



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

**September 27, 2012**  
**9:00 a.m.**

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# CONVOCATION MATERIAL

*PUBLIC COPY*

**CONVOCATION AGENDA**  
**September 27, 2012**

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**Convocation Room – 9:00 a.m.**

**Treasurer's Remarks**

**Draft Minutes of Convocation - June 28 and August 21, 2012 [Tab 1]**

**Motions**

- Appointments [Tab 2]
- In Camera Appointments [Tab 3]

**Report of the Director of Professional Development and Competence (J. Minor) [Tab 4]**

- Deemed Call Candidates

**LAWPRO Report (S. McGrath) [Tab 5]**

**Audit & Finance Committee Report (C. Bredt/C. Hartman) [Tab 6]**

- Implementation of Late Fees
- Business Conduct Policy
- 2013 LibraryCo Budget

*For information*

- LAWPRO Financial Statements to June 30, 2012
- Law Society Financial Statements to June 30, 2012
- LibraryCo Financial Statements to June 30, 2012
- Investment Compliance Reports
- Other Committee Work

**Professional Regulation Committee Report (W. McDowell) [Tab 7]**

- Proposed Amendments to Protect Privileged Information

*For information*

- Terms of Reference of the Alternative Business Structures Working Group
- Late Fees
- Lawyer Annual Report
- Professional Regulation Quarterly Report

**Paralegal Standing Committee Report (C. Corsetti) [Tab 8]**

- Amendments to By-Law 6 [Professional Liability Insurance]

*For information*

- Report on the Five Year Review of Paralegal Regulation
- Paralegal Annual Report
- Late Fees
- Proposed Amendments to Protect Privileged Information
- Paralegal Reception

**Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones Report (H. Goldblatt) [Tab 9]**

- Human Rights Monitoring Group Interventions

*For information*

- Approved Human Rights Monitoring Group Interventions
- Ontario Network of Language Interpreter Services Project
- Public Education Equality and Rule of Law Series 2012-2013

**CEO's Report (in camera)**

Lunch – Benchers' Dining Room

D R A F T

MINUTES OF CONVOCATION

Thursday, 28<sup>th</sup> June, 2012  
8:30 a.m.

PRESENT:

The Treasurer (Thomas G. Conway), The Honourable John Gerretsen, Attorney General, Anand, Backhouse, Banack, Boyd, Braithwaite, Bredt, Callaghan, Campion, Copeland (by telephone), Daud (by telephone), Dickson, Doyle, Dray, Earnshaw, Elliott, Epstein, Eustace, Evans, Falconer, Feinstein, Ferrier, Furlong, Goldblatt, Gottlieb, Haigh, Halajian, Hartman, Horvat, Hunter (by telephone), Krishna, Leiper, Lerner, MacKenzie, MacLean, McDowell, McGrath, Marmur, Matheson, Mercer, Minor, Murchie, Murray, Pawlitzka, Porter, Potter, Pustina, Rabinovitch, Richardson, Richer, Robins, Rothstein, Ruby (by telephone), Sandler, Scarfone, Schabas, Sikand, Silverstein, C. Strosberg, Sullivan, Swaye, Symes, Wadden, Wardlaw, Wardle, Wright (by telephone).

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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ANNOUNCEMENT OF THE ELECTION OF TREASURER

The Secretary announced that after the close of nominations on May 10, 2012, there was only one candidate for the election of Treasurer. Thomas G. Conway is declared elected as Treasurer.

Mr. Conway took the chair as Treasurer.

MOTION – ELECTION OF BENCHER

It was moved by Ms Hartman, seconded by Mr. Schabas, that, –

WHEREAS Thomas G. Conway, who was elected from the Province of Ontario “B” Electoral Region (outside the City of Toronto) on the basis of the votes cast by all electors, has been elected as Treasurer; and

WHEREAS upon being elected Treasurer, Thomas G. Conway ceased to hold office as an elected bencher in accordance with subsection 25(2) of the *Law Society Act*, thereby creating a vacancy in the number of benchers elected from the Province of Ontario “B” Electoral Region (outside the City of Toronto) on the basis of the votes cast by all electors.

THAT under the authority contained in By-Law 3, Ross F. Earnshaw, having satisfied the requirements contained in subsections 43(1) and 45(1) of the By-Law, and having consented to the election in accordance with subsection 45(2) of the By-Law, be elected by Convocation to fill the vacancy in the office of bencher elected from the Province of Ontario “B” Electoral Region (outside the City of Toronto) on the basis of votes cast by all electors.

Carried

The Treasurer and benchers welcomed Mr. Earnshaw to Convocation.

TREASURER’S REMARKS

The Treasurer welcomed guests John J. L. Hunter, Q.C., President of the Federation of Law Societies of Canada, Jonathan G. Herman, CEO of the Federation of Law Societies of Canada, Bruce LeRose, Q.C., President of the Law Society of British Columbia, and Nicolas Plourde, Bâtonnier of the Barreau du Québec.

The Treasurer advised that discussions have begun with the Barreau du Québec to bring Quebec fully into the National Mobility Agreement.

The Treasurer announced that Attorney General John Gerretsen will be attending Convocation today for the presentation of the Report on the Five Year Review of Paralegal Regulation.

The Treasurer welcomed elected paralegals Robert J. Burd and Kenneth C. Mitchell as participants in Convocation during the Treasurer’s term.

The Treasurer advised that representatives from a number of stakeholders connected to the implementation of paralegal regulation are viewing Convocation via a closed-circuit transmission at the Law Society and will attend a reception and the luncheon following Convocation.

The Treasurer thanked Diana Miles and her staff for their work on the June call to the bar ceremonies.

The Treasurer congratulated bencher Constance Backhouse as the recipient of an honorary LL.D. on June 15, 2012 by the University of Western Ontario.

The Treasurer congratulated the four recipients of the Law Society's honorary LL.D.: Brian H. Greenspan, Dr. Shirin Ebadi, Former Treasurer W. A. Derry Millar, and Former Governor General Michaelle Jean.

The Treasurer advised that Cynthia Petersen was reappointed as Discrimination and Harassment Counsel effective September 24, 2012 for a term not to exceed three years.

The Treasurer, Thomas G. Conway, addressed Convocation as the new Treasurer.

Ms. Pawlitza addressed Convocation.

DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of May 24, 2012 were confirmed.

MOTION – APPOINTMENTS TO THE HEARING PANEL

It was moved by Mr. Anand, seconded by Mr. Bredt, that Ross Earnshaw and Laurie Pawlitza be appointed to the Law Society Hearing Panel pursuant to section 49.21 of the *Law Society Act* for a term ending May 26, 2013.

Carried

REPORT OF THE DIRECTOR OF PROFESSIONAL DEVELOPMENT AND COMPETENCE

It was moved by Ms. Dickson, seconded by Ms. McGrath, that the Report of the Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

PROFESSIONAL REGULATION COMMITTEE REPORT

Mr. Schabas presented the Report.

Re: Amendments to By-Law 7 Respecting Multi-Discipline Practices

It was moved by Mr. Schabas, seconded by Ms. Richer, that Convocation amend By-law 7 [Business Entities] to permit a licensee to form a multi-discipline practice with a non-licensee practising a profession, trade or occupation through a professional corporation, as set out in the motion at Tab 5.2.1 of the Report.

Carried

Re: Recommendations Respecting Costs Awards made in Law Society Proceedings

Mr. Bredt presented the Report.

It was moved by Mr. Bredt, seconded by Ms. Leiper, that Convocation:

- a. revoke the *Policy on Awards of Costs of the Law Society* and the *Procedure to be Followed where Costs are Sought Against the Society* adopted in 1994;
- b. adopt the new tariff for calculation of costs in Law Society proceedings, set out at Tab 5.1.1 of the Report; and
- c. approve the authority for the Law Society to automatically suspend a licensee's licence for failure to pay costs within the time specified in an order until costs are paid in full, and the authority to permit licensees to apply for an extension of the time to pay costs.

Carried

ACCESS TO JUSTICE COMMITTEE REPORT

Ms. Boyd presented the Report.

Re: Policy Governing Decisions on Support and Funding for External Organizations

It was moved by Ms. Boyd, seconded by Ms. Haigh, that Convocation approve the proposed policy related to external requests for support and funding to the Law Society set out at Tab 6.2 of the Report, and the proposed application form and budget template set out at Tab 6.3 of the Report, to govern all support and funding requests of more than \$10,000.

An amendment was accepted to add "annual progress reports" after the word "to" in the second line at the paragraph titled Conditions for Funding in the Policy Governing Law Society of Upper Canada Decisions on Support and Funding for External Organizations in Tab 6.2 at page 81.

The motion as amended was approved.

*THIS PAGE CONTAINS  
IN CAMERA MATERIAL*

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IN PUBLIC

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FINANCE COMMITTEE REPORT

Ms. Hartman presented the Report.

Re: Errors & Omissions Insurance Fund Cheque Signing Authority

It was moved by Ms. Hartman, seconded by Mr. Silverstein, that Convocation approve changes to the banking resolution for the Errors and Omissions Insurance Fund, which modifies the cheque signing instructions.

Carried

JOINT AUDIT COMMITTEE AND FINANCE COMMITTEE REPORT

Ms. Hartman and Mr. Bredt presented the Report.

Re: Errors & Omissions Insurance Fund Cheque Signing Authority

It was moved by Ms. Hartman, seconded by Mr. Bredt, that the Finance and Audit Committees be combined into a new committee to be known as the Audit & Finance Committee, with the mandate set out at Tab 8.1 of the Report.

Carried

FEDERATION OF LAW SOCIETIES OF CANADA

John J. L. Hunter, Q.C., President of the Federation of Law Societies of Canada, addressed Convocation.

TRIBUNALS COMMITTEE REPORT

Mr. Anand presented the Report.

Re: Hearings Process Report

Convocation's debate on this Report was interrupted and resumed following the luncheon.

PARALEGAL STANDING COMMITTEE REPORT

Ms Corsetti presented the Report.

Re: Report on the Five Year Review of Paralegal Regulation

It was moved by Ms. McGrath, seconded by Mr. Dray, that Convocation approve the Report on the Five Year Review of Paralegal Regulation set out at Tab 11.1.1 of the Report.

Carried Unanimously

The Treasurer presented the Report to the Attorney General, The Honourable John Gerretsen.

Attorney General Gerretsen addressed Convocation.

TRIBUNALS COMMITTEE REPORT

Re: Hearings Process Report

Convocation's debate on the Report resumed.

It was moved by Mr. Champion, seconded by Mr. Callaghan, that the debate and vote on the motion in the Hearings Process Report be deferred to the September 2012 Convocation.

Withdrawn

It was moved by Mr. Champion, seconded by Mr. Falconer, that the motion in the Hearings Process Report be tabled.

Lost

ROLL-CALL VOTE

|             |         |              |         |
|-------------|---------|--------------|---------|
| Anand       | Against | McDowell     | Against |
| Boyd        | Against | MacKenzie    | Against |
| Braithwaite | For     | McGrath      | Against |
| Bredt       | Against | Matheson     | Against |
| Callaghan   | For     | Marmur       | Against |
| Campion     | For     | Mercer       | Against |
| Daud        | For     | Minor        | Against |
| Dickson     | For     | Murchie      | Against |
| Doyle       | Against | Porter       | Against |
| Dray        | Against | Pustina      | Against |
| Earnshaw    | Against | Rabinovitch  | Against |
| Epstein     | Against | Richardson   | Against |
| Eustace     | For     | Richer       | Against |
| Evans       | For     | Robins       | Against |
| Falconer    | For     | Sandler      | Against |
| Ferrier     | Against | Scarfone     | Against |
| Goldblatt   | Against | Schabas      | Against |
| Halajian    | Against | Silverstein  | Against |
| Hartman     | Against | C. Strosberg | Against |
| Horvat      | Against | Sullivan     | Against |
| Krishna     | For     | Wadden       | Against |
| Lerner      | Against | Wardle       | Against |

Vote: 9 For; 35 Against

It was moved by Mr. Anand, seconded by Mr. Sandler, that Convocation approve an enhanced adjudicative model for the Law Society, the integrated components of which are set out at paragraph 1 of the Report.

An amendment was accepted to replace the word "particularly" with the word "including" in the sixth bullet under Key Responsibilities, Law and Procedure, in the Chair Position Description at Tab 9.1.1 of the Report at page 173.

The main motion as amended was approved.

ROLL-CALL VOTE

|             |         |              |     |
|-------------|---------|--------------|-----|
| Anand       | For     | Mackenzie    | For |
| Boyd        | For     | McGrath      | For |
| Braithwaite | For     | Matheson     | For |
| Bredt       | For     | Marmur       | For |
| Callaghan   | Against | Mercer       | For |
| Daud        | For     | Minor        | For |
| Dickson     | For     | Murchie      | For |
| Doyle       | For     | Porter       | For |
| Dray        | For     | Pustina      | For |
| Earnshaw    | For     | Rabinovitch  | For |
| Epstein     | For     | Richardson   | For |
| Eustace     | For     | Richer       | For |
| Evans       | For     | Robins       | For |
| Falconer    | For     | Sandler      | For |
| Ferrier     | For     | Scarfone     | For |
| Goldblatt   | For     | Schabas      | For |
| Halajian    | For     | Silverstein  | For |
| Hartman     | For     | C. Strosberg | For |
| Horvat      | For     | Sullivan     | For |
| Lerner      | For     | Wadden       | For |
| McDowell    | For     | Wardle       | For |

Vote: 41 For; 1 Against

CONVOCATION ROSE AT 3:27 P.M.

DRAFT

MINUTES OF CONVOCATION

Tuesday, 21<sup>st</sup> August, 2012  
9:00 a.m.  
Via teleconference

PRESENT:

The Treasurer (Thomas G. Conway, in person), Backhouse, Boyd, Callaghan, Campion, Chilcott, Daud, Doyle, Earnshaw (in person), Epstein, Evans, Falconer, Goldblatt, Gottlieb, Hare (in person), Hartman, Horvat, Krishna, Leiper, Lerner, Manes, Marmur, McDowell, McGrath, Matheson, Mercer, Minor, Murchie, Murphy, Porter, Potter, Pustina, Rabinovitch, Richardson, Richer, Rothstein, Sandler, Scarfone, Schabas, Silverstein, C. Strosberg, H. Strosberg, Sullivan, Swaye, Wright.

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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The Treasurer welcomed everyone to Convocation.

TREASURER'S REPORT TO CONVOCATION

Re: Composition of the Compensation Committee

The Treasurer presented the report.

It was moved by Ms Doyle, seconded by Ms Murchie, that Convocation approve the following changes to the composition of the Compensation Committee:

- (a) replace the Chairs of the Audit Committee and the Finance Committee with the Chair or Co-Chairs of the Audit & Finance Committee; and
- (b) increase the size of the committee to five persons by adding an elected benchner or elected benchners as required.

Carried

MOTION – COMMITTEE AND OTHER APPOINTMENTS

It was moved by Ms Doyle, seconded by Ms Murchie, that:

- the attached list of appointments under Schedule A be approved;
- Gavin MacKenzie be removed from the Hearing Panel at his own request;
- Convocation recommend that Alan Silverstein be nominated to the LAWPRO Board of Directors;
- James Scarfone be appointed to the committee of benchers established under section 37 of By-Law 7 [Business Entities].

Schedule A

COMMITTEE, WORKING GROUP AND EXTERNAL/OTHER  
APPOINTMENTS  
August 21, 2012

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COMMITTEES

Access to Justice

Marion Boyd (Co-Chair)  
Michelle Haigh (Co-Chair)  
Michael Lerner (Vice-Chair)  
Aslam Daud  
Mary Louise Dickson  
Robert Evans  
Susan Hare  
George Hunter  
Virginia MacLean  
Susan McGrath  
Janet Minor  
Jack Rabinovitch  
Susan Richer  
Baljit Sikand

Appeal Panel

Mark Sandler (Chair)  
Christopher Bredt (Vice-Chair)  
Marion Boyd  
Cathy Corsetti  
Paul Dray  
Seymour Epstein  
Lee Ferrier  
Howard Goldblatt  
Janet Leiper  
Susan McGrath  
Malcolm Mercer  
Derry Millar  
Janet Minor  
Judith Potter  
Linda Rothstein  
Clayton Ruby  
Paul Schabas  
Roger Yachetti

Articling Task Force

Thomas Conway (Chair)  
Raj Anand  
Adriana Doyle  
Jacqueline Horvat  
Vern Krishna  
Dow Marmur  
Wendy Matheson  
Malcolm Mercer  
Barbara Murchie  
Laurie Pawlitza  
Paul Schabas  
Joseph Sullivan  
Peter Wardle

Audit & Finance

Christopher Bredt (Co-Chair)  
Carol Hartman (Co-Chair)  
John Callaghan (Vice-Chair)  
Cathy Corsetti  
Adriana Doyle  
Susan Elliott  
Seymour Epstein  
Lawrence Eustace  
Vern Krishna  
Janet Leiper  
Judith Potter  
James Scarfone  
Alan Silverstein  
Catherine Strosberg  
Robert Wadden  
Peter Wardle

Compensation

Thomas Conway (Chair)  
Christopher Bredt  
John Callaghan  
Carol Hartman  
Catherine Strosberg

Compensation Fund

Peter Wardle (Chair)  
Seymour Epstein  
Michelle Haigh  
Jack Rabinovitch  
Heather Ross

Equity and Aboriginal Issues

Howard Goldblatt (Chair)  
Julian Falconer (Vice-Chair)  
Susan Hare (Vice-Chair)  
Raj Anand  
Constance Backhouse  
Mary Louise Dickson  
Michelle Haigh  
Janet Minor  
Judith Potter  
Susan Richer  
Paul Schabas  
Baljit Sikand  
Beth Symes

Government Relations

William McDowell (Co-Chair)  
Julian Porter (Co-Chair)  
Marion Boyd  
John Callaghan  
Susan Elliott  
Michelle Haigh  
Carol Hartman  
Jacqueline Horvat  
Susan McGrath  
Barbara Murchie  
Linda Rothstein  
James Scarfone  
Joseph Sullivan

