission course across the Prairie, and to the non-profit organization mandated with the task of administering one portion of the pre-call process in Alberta, Manitoba and Saskatchewan.

The CPLED board of directors is comprised of individuals from the three law societies.

Bar admission preparation is comprised of two distinct parts: participation in the bar admission course, and the articling experience in a law firm or organization. The two parts, together, provide the basis for determining whether articling students have met the qualifications for licensing by the Law Society as competent general practice lawyers.

The CPLED program is the bar admission course in Alberta, Manitoba and Saskatchewan. Students are expected to complete the CPLED program and complete articling requirements.

In Alberta, students complete the CPLED Program while articling.

The CPLED Program is delivered through three provincial organizations: the Legal Education Society of Alberta, the Law Society of Saskatchewan - Bar Admissions Office, and the Law Society of Manitoba. Each of the provinces has a provincial director, who is responsible for administering the CPLED Program in that province.

All inquiries about the CPLED Program should be directed to the provincial CPLED office.

The pre-call process is multifaceted (three-fold) with an emphasis placed on self learning. Students are expected to draw upon the knowledge gained in law school, through their articling experience and the CPLED program to develop the skills required by the Law Societies. ❖

Law Society of Alberta and CBA Alberta Honour 2009 Distinguished Service Award Recipients

The 2009 Distinguished Service Awards were bestowed on the following individuals at the 2009 Alberta Law Conference on January 30, 2009.



The recipients of the 2009 Distinguished Service awards and their presenters are, from left to right: Diane Young, Past President of the CBA - Alberta; John B. Ballem, QC, Distinguished Service in Legal Scholarship; Anne S. de Villars, QC, Distinguished Service to the Profession; J. Alan Bryan, QC, Distinguished Service to the Community; Doug H. McCallum, Distinguished Service in Pro Bono Legal Service; and Perry Mack, QC, Past President, Law Society of Alberta. The 2009 Distinguished Service Awards were presented at the 2009 Alberta Law Conference held January 30, 2009 in Edmonton.

John B. Ballem, QC, Distinguished Service in Legal Scholarship

There are few lawyers in Canada who understand the complexities of energy-related legal issues better than John Bishop Ballem. His work in this area spans more than 50 years and he is recognized as a world-class scholar for his extensive published works in the field. John Ballem's books and legal papers are regularly used in prominent court cases and at universities across Canada, with some even being referred to as the "bible" of energy law.

Mr. Ballem earned his law degree (1949) from Dalhousie University and became a lecturer and assistant professor at the University of British Columbia Faculty of Law from 1950-52. Since then, he has worked for Imperial Oil Ltd., West-coast Transmission, and Pacific Petroleum Ltd. before starting the law firm Loughheed, Ballem & McDill, which later merged with Gowling Lafleur Henderson LLP in 2001. He remains counsel with the firm.

Anne S. de Villars, QC, Distinguished Service to the Profession

Anne S. de Villars has become a pioneering force in the world of trust law and administrative law in Alberta since she was called to the Bar of Al-

berta in 1979 after completing her law degrees from the University of Southampton, England and the University of Alberta by 1978. It is her unwavering efforts in the evolution of the legal system and community that has won praise in her career, including the Abe W. Miller Prize in Criminal Law and the Carswell Company Book Prize, among other accolades.

She serves not only as a mediator, independent arbitrator and lawyer specializing in trust and administrative law with her firm de Villars Jones (Edmonton), but also has a long history of serving professional legal organizations that have resulted in moulding new changes in areas such as labour law and estate law. She was been appointed chair of a Board of Enquiry for the Human Rights Commission, chaired a panel hearing disputes under the Fair Trading Act and is a co-founder and president of the newly established Collaborative Estate and Trust Lawyers mediation body dealing with collaborative law.

J. Alan Bryan, QC, Distinguished Service to the Community

Throughout J. Alan Bryan's distinguished legal career, the mark he's left both professionally and personally on communities in Edmonton and Alberta is far-reaching. Born in Edmonton in 1936, he received his law degree from the University of Alberta in 1959 and has practiced mainly in areas of municipal law, land development and util-

ity rate regulations representing land developers and municipalities.