Heritage

Constance Backhouse (Chair)  
Bob Aaron  
Patrick Furlong  
Gary L. Gottlieb  
Virginia MacLean  
Nicholas Pustina  
Sydney Robins

Inter-Jurisdictional Mobility

Janet Minor (Chair)  
Jacqueline Horvat  
Wendy Matheson  
William McDowell  
Malcolm Mercer  
Joseph Sullivan

Law Society Awards

Thomas Conway (Chair)  
Adriana Doyle  
Carol Hartman  
William McDowell  
Catherine Strosberg  
Joseph Sullivan

Law Society LL.D. Advisory

Thomas Conway (Chair)  
Adriana Doyle  
Carol Hartman  
William McDowell  
Catherine Strosberg  
Joseph Sullivan

Litigation

John Campion (Chair)  
Jack Braithwaite  
John Callaghan  
Jennifer Halajian  
Michael Lerner  
Wendy Matheson  
William McDowell  
Julian Porter  
Linda Rothstein  
Paul Schabas  
Harvey Strosberg  
Beth Symes

Paralegal Standing

Cathy Corsetti (Chair)  
Susan McGrath (Vice-Chair)  
Marion Boyd  
Robert Burd  
Paul Dray  
Ross Earnshaw  
Robert Evans  
Michelle Haigh  
Jacqueline Horvat  
Dow Marmur  
Malcolm Mercer  
Kenneth Mitchell  
Jan Richardson

Priority Planning

Thomas Conway (Chair)  
Raj Anand  
Marion Boyd  
Chris Bredt  
Cathy Corsetti  
Howard Goldblatt  
Michelle Haigh  
Carol Hartman  
William McDowell  
Susan McGrath  
Malcolm Mercer  
Janet Minor  
Julian Porter

Proceedings Authorization

Paul Schabas (Chair)  
Michelle Haigh  
Linda Rothstein  
Alan Silverstein  
Peter Wardle

Professional Development and Competence

Janet Minor (Chair)  
Wendy Matheson (Vice-Chair)  
Barbara Murchie (Vice-Chair)  
Alan Silverstein (Vice-Chair)  
Raj Anand  
Jack Braithwaite  
Robert Burd  
Mary Louise Dickson  
Adriana Doyle  
Ross Earnshaw  
Larry Eustace  
Jacqueline Horvat  
Vern Krishna  
Michael Lerner  
Dow Marmor  
Judith Potter  
Nicholas Pustina  
Jack Rabinovitch  
Joseph Sullivan  
Gerry Swaye  
Bradley Wright

Professional Regulation

William McDowell (Chair)  
Malcolm Mercer (Vice-Chair)  
Susan Richer (Vice-Chair)  
Paul Schabas (Vice-Chair)  
John Champion  
Robert Evans  
Alan Gold  
Janet Leiper  
Kenneth Mitchell  
Ross Murray  
Jan Richardson  
Linda Rothstein  
Peter Wardle  
Roger Yachetti

Tribunals

Raj Anand (Chair)  
Adriana Doyle (Vice-Chair)  
Larry Banack  
Christopher Bredt  
Aslam Daud  
Paul Dray  
Ross Earnshaw  
Lee Ferrier  
Alan Gold  
Howard Goldblatt  
Jennifer Halajian  
Virginia MacLean  
Dow Marmor  
Wendy Matheson  
Linda Rothstein  
Mark Sandler  
James Scarfone  
Robert Wadden

WORKING GROUPS

Alternative Business Structures

Susan McGrath (Co-Chair)  
Malcolm Mercer (Co-Chair)  
Susan Elliott  
Kenneth Mitchell  
James Scarfone  
Baljit Sikand  
Alan Silverstein  
Harvey Strosberg  
Peter Wardle

Challenges Faced By Racialized Licensees

Raj Anand (Chair)  
Marion Boyd  
Robert Burd  
Julian Falconer  
Howard Goldblatt  
Susan Hare  
Janet Leiper  
William McDowell  
Malcolm Mercer  
Janet Minor  
Susan Richer  
Baljit Sikand

Retention of Women

Thomas Conway (Co-Chair)  
Laurie Pawlitza (Co-Chair)  
Kirby Chown  
Wendy Matheson  
Barbara Murchie  
Megan Shortread  
Bradley Smith

EXTERNAL/OTHER APPOINTMENTS

Federation of Law Societies of Canada

Laurie Pawlitza

Law Society Foundation (nominations to the Board of Trustees)

Marion Boyd  
Ian Hull  
Michael Lerner  
Derry Millar  
Catherine Strosberg

Carried

CONVOCATION ROSE AT 9:19 A.M.

## THE LAW SOCIETY OF UPPER CANADA

### MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON SEPTEMBER 27, 2012

MOVED BY:

SECONDED BY:

THAT Gerald Sheff be appointed to the Hearing Panel pursuant to section 49.21 of the *Law Society Act* for a term ending May 26, 2013.

THAT Adriana Doyle be appointed a vice-chair of the Access to Justice Committee.

THAT Julian Falconer be appointed to the Professional Regulation Committee.

THAT Alan Gold be removed from the Professional Regulation Committee at his own request.

THAT Janet Minor be appointed to the Retention of Women Working Group.

THAT Daniel Murphy be appointed to the Professional Regulation Committee.

THAT Linda Rothstein be removed from the Tribunals Committee at her own request.

THAT Robert Wadden be appointed to the Professional Development & Competence Committee.

THAT Jack Braithwaite be reappointed as the Law Society's representative on the Canadian National Exhibition Association for a term of one year commencing October 25, 2012.

### EXPLANATORY NOTE

The term ending May 26, 2013 for the Hearing Panel appointment coincides with the expiry of the term of members of the Hearing Panel who were appointed on May 26, 2011 (for a two year term) and thereafter.

*THIS PAGE CONTAINS  
IN CAMERA MATERIAL*

To the Benchers of the Law Society of Upper Canada Assembled in Convocation

The Director of Professional Development and Competence reports as follows:

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CALL TO THE BAR AND CERTIFICATE OF FITNESS

Licensing Process and Transfer from another Province – By-Law 4

Attached is a list of candidates who have successfully completed the Licensing Process and have met the requirements in accordance with section 9.

All candidates now apply to be called to the bar and to be granted a Certificate of Fitness on Thursday, September 27<sup>th</sup>, 2012.

ALL OF WHICH is respectfully submitted

DATED this 27<sup>th</sup> day of September, 2012

**CANDIDATES FOR CALL TO THE BAR**  
**September 27, 2012**

**Transfer from another province (Mobility)**

Andrew Alireza Azmudeh  
Michael James Charles Eldridge  
Natasha Lee Ell Saunders  
Morgan Elizabeth Ada Hicks  
Caley Dana Howard  
Brent Raymond Lichty  
Samuel Theodore Loeb  
John Keith Dustin Milligan  
Letebrhan Beyene Nugusse  
Josée Parent  
Tina Marie Petrick  
José Miguel Antonio Rodrigues  
Michael John Wasylynchuk  
Douglas George Wilson

**Transfer from another province (Quebec)**

Andrea Arce Rojas  
Christelle Gedeon  
Daniel Khedoori Khazzam  
Mathieu David Bonneville Kissin  
Jacob Carmon Stone  
Joseph Gerald Pierre-Paul Trottier  
Vinoja Wichweswaran

**Licensing Process**

Peter Robson Hamm  
Katherine Ann Jones  
Ataollah Kassaian  
Olga Kallioppi Koukidis  
Samuel Giles Walker

**L3 Candidates**

Philip Dwight Schneider



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September 18, 2012

TO: The Treasurer and Benchers of The Law Society of Upper Canada

**RE: 2013 Insurance Program: Transmittal of Report to Convocation**

The Canadian commercial insurance industry was recently described as being in a state of “suspended animation”. LAWPRO as a whole, including the specific offer of professional liability insurance for 2013, fits the industry mold: We are carefully evaluating what is happening to the program, the insurance industry and the economy, and waiting for various developments to unfold fully. You will see this theme repeated as you review the questions and answers set out below.

***In a nutshell, what is the insurance program offer for 2013?***

Basically, it is a *status quo* offer. LAWPRO is maintaining the existing base premium, transaction levies, discount structure and so forth.

The only change is to reduce the minimum period for which a lawyer can purchase insurance (i.e., obtain a premium adjustment), from 60 to 30 days. This change is being made to support lawyers who are only able to undertake brief periods of practice, as they go from retainer to retainer or because they provide temporary or *locum* legal services. As such, it is designed to support those in our profession who are having to be flexible because of the limited practice opportunities or due to their own circumstances.

***How bad is the claims problem we keep hearing about?***

For at least two years, LAWPRO has been using every opportunity presented to warn the profession about the claims situation in the primary program.

Our ongoing actuarial analysis makes it clear that we are certainly in a world where claims costs of \$80 million and more are the norm, not the exception. In fact, for 2012 we now anticipate claims costs will be in excess of \$90 million and we expect them to stay in this range for the foreseeable future.

This compares unfavourably to the earlier part of the last decade, during which annual claims costs were in the \$50 million to \$65 million range, consistently.

The most recent LAWPRO Magazine contains an editorial entitled, “Top 10 reasons we’re in a \$100 million world”. (The \$100 million reference includes some recognition for the internal cost of resolving the claims, known as “internal adjusting expense”.) The ten factors may be summarized as follows:

1. There are more claims being reported and they cost more on average to resolve;



Lawyers' Professional Indemnity Company / Assurance LAWPRO  
250 Yonge Street, Suite 3101, P.O. Box 3, Toronto, Ontario M5B 2L7



2. Communication problems top the list;
3. Inadequate investigation or discovery of facts is also climbing as a cause of loss (especially in real estate claims);
4. More new claims are arriving with litigation already commenced;
5. The additional files in litigation drive up LAWPRO's overall defence costs;
6. Real estate values have increased over the past 10 years and remain strong, driving up damage amounts for a variety of areas of claims (such as family and wills & estates), in addition to real estate claims;
7. Claims by self-represented and/or vexatious litigants are increasing in count and cost;
8. Class action exposures are driving up costs;
9. There are more clusters of claims (for example, multiple claims having the same proximate cause or the same or related claimants, or originating from the same set of facts); and
10. HST has added to LAWPRO's costs to the tune of \$3.5 million per year since 2010.

But from a positive perspective, LAWPRO is fully capitalized and has the money to pay the claims set aside in its asset-liability matched fund. Also, over the last ten years LAWPRO has increased slightly the percentage of claim files being closed without any payment at all and more specifically, without any indemnity payment. So, the news is not all bad.

***Why isn't the base premium going up in light of the claims experience?***

Given that claims costs represent about 80 per cent of LAWPRO's budgetary needs and they have been rising over the past ten years, it is not surprising that the base insurance premium was increased in 2009, 2010 and 2011. What is surprising perhaps is our offer that – despite the elevated level of claims costs – the base premium for 2013 remains at the 2011/2012 level of \$3,350 per insured lawyer.

LAWPRO's ability to provide premium stability in recent years – and indeed to reduce premiums slightly in 2012 for some practice areas in keeping with our mandate to risk rate the insurance program – are a testament to the professionalism and expertise of its Board of Directors and management team. The premium increases in the years noted above have helped LAWPRO to address current realities – consistently higher claims costs – and provide the margin LAWPRO needs to meet solvency tests, as discussed more fully below. The soundness of this approach and the company's financial strength was again corroborated by A.M. Best Company when earlier this year it gave LAWPRO its 12<sup>th</sup> consecutive "A (Excellent)" financial strength rating. A.M. Best also removed LAWPRO's "negative" outlook, returning the company to a "stable" outlook.

Many factors go into setting the proposed base premium. But the most important test is whether LAWPRO is expected to emerge from the policy year (or relevant planning period) with an acceptable solvency test result. It is now helping us that LAWPRO experienced increases to its shareholder equity of approximately \$28 million over the past two years.

Going back to the theme of suspended animation, it must be pointed out that many changes are coming to the insurance industry in due course. But at this point, like many other insurers, LAWPRO is adopting a "wait and see" mode. Some of the changes coming may be beneficial (in fact, even a small upward change in interest rates could have a large positive impact on

LAWPRO.) Other changes may not be. But it is premature to make assumptions about outcomes, good or bad, at this time. Also, the timing of some of the changes remains highly uncertain.

The changes may include:

- Interest rate increases, as mentioned above;
- Different requirements for calculating our minimum capital test (the “MCT”), as defined by our insurance regulator;
- New accounting rules for calculating the time value of money, when a different discount rate is prescribed for our claims reserves;
- A possible leveling of claims experience (albeit at a higher plateau than earlier in the last decade).

Notwithstanding these many uncertainties, there is one thing we can say for sure: a high claims count and high claims costs will never help the premium decrease. For this reason, LAWPRO continues to encourage active risk management by lawyers and law firms.

***How does the Ontario base premium compare to other Canadian jurisdictions?***

LAWPRO is analyzing this issue in detail. But it is easy to point to the following to give some perspective on the question:

- To the extent that the base premium in other provinces is considered relevant, Alberta’s mandatory insurance program announced a base premium of \$3,300 effective July 1, 2012, so it is now very close to the Ontario base premium.
- Although some law society programs have managed to hold their premiums stable, other provinces continue to see increases, ranging in some cases from 10% to 100%.
- Some provincial programs charge insurance levies to a broader spectrum of lawyers (whether working in education, government, and/or in-house) than in Ontario, meaning that the “per insured” base premium is less for private practice lawyers.
- No Canadian lawyer program has as elaborate a risk-rating structure of discounts and surcharges as in Ontario, meaning (once again) that the base premium is not a particularly meaningful tool for comparison.

Further effort will be put into analyzing this issue, but the reality is that approximately 45% of claims get closed nowadays with no out-of-pocket costs at all, and LAWPRO’s expense ratio is low when compared to other small insurance companies who do not pay commissions to obtain business. LAWPRO’s continued commitment to working harder, smarter and more cost effectively has meant that the additional volume of claims has been accommodated with little impact on overall head count.

**Conclusions**

LAWPRO Board members and management look forward to continuing to provide the members of the Ontario bar with a cost-effective and responsive insurance program in 2013 and beyond.



Susan T. McGrath  
Chair



Kathleen A. Waters  
President & CEO

**TABLE OF CONTENTS**

| <b>SECTION</b>   | <b>PAGE</b> |
|--|-------------|
| <b>BACKGROUND</b>  | <b>3</b>    |
| <b>2013 PROGRAM SUMMARY</b>                                  | <b>5</b>    |
| <b>PART 1 – THE ERRORS &amp; OMISSIONS INSURANCE FUND</b>    | <b>7</b>    |
| <b>PART 2 – CHANGES TO THE INSURANCE PROGRAM FOR 2013</b>    | <b>8</b>    |
| <b>PART 3 – THE PROFESSIONAL LIABILITY INSURANCE PROGRAM</b> | <b>10</b>   |
| Program Costs  | 11          |
| Impact of the Harmonized Sales Tax                           | 13          |
| Risk Rating  | 15          |
| <i>(a) Background</i>  | 15          |
| <i>(b) Practice Trends</i>                                   | 16          |
| <i>(c) Risk Management Initiatives</i>                       | 17          |
| <i>(d) Revalidating Risk Rating</i>                          | 21          |
| Reinsurance and Capital Preservation                         | 26          |
| Revenues   | 28          |
| <i>(a) Investment Income</i>                                 | 29          |
| <i>(b) Levy Surcharges</i>                                   | 30          |
| <i>(c) E&amp;O Fund</i>                                      | 31          |
| <i>(d) Capital Requirements</i>                              | 32          |
| <i>(e) Base Premiums</i>                                     | 34          |
| <i>(f) Other Adjustments</i>                                 | 36          |
| <b>CONCLUSION</b>  | <b>37</b>   |

**Appendices**

*Appendix A*

|  |    |
|--|----|
| Standard Insurance Program Coverage for 2013 & Program Options | 39 |
|--|----|

*Appendix B*

|  |    |
|--|----|
| Distribution of Claims by Geographic Region        | 44 |
| Distribution of Claims by Firm Size                | 45 |
| Distribution of Claims by Years Since Date of Call | 46 |
| Claims Causes by Area of Law                       | 47 |
| The 80-20 Rule                                     | 49 |

*Appendix C*

|                         |    |
|-------------------------|----|
| Premium Rating Examples | 51 |
|-------------------------|----|

*Appendix D*

|   |    |
|---|----|
| LAWPRO Vision, Mission & Values                     | 53 |
| LAWPRO Statement on Corporate Social Responsibility | 54 |

**LAWYERS' PROFESSIONAL INDEMNITY COMPANY ("LAWPRO")  
REPORT TO CONVOCATION – SEPTEMBER, 2012**

**BACKGROUND**

1. The Law Society of Upper Canada ("Law Society") governs the legal profession in the public interest. One of the ways it discharges its responsibilities is through the mandatory requirement it places on practising lawyers to obtain professional liability insurance coverage for legal malpractice claims. This coverage is provided by LAWPRO, a provincially licensed insurer that is owned by the Law Society.

2. The coverage that the mandatory LAWPRO program provides is considered to be both in the best interests of the public and in the best interests of Ontario lawyers – in that the public has reasonable assurance that an insurance policy backstops errors committed by lawyers in practice, and lawyers have assurance that they have a degree of financial protection for their professional liability that is well-suited to most lawyers' practice needs. The program provides consistency and predictability for both lawyer-insureds and their clients, thus fostering public confidence in the legal profession.

3. In recent years, we have seen an upward trend in the number of open claim files, with over 3,300 open files as at December 31, 2011, estimated to have a gross value of \$408.7 million. Overall, the insurance program manages about 82 per cent of the Law Society's \$700 million in combined assets.

4. Each September since 1995, LAWPRO's Board of Directors has reported to Convocation on changes to the Law Society's professional liability insurance program for the following calendar year. The timing of this report is necessitated by the logistics of renewing over 23,000 policies effective January 1, and the need to negotiate and place any related or corollary reinsurance treaties.

5. This report is also an opportunity for LAWPRO's Board to review with Convocation issues of importance to its insurance operations and receive policy direction where necessary. Financial information on LAWPRO and the program is provided to Convocation throughout the year.