J. Alan Bryan's diverse achievements and impact on the community go far beyond his professional accomplishments. His involvement in various community organizations, not-for-profit groups and university foundations has been extensive. He has served on almost 20 different church boards, government and economic advisory committees, the Edmonton Symphony Orchestra, Minerva Foundation, Edmonton Art Gallery and many charitable foundations. He is currently a member of the board and past chairman of the Mental Health Foundation (Capital Region) and continues to make an impressive contribution to the community.

Douglas H. McCallum, Distinguished Service in Pro Bono Legal Service

What began as a career in litigation after earning his law degree from the University of Alberta in 1977 stretched into a diverse career of more than 30 years with an emphasis on insurance defence work and marked by a dedication to pro bono legal service. Mr. McCallum is a founding board member and is currently on the board of directors of Pro Bono Law Alberta. He was involved with the Pro Bono Stakeholder Working Group that led to its creation in 2007.

Since 2005, Mr. McCallum has been a founding board member and current chair of Lethbridge Legal Guidance and has served as president of the Lethbridge Bar Association. He has also played various roles with the Alberta Arbitration and Mediation Society, Defence Research Institute, Alberta Civil Trial Lawyers Association and is a member of the Canadian Bar Association.

He has practised law in Alberta and B.C. as a trial lawyer at all levels of court in Alberta, specializing in personal injury insurance defence and general civil litigation. Mr. McCallum has also worked extensively as a sessional lecturer at Lethbridge Community College, the Legal Education Society of Alberta, and worked with intensive trial and appellate advocacy groups. He has contributed many hours of pro bono legal service and helped to develop and support the organizations that rely on people like Douglas H. McCallum every day. ❖

Non-Traditional Learning Plans Can Meet CPD Requirements

By John Higgerty, QC, Benchers and Chair, Continuing Professional Development Committee

MOST, IF NOT all, of our neighbouring law societies impose a certain number of compulsory classroom hours on their members as part of their annual Continuing Professional Development (CPD) obligations. The Law Society of Alberta, on the other hand, believes that individual lawyers know what learning plan works best for them. So we have adopted the self-directed approach. Lawyers making their annual CPD plans may consider non-traditional learning opportunities for their plans.

Every lawyer needs to declare to the Law Society of Alberta by March 15, 2010 that he or she has developed a Continuing Professional Development Plan. Declarations can be made online at www.CPDAlberta.ca or on the status update form.

Some suggested learning opportunities are:

New Call to the Bar

- Too shy to speak in court or public? Pursue public speaking opportunities.
- Uncomfortable with possible breach of privacy or reputation in social media channels? Consider conducting legal research.

Mid-Career Lawyer

- Mentor a junior lawyer. Any teacher will tell you that the very act of teaching involves learning.
- Review lists of favourite law blogs; search for new ones.
- Volunteer at a legal aid clinic, one that offers training in issues likely to come up.

Senior Lawyer

- Learn more about formal mentoring, consider if it would work in your firm.
- Attend LESA courses such as Ethics: Risks of Practising Law in an Uncertain Economy or Multicultural Awareness for Lawyers.

Semi-Retired Lawyer

- Make a succession plan as part of the sale or closing of your practice; there will probably be some learning involved.
- Become proficient in matters such as staffing, document retention, business practices, etc.

In-House Counsel

- Review and become updated on privacy laws.

- Keep attending Canadian Corporate Counsel Association events.
- Review CBA Alberta's Legislative update for recent legislation that may affect the organization.

About to go on Leave

- Locate a mentor or lawyer who has been away on leave or sabbatical and returned to build a successful practice (learn survival tips).
- Arrange to get firm circulars and mass emails and attend lunch n' learns wherever possible.
- Schedule a revision of your plan before returning to work.

Returning from Leave or Starting Solo Practice

- Get and complete the Start-Up manual from the Law Society of Alberta.
- Buy and do a thorough review of the CPLED materials.
- Complete relevant sections of any online office management course.
- Complete the LESA online "Client ID and Verification" course and get the forms from the Law Society of Alberta's website.
- Complete tutorials for Quickbooks.
- Look for opportunities to talk with other solo practitioners.

New rules on Continuing Professional Development (CPD) were approved by the Benchers in November 2008.

The Rules of the Law Society of Alberta and Code of Professional Conduct were amended to require that a lawyer:

- make a Continuing Professional Development Plan and render it in written or electronic form,
- declare to the Law Society of Alberta that he or she has done so each year, and
- retain the record of the plan for 5 years, and provide it to the Law Society on request.

Every active lawyer needs to create and declare to the Law Society of Alberta that he or she has developed a Continuing Development Plan by March 15th of each year. As Alberta's lawyers, we firmly maintain that we are serving the public interest. An ongoing CPD plan is just one small way that we prove it. ❖

Award Ceremony To Shine a Light on Four Outstanding Lawyers

Please plan to attend the Distinguished Service Awards Luncheon to honour four recipients of the 2010 awards.

The Law Society of Alberta and the Canadian Bar Association - Alberta are pleased to announce the 2010 recipients of the Distinguished Service awards. They are:

- **Distinguished Service to the Profession** - Virginia M. May, QC
- **Distinguished Service in Legal Scholarship** - Professor Gerald Gall, OC
- **Distinguished Service to the Community** - Solomon J. Rolinger, QC
- **Distinguished Service in Pro Bono** - the late John A. Weir, QC

Thank you to all who submitted nominations.

The 2010 Distinguished Service Awards luncheon will be held January 29, 2010 at the Alberta Law Conference in the Westin Hotel in Calgary, AB.

Luncheon tickets are available through the Canadian Bar Association - Alberta at: www.cba.org/ /main/home ❖

Opening of Child Support Recalculation Program

The Child Support Recalculation Program will begin accepting registrations starting January 2010 when the Family Law Act amendments come into force, announced the Alberta Government's department of Justice and Attorney General.

This administrative program will annually recalculate child support in eligible court orders based on current income tax information. Its goal is to increase access to the justice system by helping parents keep child support levels in line with income, so parents can avoid the time and expense of asking the courts to review their child support orders.

The Family Law Amendment Act, 2008 and the Child Support Recalculation Program Regulation, which provide the legislative foundation for the program will be in force on January 1, 2010. Visit www.recalculation.gov.ab.ca for details. ❖



ETHICALLY SPEAKING

Do I Need To Report Myself?

By Ross McLeod, QC, Practice Advisor, Law Society of Alberta

MISTAKES! EVERYONE MAKES them. Doctors, they say, bury theirs. Lawyers' mistakes have the potential to bury the lawyer. Avoiding mistakes is not the theme here. We aim to provide a framework for assessing and managing lawyer mistakes - the minor to the monumental.

Upon learning of a mistake, you need to develop an action plan to identify, assess and remedy it -- without making it worse. After a sleepless night, it's time to take steps to deal with the problem. It's always a good idea to call the Law Society Practice Advisors. We find that lawyers often put the cart before the horse and ask, "Do I need to report myself?"

Next month, we'll deal with part two: Tips for Delivering Bad News

Make A Plan

Mistakes do happen. What now?

Like the analysis of all legal problems, start with the facts. Self reporting may be the last thing to consider. Many firms have an in-house ethics partner or go-to senior lawyer who, like the Practice Advisors, will attempt to bring a measure of comfort and confidentiality to the discussion. Even if a lawyer is fully able to deal with the matter, it is best to get an objectively clear picture of "what happened here?"

Make a plan. An action plan should include the following elements:

1. Identify the Nature of the Mistake

Ethics or practice or both? It makes a difference. Generally, ethical missteps do not require a lawyer to make a self report to the Law Society; it's somebody else's job to report you. Criminal charges against the lawyer, however, must be reported: s.83 Legal Profession Act. Malpractice errors potentially causing loss to clients or others demand a report to ALIA. Some problems may be hybrids, like the Rule requiring firms to report trust shortages.

2. How Bad Is It?

Missed a meeting? Or a court date?

Bounced a trust cheque? Got sloppy drunk at a CBA function? Overlooked the tax consequences of a settlement? Missed a limitation?