6. Convocation established LAWPRO's mandate in 1994 with the adoption of the Insurance Committee Task Force Report (the "Task Force Report"). The mandate and principles of operation derived from the Task Force Report are as follows:

- that LAWPRO be operated separate and apart from the Law Society by an independent board of directors;
- that LAWPRO be operated in a commercially reasonable manner;
- that LAWPRO move to a system where the cost of insurance reflects the risk of claims; and
- that claims be resolved fairly and expeditiously; however, this was not to be a system of "no-fault" compensation and there would be certain circumstances where coverage was denied or coverage was limited.

For 2013, we have conducted our annual review of the program to re-validate the approach and rating structure in light of these Task Force recommendations.

7. The LAWPRO Board of Directors believes that these recommendations have been achieved in LAWPRO's operations, and that the proposed program for 2013 continues to fulfill these principles. This report deals solely with the mandatory professional liability program. The LAWPRO optional program segment, composed of the TitlePLUS® title insurance and the Excess professional liability insurance programs, is operated on an expected break-even or better basis.

## **2013 PROGRAM SUMMARY**

8. The following summarizes the 2013 professional liability insurance program, as provided for in this report.

### ***Premium Pricing for 2013:***

- (i) The base premium is \$3,350 per lawyer for 2013, the same base premium charged in 2011 and 2012 (paragraph 104[a]).**
  
- (ii) Revenues from supplemental premium levies (real estate and civil litigation transaction levies, as well as claim history levies) are budgeted at \$26.0 million for the purposes of establishing the base premium for 2013 and other budgetary purposes (paragraph 104[b]).**
  
- (iii) No funds are expected to be drawn from the Errors and Omissions Insurance (“E&O”) Fund to be applied to the 2013 insurance premium (paragraph 104[c]).**
  
- (iv) To the extent that levies (noted in (ii) above) collected in 2013 are different than the budgeted amount, the surplus or shortfall is expected to flow to/from the E&O Fund (paragraph 104[d]).**
  
- (v) The premium for the Real Estate Practice Coverage Option (“REPCO”) will be \$250, the same amount charged in 2012 (paragraph 58).**
  
- (vi) 100 per cent of the premiums and losses for the Ontario professional liability program will again be retained by the company in 2013, subject to limited capital backstop protection provided by the E&O Fund, and reinsurance protecting the program from multiple losses arising out of a common event or nexus (paragraph 76).**

*Minimum Adjustments in Premium:*

(vii) Policy provisions dealing with minimum adjustments in premium as a result of changes in coverage or exemption status during the year, as well as in relation to optional coverages, will be based upon adjustment equal to 30 days' and not 60 days' premium (paragraph 20).

(viii) The Continuing Professional Development ("CPD") Premium Credit (renamed the LAWPRO Risk Management Credit effective September 16, 2012) will be continued for the 2014 program, with a \$50 premium credit per approved CPD program, subject to a \$100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2012, and September 15, 2013, for which the lawyer has successfully completed the online CPD Premium Credit Declaration Form (paragraph 49).

(ix) Subject to the changes identified earlier in this report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2012 will remain unchanged for the 2013 insurance program (paragraph 109).

*Errors & Omissions Insurance Fund:*

(x) The investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2013 (paragraph 11).

*Conclusion:*

(xi) The LAWPRO Board considers the program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this program of insurance for 2013 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2013 insurance program can be implemented by January 1, 2013.

**PART 1 – THE ERRORS & OMISSIONS INSURANCE FUND**

9. LAWPRO provides services to the Law Society with respect to the E&O Fund of the Law Society, which is currently in run-off mode. (The E&O Fund was responsible for the insurance program prior to 1990, and for a group deductible of up to \$250,000 per claim prior to 1995.)

10. As of June 30, 2012, the E&O Fund had outstanding claims liabilities of \$0.7 million. The number of open files for 1994 and prior years stood at six. Since there are sufficient assets in the E&O Fund to fully meet the outstanding liabilities, the LAWPRO Board is again satisfied that the investment income generated by the E&O Fund is surplus to the needs of the E&O Fund and can be used by the Law Society for its general purposes.

**11. Accordingly, the investment income of the Errors & Omissions Fund which is surplus to the obligations of the Fund will be made available to the Law Society during 2013.**

## **PART 2 – CHANGES TO THE INSURANCE PROGRAM FOR 2013**

12. In developing the details of the 2013 program, LAWPRO has, as always, considered the changing environment in which lawyers practise and any comments received from the profession during the previous year. However, the general structure of the current program, as well as policy limits, coverage and available options, appear to generally meet the needs and practice realities of the profession for 2013.

13. Consequently, for the 2013 program, only one substantive modification in the structure of the program or in the form and substance of the policy is contemplated.

### **Minimum Adjustments in Premium**

14. With lawyers moving in and out of practice during the course of the year, adjustments in premium are made under the Program “...subject to a minimum premium or adjustment equal to 60 days’ premium applicable to each period of practice or exemption.”<sup>1</sup>

15. So, where a lawyer is in practice for a period that is less than a full year, the Program premium to be applied will not be less than 60 days’ premium. Similarly, for periods of exemption during the year, premiums will not be adjusted unless for more than a 60-day period.

16. While premium adjustment based upon a 60-day period appears to have offered a reasonable balance between ensuring that the cost of insurance generally reflects the risk and the need for administrative efficiency in managing the Program<sup>2</sup>, lawyers’ practice circumstances are evolving and it may be that some refinement in approach is warranted. In this regard, it is suggested that a reduced period of 30 days may offer a better balance.

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<sup>1</sup> See Part IV, General Condition “N. Cancellation and exemption” of the Program policy. This is in accordance with paragraph 90 of the September 26, 1995 Report to Convocation of the Board.

<sup>2</sup> This is not unlike commercial insurers, who generally adjust premiums on a short-rate basis in the case of policy cancellation by an insured. Adjustment of premiums on a short-rate basis substantially favours the insurer over the insured, unlike adjustments on a *pro rata* basis as applied by LAWPRO under the Program, which are neutral between insurer and insured.

17. Examples of those who would benefit from this change include: lawyers doing time-limited contract work for regular clients or assignments on an individual file basis; lawyers accepting short-term contract placements in companies or law firms through recruitment agencies; lawyers conducting periodic *locum* work; lawyers accepting short-term employment opportunities; and lawyers on exemption who wish to activate their insurance for mobility purposes within Canada.

18. A number of segments of the bar would benefit from this change, including: recently called (and transferred) lawyers as they secure limited work assignments; women and other lawyers on family or other temporary leave as they look to re-enter practice or accept opportunities for limited practice, as well as lawyers looking to reduce their practice by accepting select retainers only or just occasional work or periodic *locum* assignments.

19. Minimum adjustments in premium applied in regard to optional coverages, such as the real estate practice coverage option, would similarly be reduced to a 30-day (from a 60-day) premium adjustment. Optional coverage requirements would otherwise remain unchanged.

**20. Accordingly, policy provisions dealing with minimum adjustments in premium as a result of changes in coverage or exemption status during the year, as well as in relation to optional coverages, will be based upon adjustment equal to 30 days' and not 60 days' premium.**

### **PART 3 – THE PROFESSIONAL LIABILITY INSURANCE PROGRAM**

21. Persistent increases in the number and cost of claims over the past several years are putting significant pressure on the program. The program is also subject to ongoing uncertainty regarding investment income and transaction levies. Because of the elimination of the Premium Stabilization Fund, there is no longer a significant pool of money in the Law Society's E&O Fund which can be used to insulate the program from negative impacts.

22. As LAWPRO works through these challenging times, the company's prudent and conservative approach to the issues of the day has stood it in good stead. LAWPRO has maintained a solid capital base, with a minimum capital test ("MCT") as of June 30, 2012 of 217 per cent. This MCT result is above the regulators' minimum level of 100 per cent and supervisory threshold of 150 per cent, and above LAWPRO's internal minimum target of 185 per cent. LAWPRO has a robust asset-liability matching program to ensure that the funds are available to satisfy the claims obligations undertaken to date. Also, LAWPRO has received a consistent "A" (Excellent) rating from A.M. Best Co. twelve times since 2000.

23. After two years of having a "negative" outlook by A.M. Best Co., in 2012 LAWPRO was returned to its long-held "stable" outlook based on the Company's commanding market profile and recent improvement in operating and underwriting results. (An "outlook", which looks more to the future, is different from a "rating".) However, A.M. Best Co. did note LAWPRO's unfavorable loss ratio trends would continue to place pressure on its capital base. While the MCT of 217 per cent as of June 30, 2012, represents a relatively flat result from 220 per cent as at December 31, 2011, this level of capital is somewhat lower than various Canada-wide averages, such as the overall insurer average of 260 per cent, the personal lines average of 240 per cent or the commercial lines average of over 300 per cent.<sup>3</sup> The proposals outlined in the following pages are designed to address the present challenges in a prudent fashion and maintain the company's ability to meet the needs of the bar in the years to come.

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<sup>3</sup> As reported by MSA Research Inc. and Baron Insurance Services Inc.'s Outlook Reports.

24. To establish the recommended program for 2013, the LAWPRO Board considered several factors, such as:

- the cumulative effect of the recent underwriting and investment results, and the economic environment, on the program;
- the expected future loss costs;
- the revenue sources which are expected to supplement the base levies; and
- the inherent uncertainties associated in predicting the results of the program each year.

25. To ensure the program's long-term viability, LAWPRO and the Board took a prudent approach to projections of revenue, as well as claims frequency and severity, taking into account factors such as emerging claims trends, general economic conditions, the tax environment and inflationary pressures on the claims portfolio.

26. As part of its ongoing planning process, LAWPRO looked at a five-year time horizon. Any LAWPRO forecast is reviewed and revised periodically based on new information as it emerges. The subject forecast reflects the trends detailed in this report, and takes a conservative approach to projecting the frequency and cost of claims under the program. This prudent approach is dictated by uncertainties associated with predicting (a) general economic and inflationary trends, and (b) claims associated with recommended or recent program changes, as applicable.

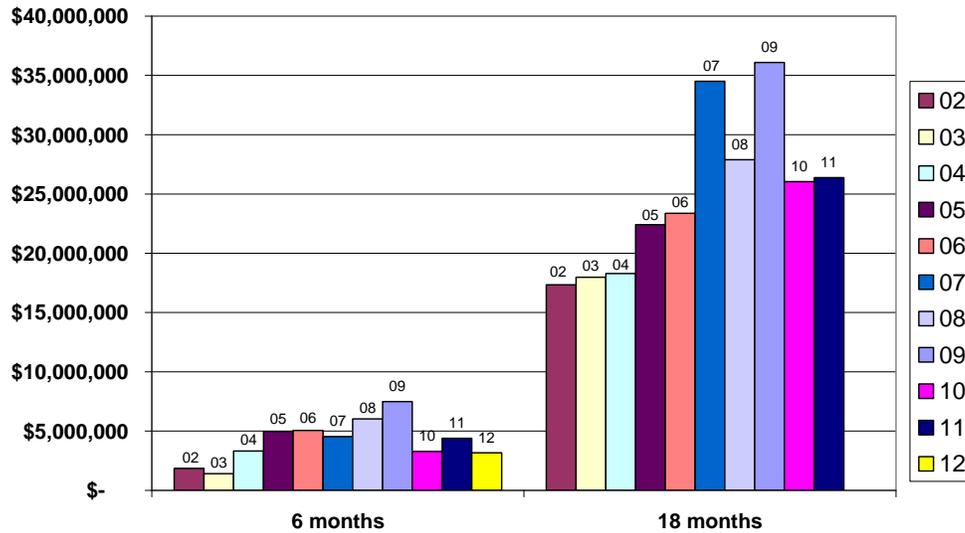
### **Program Costs**

27. LAWPRO's revenue requirements for the 2013 insurance program are based on the anticipated cost of claims for the year, as well as the cost of applicable taxes and program administration.

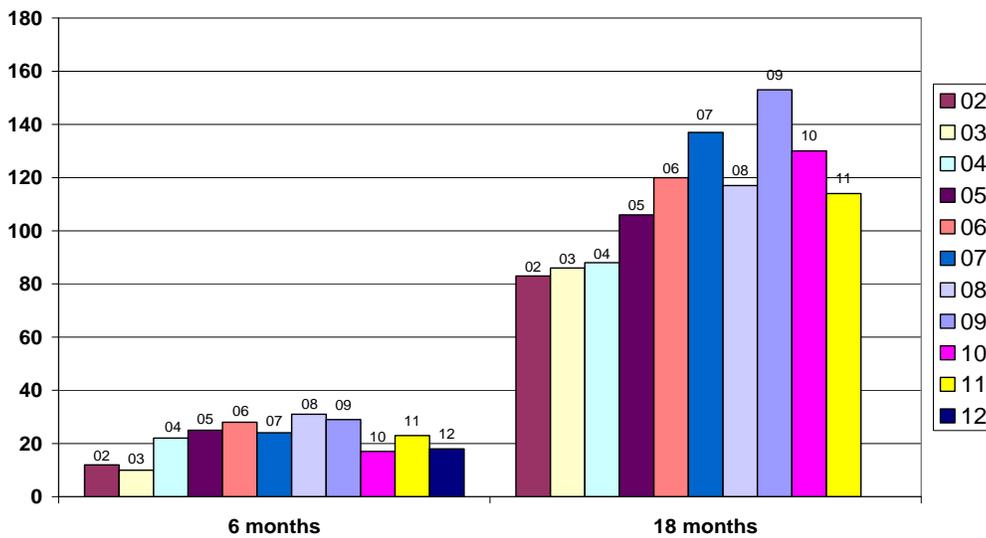
28. Loss experience has trended up noticeably in terms of frequency since 2004, with more claims reported than in the earlier part of the decade. While it is too early to form a final view on the development of the most recent fund years' claims, such as 2010 through 2012, recent statistics also indicate that, despite a very recent stabilization in the number of claims involving \$100,000 or

more (as seen below), there is an overall longer term upward trend in claims severity (cost per claim).

**Aggregate Dollar Value of Claims Valued at Greater than \$100,000 by Age and Fund Year**

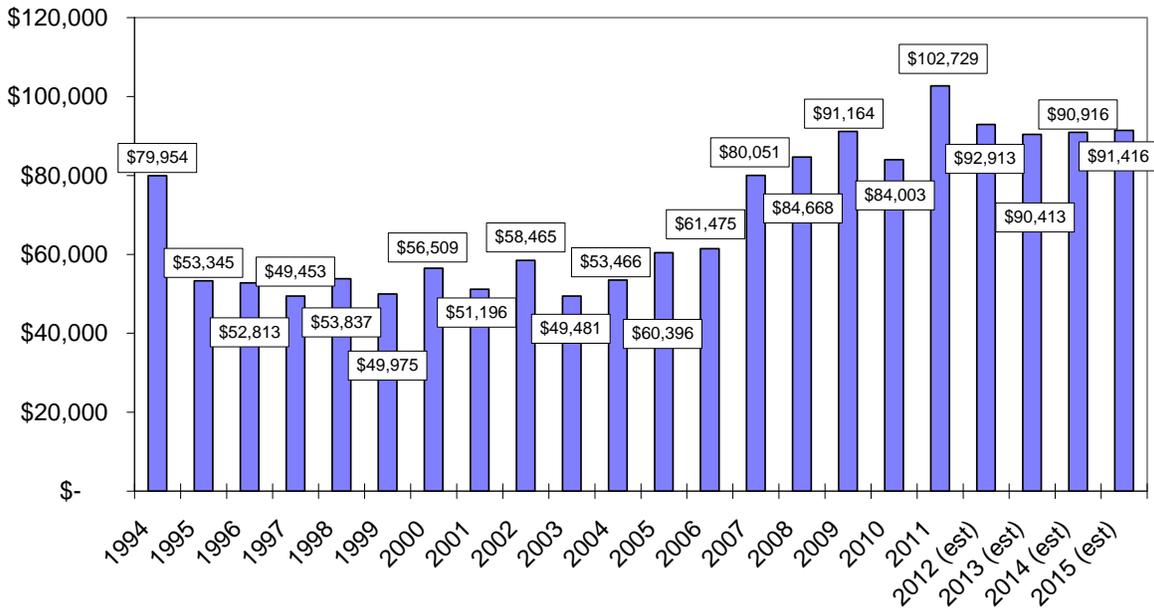


**Count of Claims Valued at Greater than \$100,000 by Age and Fund Year**



29. For 2013, LAWPRO expects direct claims costs alone to be \$90.4 million (see chart following). LAWPRO estimates total program funds (that is, claims costs plus general expenses) required for 2013 to be \$116.7 million. This estimate is slightly below the current forecast of total program funds for 2012, which is approximately \$117.9 million.

**Claims Cost of Ontario Program, by Fund Year (\$000's)**



**Impact of the Harmonized Sales Tax**

30. Effective July 1, 2010, the Ontario government harmonized its provincial sales tax with the federal government’s goods and services tax (“GST”).<sup>4</sup> The resulting harmonized sales tax (“HST”) has placed an extra eight per cent sales tax burden on expenditures such as corporate rent, certain utilities, certain new home purchases and – most importantly for LAWPRO – services.

31. Because insurance is considered a financial service and therefore an “exempt supply” under the *Excise Tax Act*, LAWPRO does not charge GST (or HST) on its premiums, but also does

<sup>4</sup> Note that the Ontario government’s current position is that, post-harmonization, the eight per cent provincial sales tax on insurance premiums continues to be collected on most non-auto insurance premiums.

not get to recover GST/HST paid while conducting its business. Therefore, the additional eight per cent sales tax that LAWPRO is incurring as a result of the harmonization represents a permanent cost to the company.

32. Similar to 2012, in 2013 LAWPRO will experience the impact of the HST on operating costs such as rent, utilities and services (such as legal, audit and other consulting work), which LAWPRO has estimated will increase its annual program administration expenses by approximately \$250,000, in comparison to a typical 12-month period before the HST implementation.