The potential consequences flowing from the mistake serve to define the seriousness of it. First, identify the range of actors who are likely to be affected by the mistake: client, colleague, opposing lawyer, the justice system, yourself. Can you think of others? Then consider the range of consequences that might be involved: economic loss, adverse legal outcome, professional career, personal harm, status or esteem, delay.

Only after gaining a sense of the risk of prejudice associated with the consequences can you move on to develop a remedial steps.

3. Prepare a Remedial Plan

Most of us would rather disclose our tax returns or have a root canal than admit our ethical or practice failures. The worst things you can do are brood over a mistake or pretend it didn't happen. Concealed mistakes tend to become worse with time. Delay, for example, might prejudice your own insurance coverage, putting your family's financial security at risk. Now that you have acknowledged responsibility for a mistake, fix it and move on.

- Is help needed? Making a mistake compromises a lawyer's objectivity and professional judgment, which can put the lawyer in a conflict of interest position with the client. Sometimes, the failure of the client's cause might have the effect of the vindicating the lawyer's error: "My mistake didn't matter, because the client was going to lose anyway." Talk to the in-firm ethics partner, a Practice Advisor or a trusted colleague.
- Identify the possible outcomes and select the optimal one. It is almost always the course that best serves the interests of the client. Coincidentally, that usually is the smartest thing for the mistaken lawyer. Solutions may range from a modest apology to firing the client.
- Develop a communications strategy. Figure out who needs to hear from you, the appropriate message, the setting and the timing.

Put The Plan Into Action

Don't delay implementing your plan. In some cases, it may include withdrawing from the representation and transferring your file to the new lawyer. The timing of an ethical screen may influence the court concerning its effectiveness. Our next article will talk about how to communicate effectively about our mistakes.

Report to ALIA if Necessary.

You may indeed need to report yourself if there is a real or potential negligence claim that could be made against you. The terms of the Alberta Lawyers Insurance Association group a policy provide: An Insured shall, as soon as practicable after learning of a Claim or becoming aware of circumstances that might constitute an Occurrence or give rise to a Claim, however unmeritorious, give written notice to the Insurer. ❖

Student Recruitment Dates June 7-18, 2010

By Carsten Jensen, QC, Benchers and Chair, Credentials and Education Committee, Law Society of Alberta

The 2010 recruitment period will be June 7 to June 18. Recruitment activity, as defined by the rules, may commence at 8:00 a.m. on Monday, June 7 and continue until the blackout period, which begins at 5:00 p.m. Friday, June 18.

Employers may only make offers on June 15, 16 and 17 between the hours of 8:00 a.m. and 5:00 p.m. Those offers must remain open for acceptance until 12:00 noon the following day. Offers may be made again after the blackout period ends on Monday, June 21 at 5:00 p.m. ❖

Lack Of Balance A Significant Factor Influencing Decision To Leave Practice

By Jocelyn Frazer, Equity Ombudsperson, Law Society of Alberta

THE 2009 SURVEY of lawyers who moved to retired or inactive status between April 1, 2008 and March 31, 2009 has now been completed. While numerous factors contributed to the decision to stop practising law in Alberta, the reasons given for these decisions included seeking "more personally rewarding opportunities elsewhere" and "lack of balance with personal life".

In order to gather information regarding the reasons why lawyers are choosing to retire or move to inactive status, the Law Society of Alberta has conducted a survey of retired and inactive members for the past six years. This year, 298 lawyers received the on-line survey and responses were received from 110. Results from the most recent survey appear at first glance to be very consistent with results from previous years.

The highest satisfaction with the practice of law came from "intellectual challenge of the work", "contact with clients", and working re-

lationships with other colleagues, support staff and court personnel. Interestingly, in spite of the abundance of lawyer jokes, 50 per cent of respondents were very satisfied with the respect and dignity with which they were treated by the public.

Respondents were least satisfied with stress at work, the balance with their personal life, and the adversarial nature of the work.

Suggested changes to the profession continue to include better work-life balance, greater acceptance of flexible work arrangements, more civility, and more flexible insurance/fee structures.

Resources are available through the Office of the Equity Ombudsperson to assist lawyers in addressing some of these concerns. Many options exist for those lawyers who may want to maintain a legal career, but not in a traditional practice environment.

There is a special membership status for

lawyers who wish to remain active for the sole purpose of providing Pro-Bono legal services. Provided that legal services are offered through one of a number of approved organizations (see R. 148, 2.1), membership fees are reduced and insurance fees are waived. This continues to be an excellent way to remain active in the law while taking a break from pressures of practice and contributing to and enhancing access to justice.

Other options include establishing a job-sharing arrangement, engaging in contract work, providing legal research, providing locum services to other lawyers, mainly sole practitioners, to allow them to take holidays, or time to recover from illness.

For more information, or to discuss other ideas, please contact Jocelyn Frazer at (403) 229-4769 or toll-free 1-888-229-4769. ❖

New Trust Accounting Controls and Audit Regime to be Phased In

By Steve Raby, QC, Bencher and Chair, Trust Safety Implementation Task Force, Law Society of Alberta

THE LAW SOCIETY of Alberta will be implementing, in a phased approach, a new trust accounting controls and audit regime. The commencement of such phased implementation will occur in 2010, perhaps beginning in May. Further notice will be provided when a firm implementation commencement date has been set.

The recommendations made by the Law Society of Alberta's Security of Trust Funds Implementation Task Force will result in changes to the trust accounting rules and the Law Society's audit strategy, and will better define the claims process of the Assurance Fund.

The new regulatory structure for safety of trust property will address concerns about rising threats to the security of trust funds, for the protection of the public interest as well as the profession.

Key changes include:

1. Amendments to the Rules of the Law Society of Alberta in early 2010 to prohibit use of trust

accounts if no legal services are provided. This will make it clear that lawyer trust accounts are only to be used in conjunction with the provision of legal services. Lawyers who currently have monies in their trust accounts which is not related to the provision of legal services should take steps to remove these funds from trust by January 31, 2010.

2. Additional amendments to the Rules to accomplish the implementation of the new trust accounting controls and audit regime referenced above. These rule changes will mean a significant increase in controls, and will clarify and expedite reviews and investigations associated with complaints related to trust funds. Accounting rule amendments may include the following requirements:

- a. Trust account approval for lawyers;
- b. New electronic banking transaction requirements;
- c. Express lawyer accountability for super-

- d. Electronic reporting requirements; and
- e. Miscellaneous matters including the requirement that lawyers not sign blank cheques and the requirement to comply with CDIC filing,

3. Strengthening the Audit processes to provide adequate assurance to the Law Society of Alberta that law firms are complying with trust accounting rules.

4. Reviewing the Assurance Fund regime with respect to limits on claim amounts, time to submit claims, class of claimants and ability to settle claims.

Since 2007, progress has been made in terms of strengthening the Law Society's trust controls and enforcement. This work will demonstrate to the public that the Law Society of Alberta and Alberta lawyers continually strive to uphold the Society's reputation as a model regulator. ❖

Summary of Disciplinary Matters

Including Hearing Reports issued between August and September 2009

In this Summary of Disciplinary Matters for the period August to September 2009, the Law Society of Alberta seeks to educate and inform lawyers on its role as a self-regulator in the public interest.

The Law Society completed 4 hearings and issued 5 reports during this time. The hearing reports issued may correspond to the hearings held during this period, but may reflect hearings held in earlier periods. Several of the reports are summarized below. All hearing reports are available at www.lawsociety.ab.ca

Reprimand and Fine for A.

A significant delay in resolving problems, a complete lack of attention to the matter during a five-year period, and the failure to keep a lawyer apprised on the status of matters was such that a Hearing Committee of the Law Society, acting in the public interest, imposed a reprimand and a fine on A.

The Hearing Committee, in denouncing this conduct in the public interest and in upholding the integrity of the profession, imposed a small fine for each of the two citations.

The Committee convened in September 2009 to inquire into the conduct of A., a member of the Law Society with nearly 50 years of law practice. The citations against A. were:

(a) It is alleged that you failed to be punctual in commitments made to another lawyer and failed to respond on a timely basis to communications from another lawyer, and that such conduct is conduct deserving of sanction.