33. Of even greater concern, however, is the impact that HST has had on LAWPRO's claims costs. Resolving claims on behalf of the legal profession involves incurring significant defence costs, and legal fees in particular. In addition, claimants' legal and other consulting costs often factor into indemnity payments made by LAWPRO. Given the current estimates of future claims costs, the company expects the ongoing annual burden of HST on claims costs to be \$3.4 million (or about \$150 per lawyer). This expected cost for a full 12 months has been factored into the total claims costs presented in the chart in paragraph 29, and is included in the base premium recommended for the 2013 program (see paragraph 104[a]).

34. The introduction of HST imposed a retrospective tax on many industries, such as insurance. In addition to the HST impact on the claims costs associated with future policies issued by LAWPRO, the company had to revalue its loss provisions for claims that were already on the books but that would be resolved in the time period after the July 1, 2010, implementation of the HST regime. That revaluation occurred as of December 31, 2009, in accordance with standard actuarial practice, as the legislation was substantively enacted before year-end. The increased claims liabilities of more than \$10 million was compensated for by automatic payment of an additional premium from the E&O Fund under the terms of the 2009 insurance program, as reported in the Annual Reports of the Law Society and LAWPRO for 2009.

## **Risk Rating**

### ***(a) Background***

35. As already discussed in this report, the Task Force Report concluded that the cost of insurance under the program should generally reflect the risks.

36. Specifically the Task Force Report indicated that "... as a fundamental, shaping principle, the cost of insurance should generally reflect the differences in risk history, differing risks associated with different areas of practice, and differing volumes of practice. But no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk."<sup>5</sup>

37. In keeping with this approach, LAWPRO regularly conducts detailed analyses of the risks associated with the program. The earlier results of these analyses are summarized in previous Reports to Convocation. These analyses concluded that the practice of real estate and civil litigation represented a disproportionate risk when compared to other areas of practice, and that lawyers with a prior history of claims have a greater propensity for future claims than do other lawyers.

38. The objective of risk rating was finally achieved in 1999 by applying various discounts and additional levies (such as the real estate and civil litigation transaction levies and claims history levy) to the insurance program.

39. Risk rating, however, is not static. Because the relationship between the cost of claims and different areas of practice may change, LAWPRO must continue to monitor the program to ensure that risk rating continues to be achieved. The results of these earlier risk analyses are re-evaluated each year, and the factors used to assess risk and determine premium under the program are re-evaluated for degree of relevance. The factors currently used to match risk to premium include area of practice, years in practice, claims history, liability for partners and associates, and size of practice.

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<sup>5</sup> 1994 Task Force Report, at page 17.

40. As in the past, LAWPRO's risk analysis also examined the degree of specialization, size of firm, and geographic location of practice as possible factors to be used in assessing risk and setting premiums. The potential factors were examined individually and on a combined basis to determine any correlation or dependencies.

41. In 2012 this review has reaffirmed the overall validity of the rating structure currently in place, subject to certain adjustments in magnitude. The results of the customary re-evaluation of the earlier risk analyses are addressed in this report at paragraphs 50 to 67.

*(b) Practice Trends*

42. LAWPRO's present risk analysis reaffirms the results of its last report indicating that the practice of real estate and civil litigation represent a disproportionate risk when compared to other areas of practice, with real estate currently equalling or leading the practice of civil litigation as the area of practice with the greatest relative exposure for losses. In particular, the analysis indicates that overall real estate and civil litigation represent a disproportionate risk when compared to other areas of practice. These two areas of practice represented 62 per cent of the claims reported and 58 per cent of the claims costs under the program in 2011.

43. In particular:

- a) Real estate claims costs have trended upwards in the 2000 to 2011 period with real estate accounting for 28 per cent or more of costs consistently over this time. Since 2004, costs in this area of practice have increased more than 142 per cent;
- b) In 2011, the exposure relating to the practice of civil litigation again was substantially more than that traditionally seen, with civil litigation accounting for 37 per cent of the claims reported and 20 per cent of the claims costs under the program (well above the traditional levels of 27 per cent and 18 per cent seen in the 1989-94 period);
- c) In 2011, the nature of claims against civil litigators was also reaffirmed, with general conduct or handling of the matter accounting for about 70 per cent of litigation claims

compared to missed limitation period claims which accounted for only 30 per cent of these claims; and

- d) Lawyers with a prior claims history continue to have a considerably greater propensity for claims than other practising lawyers. Lawyers with claims in the prior 10 years were more than three times more likely to report a claim during the past year than those with no claims in the prior 10 years.

44. The results of this analysis are summarized in the graphs contained in **Appendix “B”** of this report.

*(c) Risk Management Initiatives*

45. A principal mandate of LAWPRO is to help the legal profession manage the risk associated with practice. This is accomplished by providing lawyers with tools and resources that help them manage risk and practise in a more risk-averse fashion. Among LAWPRO’s major risk management initiatives are:

- **TitlePLUS® Program:** TitlePLUS insurance is a competitive title insurance product that has made a positive difference in the Ontario real estate market. It expands the choice offered to consumers and lawyers. It influences the behaviour of other title insurers. It educates consumers and has expanded policy coverages available to them. It also provides education on title insurance and real estate trends to lawyers. The TitlePLUS Program promotes real estate lawyers and recommends that consumers seek the advice of lawyers when closing their real estate transactions.

In the first half of 2012, the TitlePLUS Department hosted four regional risk management sessions in Ontario. The sessions were designed to update lawyers and their staff on TitlePLUS underwriting and to encourage them to continue to support the TitlePLUS program. LAWPRO also spoke to lawyers and support staff at these sessions about risk mitigation strategies and best practices.

TitlePLUS staff have also given lectures at law schools and various CPD programs on title insurance and fraud prevention measures in real estate transactions. More presentations and lectures will take place in the coming months. These are designed to provide the legal profession, including new lawyers entering practice, with the tools they need to manage risk and avoid claims under both the professional liability and TitlePLUS programs.

The TitlePLUS EXPRESS, the Department's news bulletin, is sent regularly to subscribing lawyers across Canada, providing legal and underwriting updates on current national real estate issues. Also, in recognition of the role support staff play in real estate transactions, the Department has published "TitlePLUS Tips", a bulletin written specifically for support staff in the offices of subscribing lawyers.

In 2011, LAWPRO continued with its consumer education program which involves a media campaign highlighting the role of lawyers in real estate transactions and TitlePLUS insurance. Two media campaigns based on results of TitlePLUS-commissioned polls generated media coverage in close to 100 media outlets and reached some nine million consumers. This initiative includes a consumer-oriented, online "Real Simple Real Estate Guide" which helps educate consumers about what to expect in real estate transactions and the role a lawyer plays in the transaction. In addition, posters promoting the lawyer's role in real estate matters have been placed in Toronto subway stations and transit shelters. This campaign will continue throughout 2012.

- **practicePRO®:** Now in its 14th year, LAWPRO's successful risk management and claims prevention initiative is a recognized source of high-quality risk management tools and resources, both inside and outside of Ontario. This year, practicePRO helped lawyers avoid malpractice claims through articles in LAWPRO Magazine and other law-related publications, information on the practicePRO website and AvoidAClaim blog, and live presentations and/or an exhibitor presence at CPD programs and other law-related events. practicePRO has a significant presence in the legal community by maintaining relationships and actively working with its various constituents, including the Law Society, the Ontario and Canadian Bar Associations, local law associations, legal goods and service providers, the legal and mainstream press and others.

- **LAWPRO Magazine:** With its strong risk management focus, LAWPRO's flagship publication continues to play an important role in helping lawyers avoid malpractice claims. Through a special Annual Review issue of the magazine, published each spring, LAWPRO provides lawyers with an overview of claims trends and an explanation of how these affected their premiums and LAWPRO's financial results. This Review issue also provides information on LAWPRO's efforts to prevent claims and advance lawyers' interests with the government and public opinion. The Fall 2011 issue of LAWPRO Magazine focused on communication issues – the biggest cause of claims. Articles in the magazine educated lawyers regarding where and why communication breakdowns occur, and the steps that can be taken to reduce the exposure to claims with techniques for improving lawyer/client communications. The January 2012 edition addressed the various issues (insurance or otherwise) which arise when lawyers enter or leave different practice settings, whether as new or established practitioners. Working jointly, the practicePRO and Communications departments also produced three practice area-specific webzines (in litigation, family law, and wills and estates).
- **Fraud:** In terms of the risk they present to the program, fraud-related claims are a significant concern for LAWPRO. LAWPRO continues to take steps to combat fraud through measures within its own operations, its relationship with the legal profession, and by working as occasions arise with law enforcement, land registry, banking, insurance and other organizations and industries also affected by fraud. The May/June 2012 issue of LAWPRO Magazine included an ad wrapped around the cover reminding lawyers to be alert for more sophisticated bad cheque frauds and the practicePRO fraud prevention brochure as an insert. As well, the AvoidAClaim blog has become an increasingly important tool for alerting lawyers to the latest online fraud scams as they happen. It averages almost 300 visitors a day and 112 fraud-related posts were made to it in 2011. Lawyers from all over Ontario and elsewhere do web searches of names of proposed clients where the lawyers are suspicious. If there is a "hit" on documentation posted by practicePRO, either their suspicions are confirmed or they can make further inquiries. The information provided by LAWPRO has helped many Ontario lawyers avoid being duped.
- **Consultations:** practicePRO actively worked with the Law Society and various bar associations to ensure that risk management factors were taken into account when policy

issues were under discussion. For example, practicePRO assisted the Law Society in finalizing the model file retention policy for large law firms, helped develop area of law-specific file retention guidelines for real estate and wills and estates practices, and helped the CBA Conflicts of Interest Task Force promote its Conflicts Toolkit.

- **practicePRO Lending Library:** To help lawyers improve their practices, this library makes 120 of the best books on law practice and risk management topics available on loan for free to all Ontario lawyers. In 2011, 100 books went out on loan to 66 lawyers.

46. The CPD Premium Credit offered under the program is another significant LAWPRO risk management initiative. In 2001, a premium credit of \$50 was first offered to lawyers using the practicePRO Online Coaching Centre, an Internet-based, self-coaching tool that helps lawyers enhance their business and people skills.

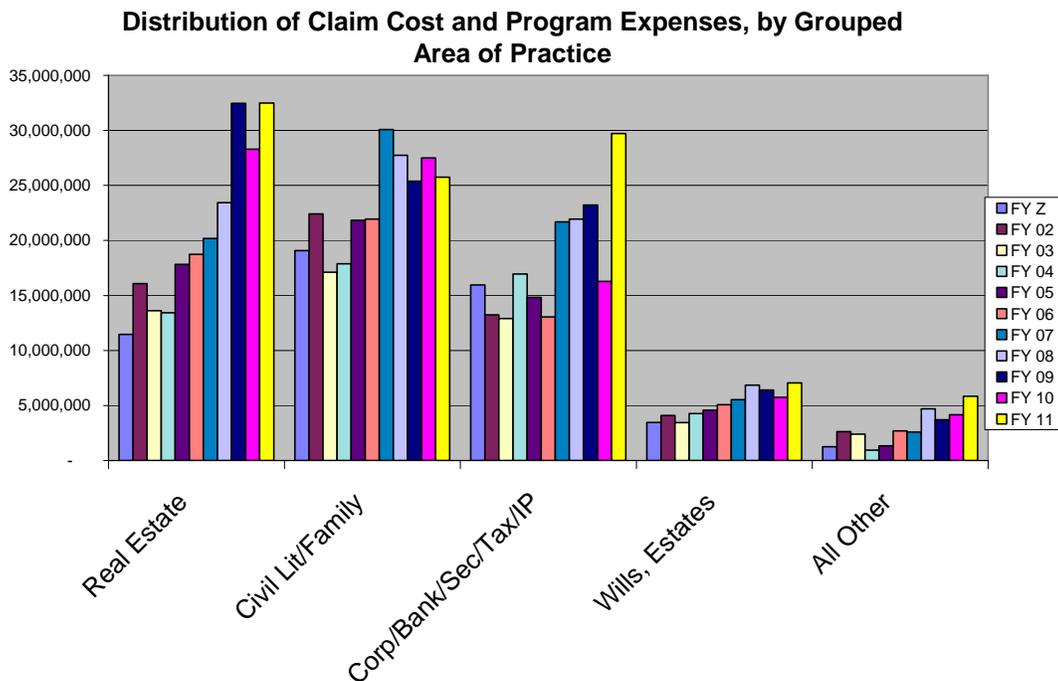
47. The premium credit was broadened in the following year to provide a \$50 credit (to a maximum of \$100 per lawyer per year) for designated law-related CPD programs completed by the lawyer. These programs are offered by the Law Society, Ontario Bar Association, The Advocates' Society and other not-for-profit CPD providers, and must include a substantial risk management component. In keeping with the most frequent causes of loss, the risk management content of these programs is focused to deal with the "soft" skills of lawyering, such as lawyer/client communication, documenting a file, and time management.

48. For a credit on premiums for 2013, lawyers must have participated in LAWPRO-approved CPD programs between September 16, 2011, and September 15, 2012. In addition to the Online Coaching Centre, 213 programs qualified for the credit during this period. These programs had more than 52,000 attendees. Prior to the implementation of the CPD credit, most CPD programs focused solely on substantive law. Due to the CPD credit and the Law Society's new focus on mandatory ethics and professionalism content, a significant number of Ontario CPD programs have been broadened to include risk management and claims prevention content.

49. Accordingly, the Continuing Professional Development (“CPD”) Premium Credit (renamed the LAWPRO Risk Management Credit effective September 16, 2012) will be continued for the 2014 program, with a \$50 premium credit per approved CPD program, subject to a \$100 per lawyer maximum amount, to be applied for pre-approved legal and other educational programs taken and successfully completed by lawyers between September 16, 2012, and September 15, 2013, for which the lawyer has successfully completed the online CPD Premium Credit Declaration Form.

*(d) Revalidating Risk Rating*

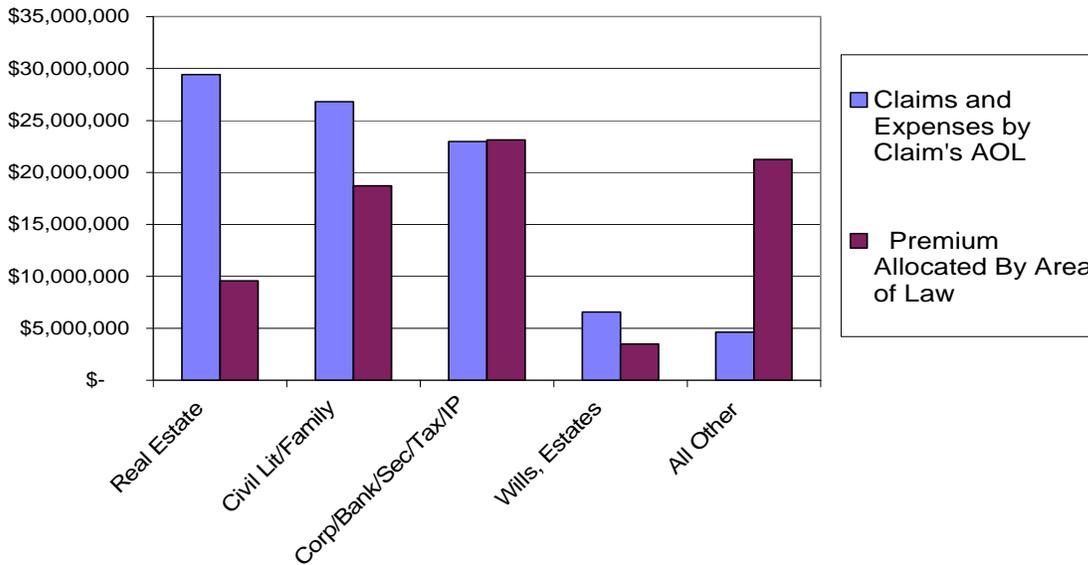
50. It is important to periodically re-evaluate the program by area of practice to ensure that it continues to be effective in its risk rating. The following chart shows the distribution of ultimate expected claims costs by detailed area of practice since 2001 (being Fund Year Z).



51. Apparent from this chart are the significant and growing claims costs in many practice areas and the fact that real estate and litigation continue to be higher risk on a consistent basis over a multi-year period.

52. The fact that few lawyers practise exclusively in one area provides a compelling reason to group together common or related areas of practice. However, to ensure that risk rating is being achieved, the program’s anticipated losses and related costs must be compared to the premiums. Based on the most recent loss experience under the program (including that seen under the program up to December 31, 2011), the following chart compares the anticipated losses and costs distributed by area of law to the proposed base premiums by primary area of practice. The premiums in this chart include the proposed base premiums with real estate practice coverage, innocent party and base premium adjustments, but exclude transaction levies and claims history surcharges.

**Comparison of Projected 2013 Premium by Lawyer's Primary Area of Practice to Claims and Expenses by Claim's Area of Law**



53. The shortfall between the anticipated claims costs and expenses to base premiums is particularly significant for the areas of real estate law and civil litigation.

54. The latest program statistics indicate that without the benefit of the transaction and claims history levy revenues, the 2013 base premium would be \$9,900 for those whose primary area of practice is real estate.

55. Past Reports to Convocation have discussed the importance of using the transaction and claims history surcharge levies as premium, to avoid any substantial dislocation among the bar in the higher risk areas of practice which would otherwise occur with risk rating.<sup>6</sup>

56. By including the transaction and claims history surcharge levies as in recent years, a shortfall for real estate and civil litigation claims costs is largely overcome. Therefore, it is proposed to maintain the transaction levy at the same level for 2013.

57. In April 2008, LAWPRO introduced a real estate practice coverage option (“REPCO”). One REPCO claim has arisen as of June 30, 2012, representing a limit loss of \$250,000 which was paid out. LAWPRO is maintaining an actuarial loss reserve for potential incidents that have occurred but have not yet been reported to the company. (Since the essence of REPCO coverage is to compensate for an act of fraud by the insured lawyer, it is unlikely that there will be an immediate report by the lawyer involved; therefore, LAWPRO is making a conservative assumption that there will often be delays in reporting under this coverage.) To acknowledge the promising results to date, the price of the REPCO coverage was decreased by a prudent \$100, to \$400 from \$500, for the 2010 program, and by a further \$150 to \$250 per lawyer in 2012.

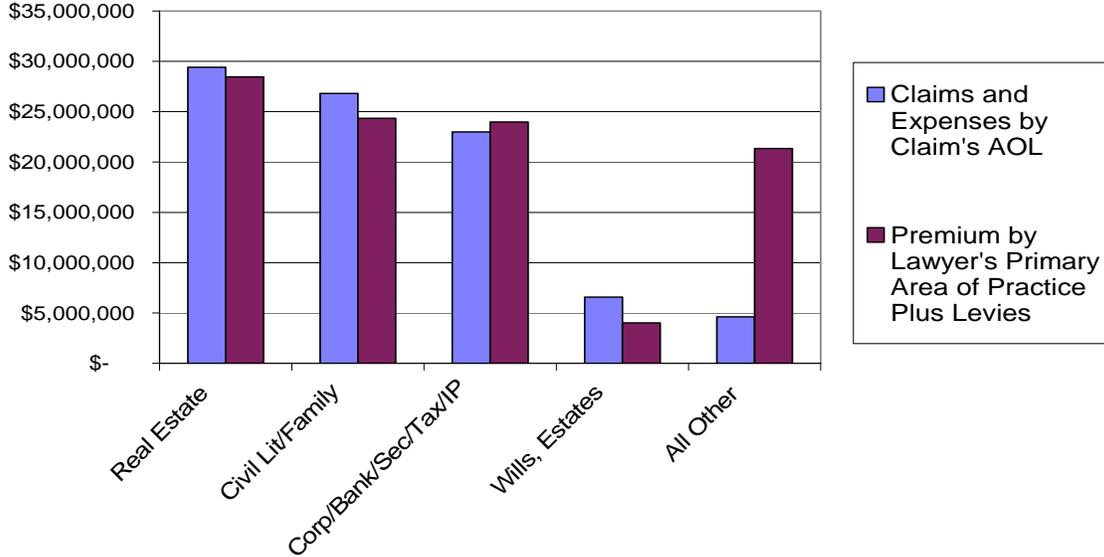
**58. Accordingly, the premium for the Real Estate Practice Coverage Option (“REPCO”) will be \$250, the same amount charged in 2012.**

59. The following chart compares the anticipated premiums sorted by the lawyer’s primary area of practice (plus the claims history surcharge, REPCO premium and transaction levies as revised) to the anticipated claims costs and expenses for each area of law.

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<sup>6</sup> 1999 LAWPRO Report to Convocation, pp. 18-22; 1998 LAWPRO Report to Convocation, pp. 35-37; and 1996 LAWPRO Report to Convocation, pp. 32-36.

**Comparison of Projected 2013 Premium by Lawyer's Primary Area of Practice + Allocated Levies to Claims and Expenses by Claim's Area of Law**



60. This comparison indicates that, with the benefit of the transaction and claims history surcharge levies, and including the REPCO premium, there is a substantial correlation between revenues and claims for the major practice areas.

61. The graph does indicate some subsidy by area of practice, especially by the practitioners in the “All Other” category. This subsidy changes somewhat over time and may vary considerably from year to year for the smaller practice areas, if they were broken down in greater detail.

62. The area of wills and estates has experienced a significant increase in claim costs in the last few years. Given the relatively small number of practitioners in this area, a few large claims often skew the results. LAWPRO will continue to monitor these results and propose any action, if appropriate, at a future date.

63. Appreciating the foregoing variables and possibilities of comparison by area of practice, it appears that the program does substantially meet its objective of risk rating, and that the proposed program will continue to do so in the coming year. Although some subsidy may exist for certain

areas of practice, when taking into account operating costs and commercial realities, the cost of insurance under the program is considered to generally reflect the risk. Notably, the Task Force Report acknowledged that "...no insurance program can be solely risk-reflective and there must be some sharing and spreading of risk."<sup>7</sup>

64. Other aspects reviewed in the analysis included the exposure based on the size of firm, year of call, geographic location and prior claims history. The overall results of this analysis reaffirm the premium discounts already in place, including the surcharge applied to practitioners with a prior claims history. The results of this analysis are reproduced in select graphs in **Appendix "B"**.

65. Although the volume (size) of practice may not be wholly determinative of risk, the transaction levies do reflect the volume of business transacted in a practice as well as the higher risk associated with real estate conveyancing and civil litigation.

66. Accordingly, the LAWPRO Board is satisfied with the continued use of the transaction and claims history levy revenues as premium, with the result that combined with other risk-rating features of the program (including the REPCO premium), the cost of insurance under the program continues to generally reflect the risk.

67. Various examples of premiums which would be charged to members depending on the nature of their practice are summarized in **Appendix "C"** of this Report.

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<sup>7</sup> 1994 Insurance Committee Task Force Report, at page 17.

## **Reinsurance and Capital Preservation**

68. LAWPRO annually assesses its need for reinsurance based on its capital position and its claims results and volatility.

69. In its early years, LAWPRO purchased program-wide quota share reinsurance. A stronger financial position and more stable claims experience enabled the company to cease reinsuring the program with quota share reinsurance starting in 2003. In addition to relying on LAWPRO's own capital, the resources of the E&O Fund up to a \$15 million cap were effectively relied on starting in 2003. An enhanced retrospective premium endorsement provided that for certain years actual loss experience above a certain threshold would be borne by the E&O Fund through additional premiums. On the other hand, actual loss experience below a certain threshold would trigger a refund of premiums to the E&O Fund. The E&O Fund has used the Premium Stabilization Fund ("PSF") as a mechanism to fulfill its potential obligation for additional premiums and as a place to hold premiums refunded.

70. Given the current uncertain environment for future claims, transaction levies and investment income, and the rapidly declining balance of the PSF, it was decided in September 2009 that LAWPRO would achieve greater program stability by retaining in the company any future favourable claims development. As a result, the refund aspect of the retrospective premium endorsement was not continued in the 2010 insurance program.

71. As already noted, under the endorsement as drafted in certain years before 2010, additional premium payments relating to past insurance fund years were potentially required as final claims costs emerged. Accordingly, recognizing the decreased size of the PSF and not wanting to place undue pressure on the E&O Fund as a whole, the threshold for the additional premium aspect of the retrospective premium endorsement was increased in 2010.

72. For 2013, it is proposed that there continue to be a \$15 million dollar cap on the E&O Fund's exposure to provide additional premium to LAWPRO. As in 2010 through 2012, to the extent that the net loss ratio exceeds the anticipated loss ratio for the year by an absolute 10 per cent, the E&O Fund would cover the losses. The 2010 through 2013 backstop provisions will be

evaluated separately, with the \$15 million limit shared by the four fund years. The lower likelihood of a payout by the E&O Fund in this regime, as it commenced on January 1, 2010, makes the protection more akin to a catastrophic coverage, providing payout only in the unlikely scenario that an insurance fund year experienced significant deterioration from its initial expectations.

73. By relying on its own resources and the \$15 million backstop from the E&O Fund as described above, LAWPRO will not need to pursue the expensive course of purchasing reinsurance on a program-wide basis.

74. For 2013, LAWPRO will again look to purchase reinsurance protection against the possibility of multiple losses arising out of a common event or nexus, as it has since 2005. This protection against aggregated losses extends across both the professional liability and TitlePLUS programs, and offers some measure of protection against a series of claims such as fraud-related claims where the fraudster targets more than one lawyer, or a single defect in title affecting an entire condominium project.

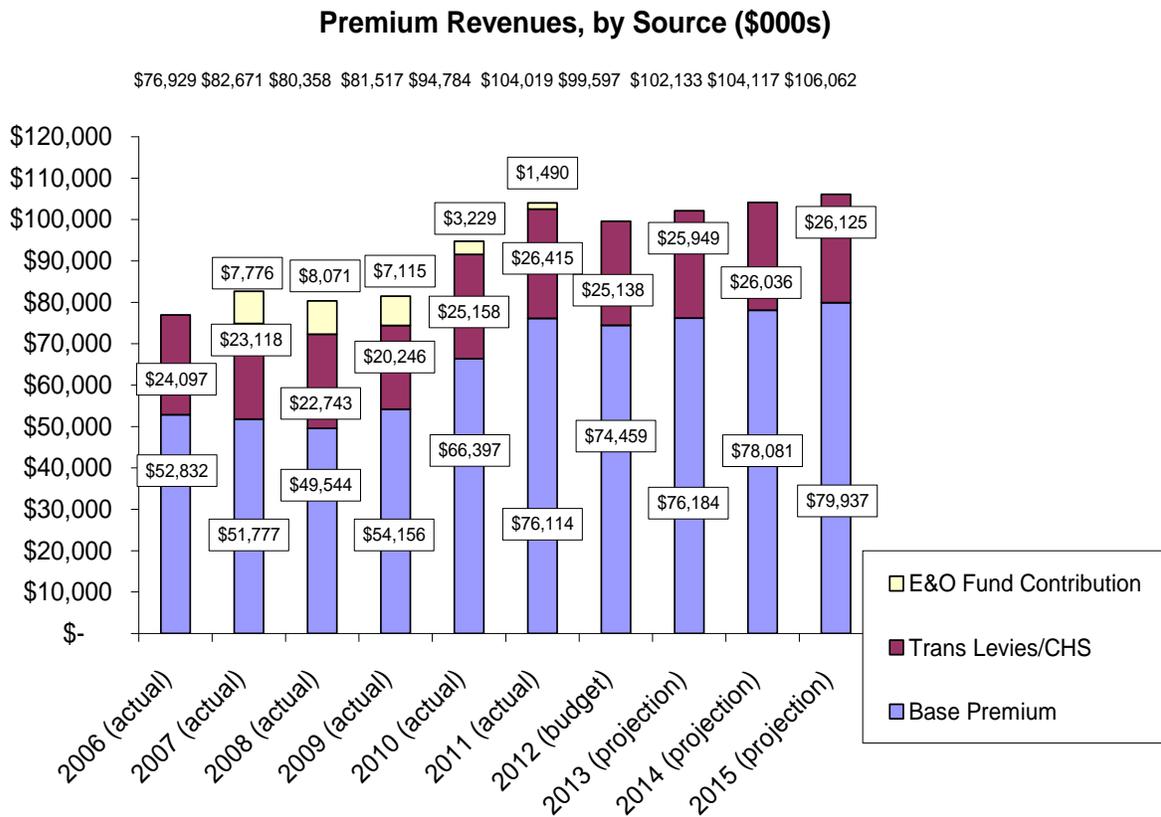
75. In fact, the possibility of multiple or sometimes many claims arising from the same proximate cause appears to be a growing phenomenon and can represent a significant exposure to the program, particularly in the case of class action litigation. With this in mind, LAWPRO will be looking to secure greater reinsurance support and substantially build upon the amount of such reinsurance protection for 2013 and coming years, as an alternative to having to introduce a profession-wide aggregate limit cap under the program policy for such exposures.

**76. Accordingly, 100 per cent of the premiums and losses for the Ontario professional liability program will again be retained by the company in 2013, subject to limited capital backstop protection provided by the E&O Fund, and reinsurance protecting the program from multiple losses arising out of a common event or nexus.**

**Revenues**

77. To meet the total expected program obligations for 2013, LAWPRO first evaluates its likely investment income, and then considers premium sources. By way of contrast with recent years, premium revenues to meet fiscal requirements for 2013 will come from only two principal sources: the base premium<sup>8</sup> and levy surcharges. So, as in 2012, there will be no premium contribution planned from the E&O Fund.

78. The projected premium revenues from these three sources are as follows:



<sup>8</sup> “Base premiums” includes base premiums with applied discounts or charges, as well as innocent party and REPCO premiums.

*(a) Investment Income*

79. LAWPRO takes full advantage of the time between the collection of premiums and the payment of claim costs by investing any available funds into a well-diversified portfolio of fixed income and equity securities. LAWPRO uses the resulting investment income to help pay operating and claim expenses, thereby reducing the amount of funds that must come from premium sources.

80. LAWPRO provides further stability to the program by segregating into a separate portfolio (the liability-matched portfolio) sufficient money to pay anticipated future claim costs, with any surplus capital held in a different portfolio. The securities in the liability-matched portfolio consist of high-quality government and corporate fixed income securities, with the future cash inflows to the company arranged to coincide with the expected payout patterns of the future claim costs. The surplus portfolio consists of a prudent mix of fixed income and equity securities.

81. During recent years investment returns have weakened as the worldwide credit crunch resulted in some depressed equity and fixed income prices. In addition, with central banks such as the Bank of Canada lowering their overnight interest rates to rock-bottom levels, the rates of return on fixed income securities have also dropped significantly. For LAWPRO, the downward pressure on returns is exacerbated as fixed income securities mature and need to be reinvested at these low rates. Although the Bank of Canada has increased its overnight interest rates from its historic low, it will likely be some time before interest rates available upon purchasing new fixed income securities equal the rates that have been available to LAWPRO in the past.

82. LAWPRO's prudent investing philosophy helped protect its portfolios (both liability-matched and surplus as described above) from significant losses of principal during the economic turbulence of recent years. However, as a result of continued market uncertainty, the company has maintained its expected return on investments for 2013 at 3.75 per cent, as in 2012, and compared to 5 per cent (or higher) in previous years.

*(b) Levy Surcharges*

83. The Ontario real estate market has been quite robust in the last number of quarters, however there are indications that the market will cool in the near term. Statistics published by Canada Mortgage and Housing Corporation in June 2012 indicate that the number of resale transactions grew by almost 3 per cent in 2011, and is forecast to increase almost a further 3 per cent in 2012 and but then drop by just over 1 per cent in 2013. Similarly, after a 12 per cent increase in 2011, new housing starts are forecast to increase a further 9 per cent in 2012, before decreasing by almost 12 per cent in 2013.

84. At present, the levy surcharges include a \$50 civil litigation transaction levy and a \$65 real estate transaction levy, as well as a claims history levy surcharge.<sup>9</sup> Revenues from these levy surcharges are applied as premiums, to supplement the base levy.

85. Civil litigation and claims history levy surcharge revenues have been quite stable over time, while the revenue from real estate transaction levies declined by approximately 50 per cent between 1999 and 2009 (prior to the increase in the levy for the 2010 program).

86. The increased use of title insurance is considered to be largely responsible for a reduction in the count of real estate transaction levies since 1999. Lawyers acting for those obtaining an interest or charge in the land in many instances are not required to pay a transaction levy, where the interests of all parties obtaining an interest or charge in the property are title-insured, and the acting lawyer or lawyers are provided with the appropriate release and indemnity protection by the title insurer, based on a standard form agreement entered into between the title insurer and the Law Society on behalf of Ontario lawyers.

87. It is estimated that more than 90 per cent of residential real estate transactions in Ontario are title-insured.<sup>10</sup> In recent years, the number of real estate transaction levies collected has moved

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<sup>9</sup> The claims history levy surcharge ranges from \$2,500 for a lawyer with one claim paid in the last five years in practice, to \$25,000 for a lawyer with five claims paid in the last five years in practice (an additional \$10,000 is levied for each additional claim paid in excess of five).

<sup>10</sup> LAWPRO makes this estimate based on the correlation between real estate sales data and transaction levy filings.

in tandem with residential real estate sales. This indicates a maturity or saturation of this market for title insurance.

88. More recently, the number of transaction levies stabilized as a result of the solid Ontario real estate sales. As of June 2012, transaction levy revenues are largely in-line with expectations at \$0.2 million under budget.

89. To account for ongoing uncertainties in the real estate market and the prospect of a shortfall, a conservative approach has been taken in estimating revenues from levy surcharges for 2013.

90. As described above in this report, the use of transaction levies ensures an element of risk rating in the insurance program, as both real estate and civil litigation continue to represent a disproportionate risk when compared to other areas of legal practice. The use of levies also avoids the substantial dislocation which likely would occur if the base premiums were increased to reflect the risk, and reflects the consensus reached with the affected sectors of the bar and others in the profession as the most equitable way to achieve risk rating when introduced in 1995.

91. For 2013, reflecting the rate increase noted above, LAWPRO estimates transaction and claims history levy surcharge revenues at \$26.0 million.

***(c) E&O Fund***

92. Since the introduction of the 1999 program, any receipts in excess of those budgeted from the transaction levies and claims history surcharges collected in the year have been held within the PSF component of the E&O Fund. They have been managed on a revolving account basis and applied to the insurance program. These funds are used to guard against any future shortfall in levy receipts in a given year, appreciating the difficulties in forecasting transaction levy revenues in a changing economic climate, and acted in some years as a buffer against the need for increases in base premium revenues.

93. Because of the obligation to meet its retrospective premium obligation for 2009, which involved a payout of \$13 million given the one-time retrospective impact of the HST (see paragraphs 30 through 34), the PSF was exhausted as of December 31, 2009. While the E&O Fund has approximately \$62.4 million of surplus as at June 30, 2012, some of those funds have already been committed for specific purposes, such as the \$15 million backstop (see paragraphs 68 through 76). The remaining available surplus may be used by the E&O Fund to pay for ongoing operating costs, make an annual premium contribution, or fund potential shortfalls in expected transaction levies and/or claims history surcharges.

94. Given the funds required to fund future operating costs of the E&O Fund and provide stability against potential transaction levy shortfalls in the short term, no funds will be drawn from that surplus and applied towards the premium under the 2013 program. The current LAWPRO five-year projection does not assume further contributions from the E&O Fund to support the base rate premium.

***(d) Capital Requirements***

95. As a final consideration before determining the base premium, LAWPRO must consider its capital needs. Canadian regulators use the MCT test in order to assess capital adequacy of a property and casualty insurer. The MCT is a risk-based ratio calculation which compares the insurer's capital or net assets available to the "capital required." Through the capital required component of the test, regulators prescribe certain additional capital or margins that must be held based on the various types of assets and liabilities on the insurer's balance sheet.