(b) It is alleged that you misled another lawyer, and failed to immediately correct the resulting misapprehension on the part of the other lawyer, and that such conduct is conduct deserving of sanction.

The citations arise from files in which A. acted for Lender C and four individual purchasers with respect to the purchase of condominiums in Canmore.

In March 2003, the lawyer acting for Lender C contacted A., noting that more than eight months had passed since the registration of the mortgages and that there were prior encumbrances still on title. He asked that the issue be addressed.

A. candidly admitted that he was acting for all three of the original Purchasers (and mortgagors to Lender C), Lender C and the ultimate purchaser of the units, P Corporation. He recognized that as a result of such multiple representation there was no confidentiality of information and he had a duty to apprise all three of the clients of any material fact that came to his attention.

However, he failed to advise Lender C that its mortgage funds had been advanced without the cash difference having been tendered by Lender C's

A. told the Committee that some of the delays experienced throughout the history of matter were as a result of the sudden departure of his legal assistant of some five years who had not kept the files well organized and who had not brought to his attention certain correspondence received from Lender C's lawyer, where such correspondence had requested immediate responses.

Counsel for the Law Society indicated that in circumstances where there was multiple representation, A. should have realized that he needed to be very careful in dealing with all of the obligations that he had to the three parties and that, to the contrary, A.'s reaction to the problems that arose appeared to be more consistent with a lower threshold of care. In the hearing, Law Society counsel submitted that A.'s manner of dealing with the issues that arose in the face of multiple representations fell well below the standard required of a member of the LSA.

A.'s lawyer submitted that A. had already suffered as a result of these matters. He indicated that Lender C will no longer refer work to A. and, as a result, he has suffered a pecuniary loss.

In determining the sanction, the Hearing Committee fined A. \$500 for each of the two citations for a total of \$1,000, issued a reprimand and requested actual costs of the hearing,

The Hearing Committee Chair delivered the reprimand to A., and specifically noted that he failed to meet the standard of conduct required of a LSA member in the circumstance of multiple representation and failed to act in a manner consistent with common courtesy towards a fellow member of the LSA. A. had diminished the integrity of the profession in the eyes of Lender C, and while that resulted in a pecuniary loss to A. as a result of the fact that Lender C no longer provides him with work, it also has a detrimental impact on the view of the profession as a whole that Lender C might now have.

The Hearing Committee was comprised of Benchers Stephen Raby, QC, (Chair), Anthony G. Young and Norma Sieppert (a non-lawyer public representative.)

Reprimand and Fine for B.

To send a strong message of deterrence, a Law Society of Alberta Hearing Committee issued a reprimand and a \$4,000 fine to B. on one citation for failing to advise an individual on a timely basis of the forgery of a letter and inappropriate behaviour. Additional reprimands and \$2,500 fines were issued for each of two other citations.

The Committee concluded that B., a real estate lawyer, who has no disciplinary record and is not at risk to re-offend, behaved in a manner that was imprudent and incautious (in respect to the first citation) and deliberate (with respect to citations two and three.)

The Committee found B. guilty of delay in advising a client of the forged letter and participating in a joke which brought discredit to the profession. The Committee did not find him guilty of sanctionable conduct in failing to determine any legitimate rationale for funds to be paid into and out of his trust account. The Committee imposed a reprimand and a fine on B. to protect the public and the reputation of the profession. The Committee expressed concern that lawyers do not allow their offices to be abused by those who would take advantage of others.

The Committee also urged the Law Society to review its Rules regarding the operation of trust accounts, and to provide clarity for lawyers and for the public on the use of trust accounts in cases where lawyers are not providing legal services to a client.

This matter began in 2005, when B., a solo practitioner, found his real estate practice very busy. The first citation arose from his involvement with a realtor who indicated that he would send real estate business to B.'s office. After contacting B., the realtor forwarded funds to be dis-

bursed as instructed. B. received the funds but did not receive details nor paperwork regarding the purported transaction.