96. A significant margin requirement relates to the 15 per cent additional capital that must be held for all the net claims liabilities on the books that relate to commercial liability (which includes professional liability coverage). Given the steady historical growth of LAWPRO's net claims liabilities over the last decade or so, even a net income of \$5 million can often lead to a decline in LAWPRO's MCT ratio. As a very general rule of thumb, LAWPRO requires in the neighbourhood

of \$5 million of either net income or increased after-tax net unrealized gains on its surplus portfolio<sup>11</sup> to achieve a stable to slightly increasing MCT ratio.

97. The determination of a specific insurer's "ideal" MCT ratio is no easy task, as the current industry metrics are primarily designed simply to identify levels that are too low. Canadian regulators require that insurers do not fall below various MCT levels, such as the 100 per cent minimum and 150 per cent supervisory levels. In addition, working in conjunction with LAWPRO, the regulators have accepted a further 185 per cent internal target level. All of these figures represent minimum MCT levels, not ideal operating targets in and of themselves.

98. Subject to future regulatory direction in this regard, the Board believes that a long-term operating MCT target in the neighborhood of 220 to 230 per cent balances LAWPRO's risk profile and its unique ability to set premiums and raise capital, which differ significantly from those of other commercial insurers in Canada. An MCT in this range would allow LAWPRO some capacity to absorb unexpected losses or changes in market conditions, and have time to implement a strategy to restore capital levels to the desired range.

99. With LAWPRO's MCT at 217 per cent as of June 2012, slightly under the Board's preferred long term range, key near-term trends must also be considered. For example, the Canadian insurance regulators have begun implementing a multi-year plan to change the manner in which the MCT ratio is calculated. A December 2010 study published by the Office of the Superintendent of Financial Institutions noted that, based on its calculation using Canadian insurer regulatory filings, insurer's MCT tended to drop appreciably using the new rules. With no proposed reduction in the regulatory MCT targets imposed by the regulators, all Canadian insurers must act accordingly to meet these new regulatory expectations.

100. Given LAWPRO's current capital levels as well as near-term challenges, the premium for 2013 and onwards must be set at a level that generates significantly more than a break-even result, allowing the Company to continue a phase of capital ratio stabilization and replenishment.

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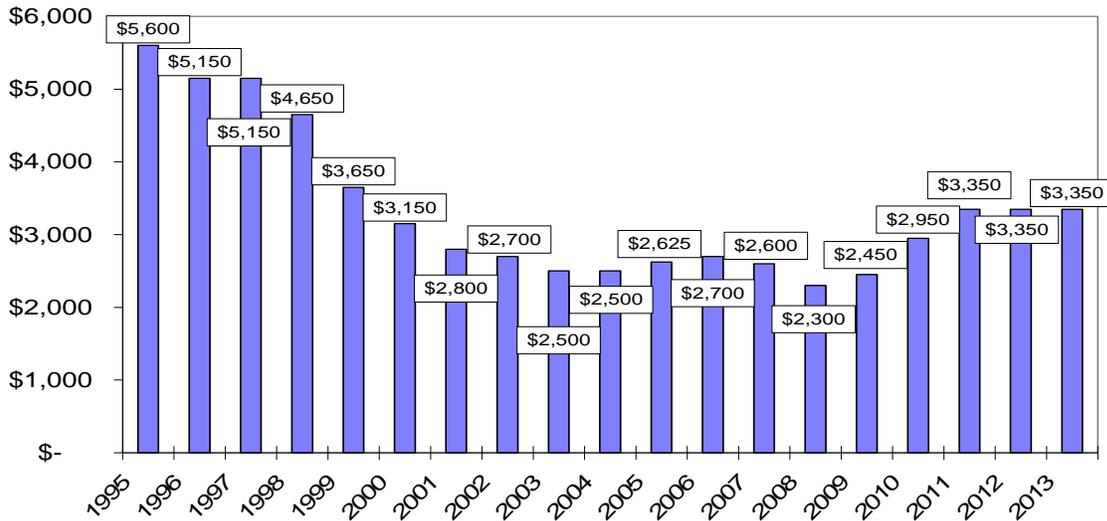
<sup>11</sup> Increases in net unrealized gains relating to the liability-matched portfolio, as well as realized gains, are included in net income.

*(e) Base Premiums*

101. Based on the previous discussion of program costs, sources of revenue and capital needs, the base premium will be set at \$3,350 per member to account for a deterioration in claims experience and the likelihood of continuing economic uncertainty. In summary, the 2013 proposed base premium is based on the following key assumptions:

- 24,088 practicing insured lawyers (full-time equivalents);
- \$116.7 million in anticipated total program costs (paragraph 29);
- \$26.0 million in budgeted transaction and claims history levy revenues (paragraph 91);
- No funds to be drawn from the E&O Fund on account of the premium (paragraph 94); and
- 3.75 per cent return on investment (paragraph 82).

**Base Premium, by Fund Year**



102. At this time, the Board is satisfied that this base premium rate appropriately recognizes the uncertainties in emerging claims experience and economic conditions, and allows the program to continue to operate on a self-sustaining basis while protecting the company’s overall financial position. The rate is consistent with information provided in the Report to Convocation in recent years. It was repeatedly noted that the historically low base premium (for example, less than

\$2,500 per insured lawyer) may not be sustainable in future years, as higher claims costs had already begun to emerge. In particular, the beneficial 2008 base premium level was a method of giving the benefit to the bar during 2008 of some superior 2007 investment results and favourable claim reserve development for earlier fund years. As noted earlier, investment returns in the current market are lower than in 2007 and 2008, and claims experience in terms of frequency and severity has continued to deteriorate. Also, the full impact on the program of Ontario's adoption of HST has now been evaluated and factored into the premium calculations.

103. In setting a base rate for 2013, LAWPRO tested its five-year planning horizon under various scenarios. Overall company results are projected to exceed break-even, thus allowing LAWPRO to both stabilize and strengthen its capital position for the possible challenges of coming years. Many factors influence this forecast, most significantly interest rates and claims experience. The results of this forecast cannot be considered definitive in nature and further base rate increases may be required in future years.

**104. Accordingly:**

- a) **The base premium is \$3,350 per lawyer for 2013, the same base premium charged in 2011 and 2012;**
- b) **Revenues from supplemental premium levies (real estate and civil litigation transaction levies, as well as claim history levies) are budgeted at \$26.0 million for the purposes of establishing the base premium for 2013 and other budgetary purposes;**
- c) **No funds are expected to be drawn from the Errors & Omissions Insurance ("E&O") Fund to be applied to the 2013 insurance premium; and**
- d) **To the extent that levies (noted in (b) above) collected in 2013 are different than the budgeted amount, the surplus or shortfall is expected to flow to/from the E&O Fund.**

*(f) Other Adjustments*

105. With the exception of the changes specifically described in this report, all aspects of the insurance program for 2013 will remain unchanged from the program now in place.

106. As detailed in **Appendix “A”**, subject to the noted changes, the current insurance program for lawyers in private practice encompasses the following:

- standard practice coverage, including Mandatory Innocent Party Coverage;
- coverage options, including Innocent Party Buy-Up, Part-Time Practice, Restricted Area of Practice and Real Estate Practice.

107. The current program also provides for premium discounts and surcharges. Discounts and surcharges expressed as a percentage of premium include:

- New Lawyer discount;
- Part-Time Practice discount;
- Restricted Area of Practice Option discount;
- adjustments for deductible options and minimum premiums; and
- a surcharge in the event that no completed application form is filed.

108. Discounts and surcharges expressed as a stated dollar amount include:

- the Mandatory Innocent Party premium;
- optional Innocent Party Buy-Up premium;
- the Real Estate Practice Coverage premium;
- premium discount for early lump sum payment;
- e-filing discount; and
- Continuing Professional Development discount.

**109. Subject to the changes identified earlier in this report, the remaining exemption criteria, policy coverage, coverage options, and premium discounts and surcharges in place in 2012 will remain unchanged for the 2013 insurance program.**

**CONCLUSION**

**110. The LAWPRO Board considers the program changes to be appropriate and consistent with its mandate as set out in the 1994 Insurance Committee Task Force Report. The LAWPRO Board offers this program of insurance for 2013 and asks for Convocation's acceptance of this Report at the September Convocation, so that the 2013 insurance program can be implemented by January 1, 2013.**

**ALL OF WHICH LAWPRO'S BOARD OF DIRECTORS RESPECTFULLY SUBMITS TO CONVOCATION.**

September 2012

**Susan T. McGrath**

Chair of the Board

Lawyers' Professional Indemnity Company

**Ian D. Croft**

Vice-Chair of the Board

Lawyers' Professional Indemnity Company

## **APPENDIX A**

- **Standard Insurance Program Coverage  
For 2013 & Program Options** **39**

|   |
|---|
| <b>The Standard Insurance Program Coverage for 2013</b> |
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*Eligibility*

- Required of all sole practitioners, lawyers practising in association or partnership, and lawyers practising in a Law Corporation, who are providing services in private practice.
- Required of all other lawyers (e.g. retired lawyers, in-house corporate counsel and other lawyers no longer in private practice) who do not fully meet the program exemption criteria.
- Available to lawyers who do meet the exemption criteria but opt to purchase the insurance coverage.

*Coverage limit*

- \$1 million per CLAIM/\$2 million aggregate (i.e. for all claims made in 2013), applicable to CLAIM expenses, indemnity payments and/or cost of repairs together.

*Standard DEDUCTIBLE*

- \$5,000 per CLAIM applicable to CLAIM expenses, indemnity payments and/or costs of repairs together.

*Standard base premium*

- \$3,350 per insured lawyer.

*Transaction Premium Levy*

- \$65 per real estate transaction and \$50 per civil litigation transaction;
- No real estate transaction levy generally payable by transferee's lawyer if title-insured.

*Premium reductions for new lawyers*

- Premium for lawyers with less than 4 full years of practice (private and public):
  - ◊ less than 1 full year in practice: premium discount equal to 50 per cent of base premium;
  - ◊ less than 2 full years in practice: premium discount equal to 40 per cent of base premium;
  - ◊ less than 3 full years in practice: premium discount equal to 30 per cent of base premium;
  - ◊ less than 4 full years in practice: premium discount equal to 20 per cent of base premium.

**Mandatory Innocent Party Coverage***Eligibility*

The minimum coverage of \$250,000 per claim/in the aggregate must be purchased by all lawyers practising in association or partnership (including general, MDP and LLP partnerships), or in the employ of other lawyers.

The minimum coverage must also be purchased by all lawyers practising in a Law Corporation, where two or more lawyers practise in the Law Corporation.

*Premium*

\$250 per insured lawyer.

**2013 Program Options**

**1. Deductible option**

*\$Nil deductible*

- Increase in premium equal to 15 per cent of base premium (\$502.50 increase).

*\$2,500 deductible applicable to CLAIM expenses, indemnity payments and/or costs of repairs together*

- Increase in premium equal to 7.5 per cent of base premium (\$251.25 increase).

*\$2,500 deductible applicable to indemnity payments and/or costs of repairs only*

- Increase in premium equal to 12.5 per cent of base premium (\$418.75 increase).

*Standard insurance program: \$5,000 deductible applicable to CLAIM expenses, indemnity payments and/or costs of repairs together*

- Base premium of \$3,350 per insured lawyer.

*\$5,000 deductible applicable to indemnity payments and/or costs of repairs only*

- Increase in premium equal to 10 per cent of base premium (\$335 increase).

*\$10,000 deductible applicable to CLAIM expenses, indemnity payments and/or costs of repairs together*

- Decrease in premium equal to 7.5 per cent of base premium (\$251.25 decrease).

*\$10,000 deductible applicable to indemnity payments and/or costs of repairs only*

- Increase in premium equal to 7.5 per cent of base premium (\$251.25 increase).

*\$25,000 deductible applicable to CLAIM expenses, indemnity payments and/or costs of repairs*

- Decrease in premium equal to 12.5 per cent of base premium (\$418.75 decrease).

**2. Innocent Party Sublimit Coverage Options**

***Innocent Party Coverage Sublimit Buy-Up: For lawyers practising in associations, partnerships and Law Corporations***

Lawyers practising in association or partnership (including general, MDP and LLP partnerships) or a Law Corporation (with more than one practising lawyer) can increase their Innocent Party Coverage in two ways:

Increase coverage sublimit to:

Additional annual premium:

\$500,000 per CLAIM/aggregate

\$150 per insured lawyer

\$1 million per CLAIM/aggregate

\$249 per insured lawyer

***Optional Innocent Party Sublimit Coverage: For sole practitioners and lawyers practising alone in a Law Corporation***

*Coverage limits*

- \$250,000 per CLAIM/in the aggregate
- \$500,000 per CLAIM/in the aggregate
- \$1 million per CLAIM/in the aggregate

### 3. Practice Options

#### ***Restricted Area of Practice Option***

##### *Eligibility*

Available only to lawyers who agree to restrict their practice to criminal<sup>12</sup> and/or immigration law<sup>13</sup> throughout 2013.

##### *Premium*

Eligible for discount equal to 50 per cent of base premium, to a maximum of \$1,675.<sup>14</sup>

#### ***Part-Time Practice Option***

##### *Eligibility*

Available only to part-time practitioners who meet the revised part-time practice criteria.

##### *Premium*

Eligible for discount equal to 50 per cent of base premium, to a maximum of \$1,675.

#### ***Real Estate Practice Coverage Option***

##### *Eligibility*

All lawyers who intend to practice REAL ESTATE LAW in Ontario in 2013 must be ELIGIBLE for and apply for this coverage option.

“ELIGIBLE” means eligible to practice REAL ESTATE LAW in Ontario in accordance with the *Law Society Act*, R.S.O. 1990, c. L.8. Categories of lawyers who would not be ELIGIBLE to practice REAL ESTATE LAW in Ontario, include:

- Those who are in bankruptcy;
- those who have been convicted or disciplined in connection with a real estate fraud;
- those under investigation, where the Law Society obtains an interlocutory suspension order or a restriction on the lawyer’s practice prohibiting the lawyer from practicing real estate, or an undertaking not to practise real estate.

##### *Premium*

\$250 per insured lawyer.

### 4. Premium Payment Options

#### ***Instalment Options:***

- Lump sum payment by cheque or pre-authorized bank account debit: eligible for \$50 discount.
- Lump sum payment by credit card
- Quarterly instalments
- Monthly instalments

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<sup>12</sup> Criminal law is considered to be legal services provided in connection with the actual or potential prosecution of individuals, municipalities and government for alleged breaches of federal or provincial statutes or municipal by-laws, generally viewed as criminal or quasi-criminal.

<sup>13</sup> Immigration law is considered to be the practice of law dealing with any and all matters arising out of the *Immigration and Refugee Protection Act* (S.C. 2001, c.27) and regulations, and procedures and policies pertaining in this report, including admissions, removals, enforcement, refugee determination, citizenship, review and appellate remedies, including the application of the *Charter of Rights and Freedoms* and the *Bill of Rights*.

<sup>14</sup> The maximum premium discount for Restricted Area of Practice, Part-Time Practice options and the New Practitioners’ discount combined cannot exceed 50 per cent of the base premium.

**5. E-filing Discount**

- \$25 per insured lawyer (if filed by November 1, 2012)

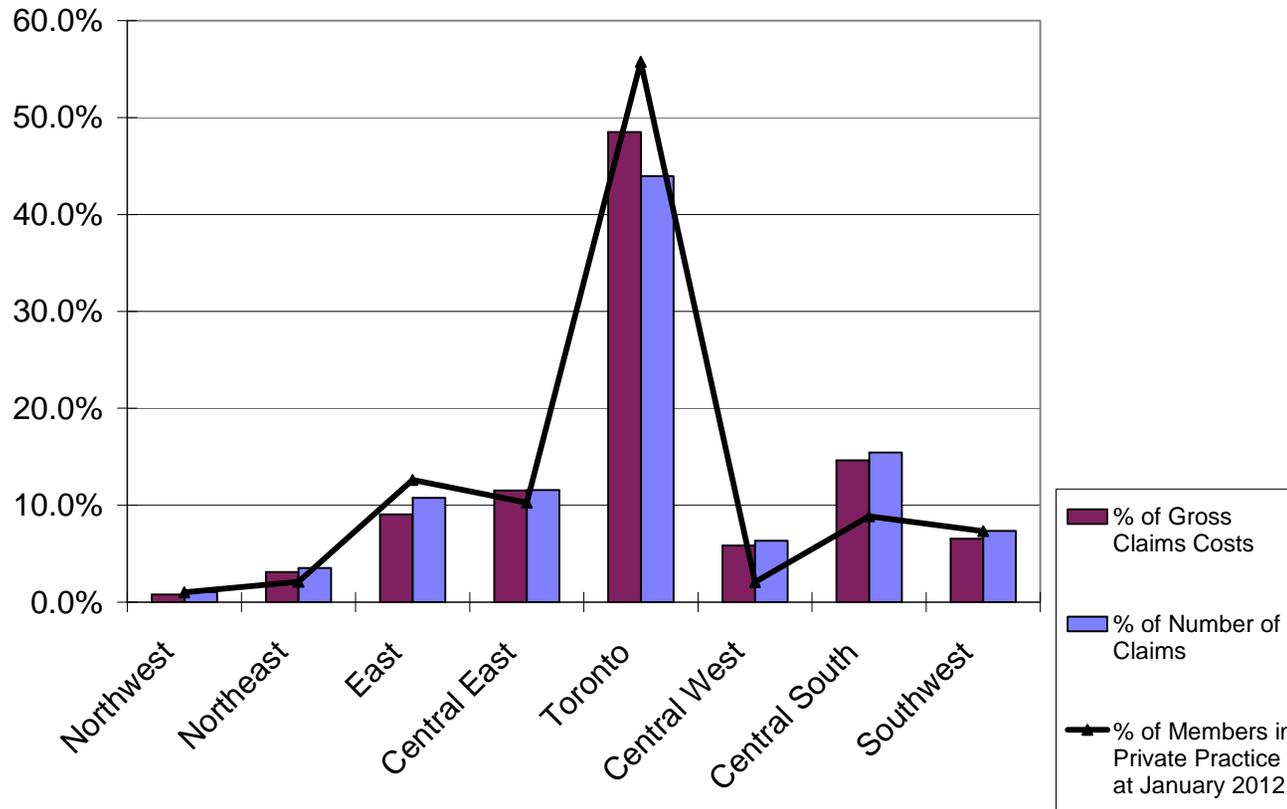
**6. LAWPRO Risk Management Credit (previously the Continuing Professional Development, or CPD, Premium Credit)**

- \$50 per course, subject to a \$100 per insured lawyer maximum discount, will be applied under the 2014 insurance program.
- For pre-approved legal and other educational risk management courses taken and successfully completed by the insured lawyer between September 16, 2012, and September 15, 2013, where the lawyer completes and files the required LAWPRO Risk Management Credit online declaration by September 15, 2013.
- LAWPRO'S Online Coaching Centre is included as a pre-approved course, where the insured lawyer completes at least three modules between September 16, 2012, and September 15, 2013.

## **APPENDIX B**

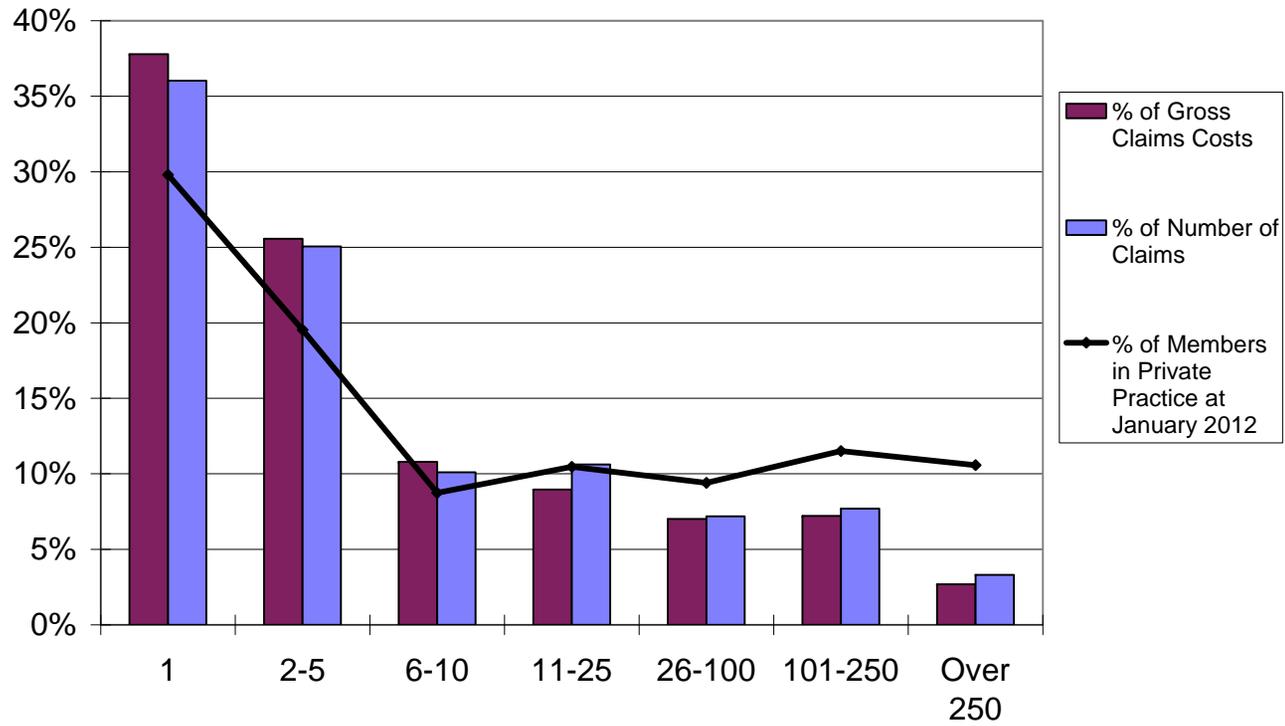
|   |           |
|---|-----------|
| • <b>Distribution of Claims by Geographic Region</b>        | <b>44</b> |
| • <b>Distribution of Claims by Firm Size</b>                | <b>45</b> |
| • <b>Distribution of Claims by Years Since Date of Call</b> | <b>46</b> |
| • <b>Claims Causes by Area of Law</b>                       | <b>47</b> |
| • <b>The 80-20 Rule</b>                                     | <b>49</b> |

**Distribution of Claims by Geographic Region (2000-2011)**



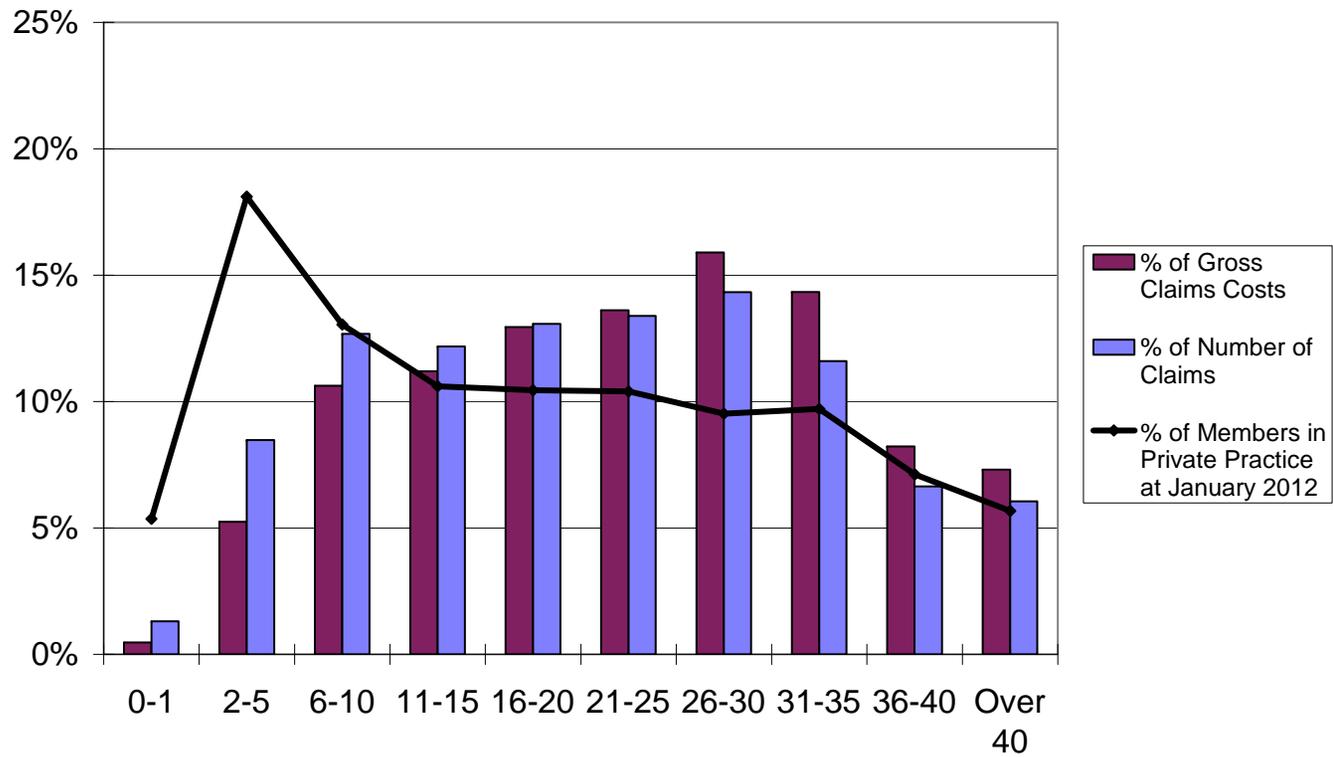
Actual claims experience generally correlates well with a region’s membership base.

Distribution of Claims by Firm Size (2001-2012)



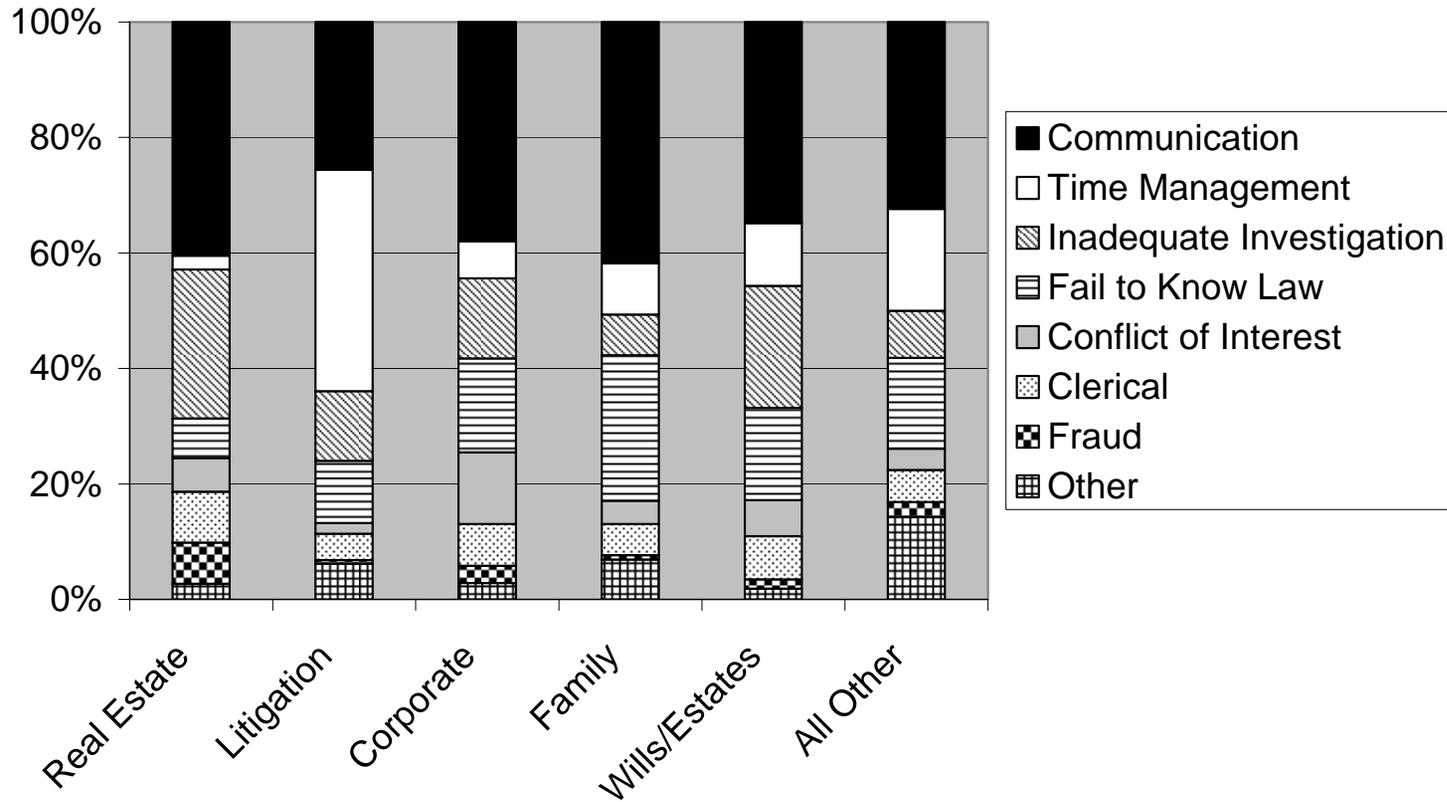
Sole practitioners and small practices represent a greater risk than larger legal practices.

**Distribution of Claims by Years since Date of Call (2000-2011)**



New practitioners represent a disproportionately lower risk than those in practice for 11 years or more.

### Claim Causes by Reported Claims Count and Area of Law (2001 to 2011)



**Communications:** Communication-related errors (including poor communication, not keeping clients informed or failing to obtain client consent) are the biggest causes of claims in all areas of law (except litigation, where it is the #2 cause) and in firms of all sizes. While the most numerous claims, they are at the same time the most easily prevented. Lawyers can reduce their exposure to these types of claims by controlling client expectations, actively communicating with the client at all stages of a matter, documenting advice and instructions and confirming in writing what work was done on a matter at each step along the way.

**Time management:** These kinds of claims include failing to ascertain a deadline, failing to calendar the deadline, and failing to react to the deadline even when it was known. These lapses often become claims when a limitation period ends up being missed. There are also claims resulting from procrastination when a lawyer lets files that require work languish for extended periods of time. Time management claims are heavily concentrated in the litigation field, as it is so reliant on deadlines. They are also high in the intellectual property area. Practice management software and tickler systems can help prevent these claims, as can lawyers building in more time cushions so that they aren't undone by unexpected delays.

**Inadequate investigation:** Modern technology and busy practices may be behind the tendency of lawyers to give quick legal advice without taking extra time to dig deeper or ask appropriate questions on a client's matter. LAWPRO has seen a big increase in these types of claims in real estate, litigation and will/estates areas of law. High-volume real estate practices often mean lawyers don't have enough time to ask the clients about their plans for the property, and as a result don't do the necessary searches or obtain the proper title insurance.

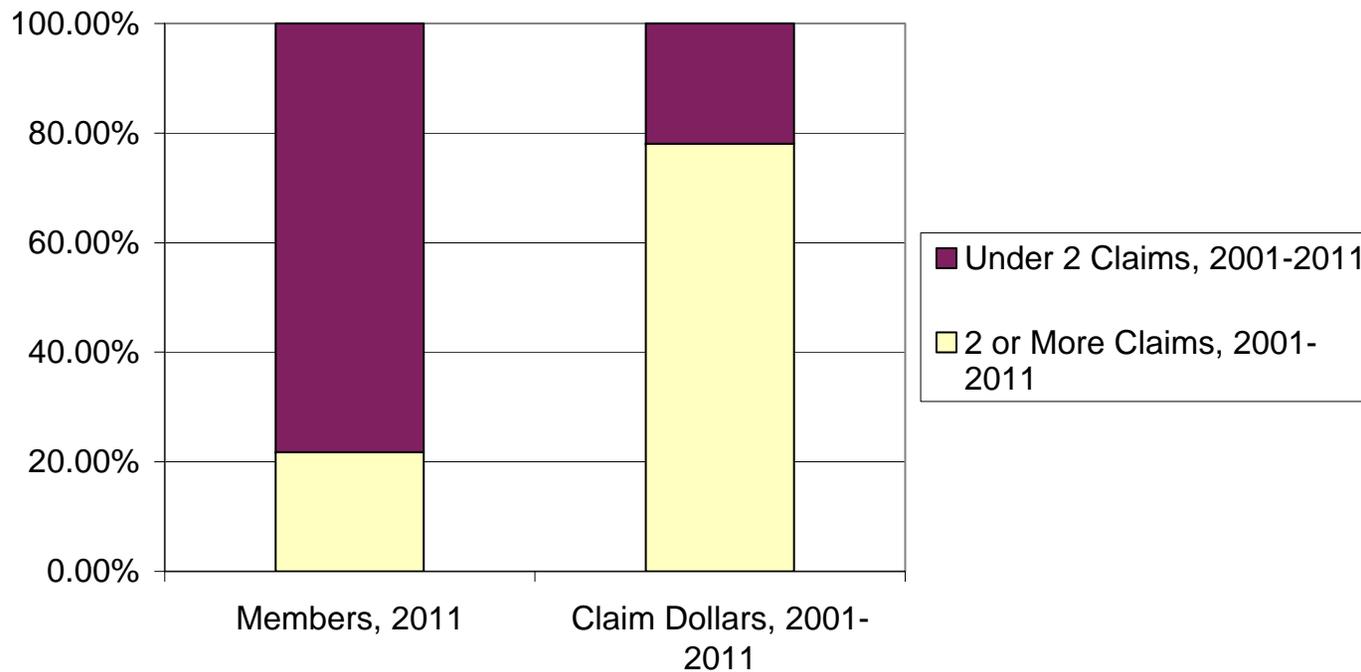
**Failure to know/apply the law:** These claims result from a lawyer not having sufficient or current knowledge of the relevant law on a matter in which he or she is working. Extensive federal and provincial legislation, as well as voluminous case law, help make this the second-most-common type of claim in family law. This category also includes failing to know or appreciate the consequences of tax law in corporate/commercial matters. Lawyers can best avoid this type of claim by sticking to the law they know best and not "dabbling" in other areas.

**Conflict of interest:** There are two types of conflict claims: the first arises when conflicts occur between multiple current or past clients represented by the same lawyer or firm. The second is a conflict that arises when a lawyer has a personal interest in the matter. As they regularly act for multiple clients/entities, real estate and corporate commercial lawyers experience proportionately more conflicts claims than other areas of law, while litigators have a relatively low rate of conflicts claims.

**Clerical errors:** These types of errors include things such as simple clerical mistakes, errors in mathematical calculation, work delegated to an employee or outsider that isn't checked and failures to file documents. As important as delegation is to the efficient functioning of a law firm, lawyers need to take the time to review the work as they are ultimately responsible for it.

**Fraud:** Fraud continues to be a significant and costly problem for LAWPRO. Lawyers are reporting attempted frauds to LAWPRO on a daily basis. Fraudsters are successfully duping lawyers and law clerks, and it's not just real estate lawyers who are being targeted. Litigation, business and family law lawyers are the regular targets of bad cheque scams involving debt collections, spousal support payments and business loans. Through our efforts, Ontario lawyers are clearly more aware of frauds, but ever more sophisticated frauds mean lawyers must continue to keep their guard up.