Unbeknownst to B. the funds belonged to a real estate client of the realtor who was not a client of B. The funds were forwarded to B. and then out of his trust account, as part of a scheme to deprive the realtor's client of the funds. Further, the client was given a letter purportedly from B. and on B.'s letterhead.

When B. discovered the forged letter, he confronted the realtor who told him it was part of a joke being played on the client, and B. was asked to play along by not telling the client of the forgery. B. played along for a month when he informed the client of the forgery, and the fraud was uncovered.

On the first citation, Counsel for the Law Society noted there was no legal purpose for the funds to flow through B.'s trust account, as B. provided no legal services with respect to those funds. The Law Society of Alberta acknowledged that B. had disbursed the funds on the realtor's instructions before he knew that he was unwittingly involved in a fraud.

The Hearing Committee considered B.'s delay in dealing with this matter once he became aware

of the forged letter. In the first citation, B. failed to advise the realtor's client on a timely basis of the forgery of the letter, and was found to have participated in a "joke" which caused the realtor's client to believe that B. had funds in his trust account to the client's credit when that was not the case.

Citation one expressly suggested that B. engaged in conduct that brought discredit to the legal profession by participating in inappropriate behaviour, which included failing to determine any legitimate rationale for funds to be paid into and out of his trust account as instructed by the realtor. While the Hearing Committee found such this particular conduct to be imprudent and incautious, it did not find B. deserving of sanction for it.

The Hearing Committee was concerned that B. allowed his trust account to be used in this way notwithstanding his own professed discomfort, and notwithstanding his receipt of an unexplained bank draft with the funds originating from an unexplained source, to be handled by him as instructed by the realtor as part of an unexplained transaction.

On learning of the forgery of this letter, the Hearing Committee found that it was not acceptable for B. to do nothing for approximately

one month and to play along with the realtor's supposed joke. He had a positive obligation to act. A number of options were open to B., the Committee noted in its report. He could have spoken with the Practice Advisor at the Law Society. The forged letter was on B.'s letterhead. B. could have called the police.

The remaining two citations against B. arose from a completely separate transaction involving an unauthorized release of holdback funds arising from the purchase of a duplex where there was a dispute.

The Hearing Committee issued for the first citation, a reprimand and a fine of \$4,000, and for each of citations two and three, reprimands and fines of \$2,500. The Hearing Committee also ordered that B. pay the actual costs of the hearing in the estimated amount of \$9,951.38.

As well, as a result of the concerns raised by the misconduct and other behaviour, B. was referred to the Law Society's Practice Review Committee for a general review and assessment of his practice.

The Hearing Committee was comprised of Carsten Jensen, QC, Chair; Neena Ahluwalia, QC; and Norma Sieppert (a non-lawyer public representative.) ❖

Lawyers Honoured for 30 or More Years of Active Membership

CONGRATULATIONS TO THE following lawyers who are being honoured this year for 30 years of active membership with the Law Society of Alberta. They will each receive a 10-karat gold recognition pin and a congratulatory letter from Peter Michalshyn, QC, President of the Law Society of Alberta. The eligibility criteria is based on 30 years of active membership (360 months) as of September 30, 2009, regardless of whether the service is insured or uninsured, and whether it is rendered within or outside Alberta. For details, please contact Sheila Serup, Manager, Communications at (403) 229-4744 or at Sheila.serup@lawsociety.ab.ca

D. H. Abbey
Russell D. Albert
J. A. Bancroft, QC
Robert A. Benson
Helmut Berndt
C. D. Bixby
G. M. Boris
B. N. Bothwell
Robert Boyer
Barrie G. Broughton
Janice M. Bruni, QC
Derek S. Bulmer
D. C. Calvert
Katherine E. Camarta
Sandy Cameron
Joseph N. Card
D. P. Carroll, QC
David W. Clements
Renee R. Cochard, QC
J. C. Cohen

J. F. Cordeau, QC
D. R. Cranston, QC
A. J. Crooks
J. S. Cumming
G. J. Daniel
G. A. Daniels
Robin N. Dann, QC
D. G. Davies
G. J. Davies
Philip H. Davies
Lorimer B. Dawson
D. Sean Day
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