**The 80-20 Rule**  
**Claims Reported, 2000-2011**  
**Members in Practice, 2011**



80 per cent of claims are incurred by 20 per cent of lawyers

## **APPENDIX C**

- **Premium Rating Examples**

**51**

## Appendix "C"

## Premium Rating Examples (In Dollars)

|  | 1995*                 | 2000**  | 2005**  | 2010*** | 2011*** | 2012*** &<br>2013*** |
|--|-----------------------|---------|---------|---------|---------|----------------------|
| <b>Base premium</b>  | \$5,600               | \$3,150 | \$2,625 | \$2,950 | \$3,350 | <b>\$3,350</b>       |
| <b>Examples:</b>   |                       |         |         |         |         |                      |
| <b>1. Sole Practitioner Practising Real Estate Law</b><br>- \$10,000 defence & indemnity deductible<br>- early lump sum payment discount<br>- early e-filing of application  | \$5,600*              | \$2,714 | \$2,228 | \$3,054 | \$3,424 | <b>\$3,274</b>       |
| <b>2. Firm Practitioner Practising Real Estate Law</b><br>- \$25,000 defence & indemnity deductible<br>- \$250,000 Mandatory Innocent Party cover<br>- early e-filing of application   | \$6,000*              | \$2,956 | \$2,497 | \$3,206 | \$3,556 | <b>\$3,406</b>       |
| <b>3. New Lawyer Practising in Association</b><br>- first year in practice discount<br>- \$250,000 Mandatory Innocent Party cover<br>- \$10,000 defence & indemnity deductible<br>- early lump sum payment discount<br>- early e-filing of application | \$3,900*              | \$1,704 | \$1,428 | \$1,724 | \$1,934 | <b>\$1,599</b>       |
| <b>4. Criminal Lawyer (sole practitioner)</b><br>- Restricted Areas of Practice discount<br>- \$10,000 defence & indemnity deductible<br>- early lump sum payment discount<br>- early e-filing of application  | \$5,600*              | \$1,454 | \$1,178 | \$1,474 | \$1,684 | <b>\$1,349</b>       |
| <b>5. Part-time Lawyer (in association)</b><br>- Part-time Practitioner discount<br>- \$1,000,000 Optional Innocent Party cover<br>- \$10,000 defence & indemnity deductible   | \$6,000* <sup>†</sup> | \$2,153 | \$1,877 | \$2,048 | \$2,258 | <b>\$1,923</b>       |
| <b>6. Firm Practitioner with 1 Claim</b><br>- claim history levy surcharge<br>- \$5,000 defence & indemnity deductible<br>- \$250,000 Mandatory Innocent Party cover   | \$8,500*              | \$5,900 | \$5,375 | \$5,700 | \$6,100 | <b>\$6,100</b>       |
| <b>7. Sole Practitioner with 2 Claims</b><br>- claims history levy surcharge<br>- \$5,000 defence & indemnity deductible   | \$10,600*             | \$8,150 | \$7,625 | \$7,950 | \$8,350 | <b>\$8,350</b>       |

\* Subject to a \$6,000 defence and indemnity deductible (adjusted to \$7,500 in the case of an insured with one previous claim, or \$8,500 in the case of two previous claims).

<sup>†</sup> Subject to \$250,000 Innocent Party cover only, additional limits not available.

\* Members are also required to pay a \$25 levy for each civil litigation or real estate transaction not otherwise excluded.

\*\* Members are also required to pay a \$50 levy for each civil litigation or real estate transaction not otherwise excluded.

\*\*\* \$65 per real estate transaction and \$50 per civil litigation transaction. Premium for the Real Estate Practice Coverage Option was also applied and is included in the calculated premium amounts for these years.

## **APPENDIX D**

- **LAWPRO Vision, Mission & Values** **53**
- **LAWPRO Statement on Corporate Social Responsibility** **54**



## Our vision

To be regarded as the preferred insurer in all markets and product lines in which we do business.

## Our mission

To be an innovative provider of insurance products and services that enhance the viability and competitive position of the legal profession.

## Our values

### *Professionalism*

**Individually and as a team, we hold ourselves to the highest professional standards.**

We deliver programs and services known for quality and cost-effectiveness, and for being practical, helpful and relevant.

We demand the best of ourselves every day and in everything we do.

### *Innovation*

**We foster a climate in which creativity, innovation and change can flourish.**

We share ideas, skills and knowledge and encourage continual learning.

We value teamwork and collaboration, and the diverse strengths and perspectives of others.

### *Integrity*

**We act with the highest levels of integrity in all of our interactions and decisions.**

We aim to always be consistent, fair, ethical and accountable.

### *Service*

**We strive for excellence in customer service.**

We share our knowledge, experience and expertise with our customers and with each other, so that together we can identify, prevent and solve problems.

We take the time to listen and understand, so we can respond effectively and empathetically to our customers and to each other.

We demonstrate courtesy and genuine respect for all.

### *Leadership*

**We try to make the world a better place, and to that end lend our energy and expertise to many communities.**



## Statement on Corporate Social Responsibility

LAWPRO's vision is to be regarded as the preferred insurer in all product lines and markets in which it does business.

Implicit in this vision – and in the values that support our vision – is a commitment to being a responsible, involved and accountable citizen of the many communities in which we hold membership: the employer community, the insurance community, the legal community, and of course the larger community in which we all live.

The LAWPRO Corporate Social Responsibility Statement is informed by this spirit of community and accountability, while acknowledging that that we are governed and profoundly shaped by our unique role as the provider of the primary professional liability insurance program for all lawyers in Ontario. Our social responsibility commitment as a corporate body is focused on four principal areas:

### **Providing a healthy and rewarding workplace**

We respect and value our employees and the vital role they play in enabling the company to fulfill its mandate. To that end we adopt policies and practices that not only comply with applicable law and fair labour practices, but also respect diversity, promote inclusion and fellowship, cultivate professional growth through education and service, and promote health, safety and wellness, in the workplace and in personal life.

### **Respecting the environment**

We believe that individually and as a company we have a role to play as stewards of our environment and its resources. To that end we support and promote initiatives in our company that help advance the goal of a sustainable environment.

The company supports the work of its employee-led Green Committee, which aims to educate LAWPRO employees about the role individuals and organizations can play in protecting and improving the environment. LAWPRO also has spearheaded a company-wide campaign to reduce reliance on paper and related products, and facilitate use of technology in all aspects of the company's operations. The company actively encourages initiatives such as these that meet a dual mandate of being stewards of the environment and the bar's resources.

### **Fostering the legal community**

We view a committed, healthy and diverse bar as essential to the functioning of a democracy and to the protection of individual rights in society.

We have over the years provided financial and in-kind support to organizations that promote and deliver lawyer wellness programs. As well, we make available wellness information and resources electronically at no cost.

We support and sponsor a range of legal-related charitable and non-profit causes that advance the role and reputation of lawyers in our community and, by implication, foster access to justice in Canada. We also work to support charitable initiatives which have captured the interest and imagination of the bar and their clients. We promote the enrichment of the bar through our promotion of legal education, both internally and externally, and by fostering the building of relationships within the legal community.

### **Supporting the broader Canadian community**

We acknowledge that, as highly skilled and employed individuals, we are among the fortunate in our community. LAWPRO employees give back by selecting five registered charities annually and partner with the company to fundraise for their benefit. In addition, each LAWPRO employee may request one "charity day" per year to undertake work for the registered charity of the employee's choice.

We actively contribute to the advancement of the Canadian insurance industry, and engage in a dialogue with government in the interests of the bar and the Canadian consumer.

We promote inclusion by working to expand the range of our materials available in both official languages and by providing materials in other languages based on level of demand.

February 2012



## Report to Convocation September 27, 2012

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### Audit & Finance Committee

#### Committee Members

**Christopher Bredt (Co-Chair)**

**Carol Hartman (Co-Chair)**

**John Callaghan (Vice-Chair)**

Cathy Corsetti

Adriana Doyle

Susan Elliott

Seymour Epstein

Lawrence Eustace

Vern Krishna

Janet Leiper

Judith Potter

James Scarfone

Alan Silverstein

Catherine Strosberg

Robert Wadden

Peter Wardle

**Purpose of Report: Decision and Information**

**Prepared by the Finance Department**

**Wendy Tysall, Chief Financial Officer, 416-947-3322**

**TABLE OF CONTENTS**

**For Decision**

Late Fees .....Tab 6.1  
Business Conduct Policy.....Tab 6.2  
2013 LibraryCo Inc. Budget .....Tab 6.3

**For Information** .....Tab 6.4

1. LAWPRO Financial Statements for the six months ended June 30, 2012
2. Law Society of Upper Canada Financial Statements for the six months ended June 30, 2012
3. LibraryCo Inc. Financial Statements for the six months ended June 30, 2012
4. Investment Compliance Reports
5. Other Committee Work

## COMMITTEE PROCESS

1. The Audit & Finance Committee (“the Committee”) met on September 12, 2012. Committee members in attendance were Chris Bredt (co-chair), Carol Hartman (co-chair), John Callaghan (vice-chair), Cathy Corsetti, Adriana Doyle, Susan Elliott, Seymour Epstein, Lawrence Eustace, Vern Krishna, Janet Leiper, Judith Potter, Alan Silverstein, Catherine Strosberg, Robert Wadden, and Peter Wardle.
2. Law Society staff in attendance: Robert Lapper, Wendy Tysall, Terry Knott, Brenda Albuquerque-Boutilier, Fred Grady and Andrew Cawse.
3. Also in attendance were Kathleen Waters and Steve Jorgensen from LAWPRO.

## FOR DECISION

### FEES FOR LATE PAYMENT OF THE ANNUAL FEE AND FILING OF ANNUAL REPORT

#### MOTION

4. That Convocation approve:
- a. a fee to be charged to licensees for late payment of the annual fee under By-Law 5 and the late filing of the annual report under By-Law 8, and
  - b. a reduction in the period of default defined in By-laws 5 and 8 from 120 days to 60 days for 2013 and beyond.

#### Annual Fee

5. In 2012, the annual fees at the 100% fee paying category are \$1,862 and \$982 for lawyers and paralegals respectively. Annual fees are also subject to HST. Invoices for the annual fee are issued to existing licensees each year in December for the subsequent year and to newly licensed lawyers and paralegals on a monthly basis throughout the year.
6. Under By-Law 5, payment of the annual fee is due on January 1 every year and the “period of default” to pay the annual fee is 120 days after January 1, or May 1 for those invoiced in December. In 2012, 3,159 lawyers and 684 paralegals had not paid their annual fee by May 1<sup>1</sup>.
7. Subsequent to the invoice being mailed in December, a second notice is sent in March to lawyers and paralegals that have not paid, and a final notice is sent in mid May. During late May and early June, attempts are made to contact delinquent licensees by phone to be made aware of the potential for summary suspension for failure to pay the annual fee.

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<sup>1</sup> 60% of lawyers who had not paid their fees by May 1, 2012 were in the 100% fee category. 50% of paralegals who had not paid their fees by May 1, 2012 were in the 100% fee category.

8. As a final step, a registered letter is sent indicating that the summary suspension order will take effect in five business days. The process thus concludes with summary suspension towards the end of June.
9. As of early September 2012, 262 lawyers and 200 paralegals have been suspended under this process for failing to pay the 2012 annual fee. This extended collection process results in significant Law Society resources being expended on a small number of licensees who fail to pay on time.
10. The Committee recommends that a late fee be approved. The proposed fee, for lawyers and paralegals in the 100% fee category, for late payment of the annual fee after the period of default is \$100. The late fee for the 50% and 25% fee categories will be finalized upon further review of the options by the Audit & Finance Committee. The late fee will be in addition to a reinstatement fee of \$200 (up from \$150) required when licensees return from suspension. The amount is comparable to that imposed by other regulators. For example, the late payment fee for practising members at the Law Society of British Columbia is \$100 and the Institute of the Chartered Accountants of Ontario charges \$100.
11. Had the proposed late fee been in effect for 2012, the potential revenue generated to date would have been around \$300,000 from lawyers and \$68,000 from paralegals. However, the introduction of late fees is not recommended as a means to generate additional revenue; rather, it is intended to change the behaviour of those lawyers and paralegals who do not fulfill their obligation to pay the annual fee within the default period.
12. Licensees would be given five days grace after the default date before the late fee is charged to ensure the processing of all payments is up to date.
13. The late fee will also be imposed on those licensed for the first time during the year and who exceed the period of default.
14. If the licensee is suspended, the suspension will remain in place until all amounts due for the annual fee, the late fee and the reinstatement fee are paid.

15. It is intended that the implementation of a late fee for the payment of the annual fee will be accompanied by a communications plan involving notices in the Ontario Reports, the Gazette, the Law Society's web site, as well as clear notice on the invoice and accompanying explanatory notes for the annual fee.

#### Annual Report

16. Under By-Law 8, every licensee shall file a report with the Law Society, by March 31 of each year, in respect of the licensee's professional business during the preceding year and any other activities related to the licensee's practice of law or provision of legal services. These forms are known as the Lawyer Annual Report and the Paralegal Annual Report.
17. As is the case with annual fees, licensees are given a 120 period of default after the due date in which to file their annual report.
18. Prior to December 31 each year, licensees are notified to file their annual reports, which are now submitted electronically via the member portal. As mentioned, the period of default for failure to file a report is 120 days after the day the report is required to be filed or March 31.
19. In 2011, 9,342 lawyers and 1,233 paralegals had not submitted their annual report by March 31. Like the process for late annual fee payments, a similar resource intensive process of telephone calls and mailings is undertaken warning of imminent suspension. This summary suspension process concludes around Labour Day. In 2011, 187 lawyers and 58 paralegals were suspended under this process.
20. The proposed fee for filing an annual report after the period of default is \$100, in line with similar type fees. Like the proposed late fee for annual fee payments, the introduction of late fees is not recommended as a means to generate additional revenue;

rather, it is intended to change the behaviour of the those lawyers and paralegals who do not fulfill their obligation to file their annual report within the default period.

21. The late fee will be the same for lawyers and paralegals. The Committee noted that other regulators impose similar fees. For example, the trust report late filing fee for practising members at the Law Society of British Columbia is \$200.
22. Licensees would be given five days grace after the default date before the late fee is charged to ensure the processing of all filings is up to date.
23. Currently, licensees pay a reinstatement fee if returning from suspension, a result of not paying annual fees but do not pay a reinstatement fee if returning from suspension resulting from failure to file annual reports. If the licensee is suspended, the suspension should continue until the annual fee is properly paid and / or the Annual Report is properly filed and all related fees (both the late fee and reinstatement fee) are paid.
24. It is intended that the implementation of a late fee for filing the annual report will be accompanied by a communications plan involving notices in the Ontario Reports, the Gazette and the member's portal including the annual report itself.

#### Period of Default

25. Currently, By-laws 5 and 8 define the period of default for the above-described obligations as 120 days. The Committee believes this period of default is excessive and should be reduced.
26. The 120 period of default is inconsistent with normal business practice in which 30 days to pay is generally considered the maximum allowable. Under the current arrangement, the time from the date of issue to the date actual payment / filing must be made is almost five months.

27. The current grace period creates a number of issues including forgotten payments, duplicate payments and lost invoices. In addition, the Law Society is required to make an HST remittance, based on the total of the annual fees billed, by January 31st of approximately \$10 million. Continuing to allow payments to be delayed until May 1, means that the Law Society could be faced with cash flow issues.
28. By point of comparison, the Law Society of British Columbia's by-laws read
- “the annual practising fee and insurance fee are payable in respect of each calendar year.
- The date for payment of the annual practising fee and first insurance fee instalment is November 30 of the year preceding the year for which they are payable.
- A lawyer who fails to pay fees by the date required under Rule 2-70 but pays all required fees before December 31 of the year preceding the year for which they are payable, together with the late payment fee under this Rule, continues to be a member of the Society. “
29. In effect the B.C. by-law suspends members who have not paid their annual fee in its entirety by January 1.
30. The Committee recommends the default period be reduced to 60 days for the 2013 year and beyond.
31. It is intended that this change in the default period to 60 days will be accompanied by a communications plan involving notices in the Ontario Reports, the Gazette and the member's portal including the invoice and annual report itself.

#### Other Comments

32. The recommendations on late fees and the default period have also been assessed and recommended by the Professional Regulation Committee and the Paralegal Standing Committee. These Committees reviewed the issue as a matter related to regulation and enforcement of licensees' obligations.

33. The implementation of late fees has not been extended to Continuing Professional Development filings at the current time as this process is still new and is being assessed and reviewed. The Committee recommends that late filing fees be included as part of this review.
34. The implementation of these fees is not intended to extend to the late payment of Errors and Omissions insurance premiums
35. Other administrative fees have been reviewed and increases will be implemented as appropriate in 2013.

## FOR DECISION

### BUSINESS CONDUCT POLICY

#### MOTION

- 36. That Convocation approve the revised Business Conduct Policy for employees of the Law Society.**
37. The Business Conduct Policy is an important tool within the Law Society's internal control environment. The Policy is intended to ensure consistently ethical and honest business conduct and is regularly updated to ensure relevance. Draft changes to the Policy, updating it from the version approved by Convocation in May, 2011, were reviewed by the Audit Committee in May and June 2012. Convocation did not have time to review the proposed changes in June 2012, so the draft policy is being returned to Convocation via the new Audit & Finance Committee in September.
38. In addition, since June, all references to the old Audit Committee and Finance Committee in the policy have been replaced with the Audit & Finance Committee to reflect the recent change in committee structure. A draft of the revised policy and a comparison to the previous policy (changes tracked) is attached.
39. It is intended that a copy of the approved policy will be placed on the Law Society's web site for the information of members and service providers.

| <b>HUMAN RESOURCES POLICIES &amp; PROCEDURES</b> |                      |
|--|----------------------|
| <b>Section:</b> General Policy Statements        | Code Number 2.01     |
| <b>Subject:</b> Business Conduct Policy          |                      |
| <b>Effective Date:</b> September 27, 2012        | Page: 1 of 5         |
| <b>Policy Issue Date:</b>                        | Supersedes: May 2011 |

## 1. ORGANIZATIONAL AND EMPLOYEE INTEGRITY

The Law Society's employees interact, on a daily basis, with licensees, with members of the public, with a wide variety of other stakeholders and with many other persons. It is through the professionalism, civility and courtesy demonstrated in these interactions that respect for each other can be achieved. The Law Society's employees are ambassadors of the Law Society and are expected to reflect a professional image at all times, whether at or away from work. Employees should be conscious of the Law Society's function and duties and should conduct themselves with the highest degree of moral and ethical behaviour and integrity.

Improper behaviour in the workplace has a negative effect on all employees and on the Law Society's many stakeholders (including licensees and the public). Employees should therefore be professional, civil and courteous with one another and all those with whom they deal.

Above all, the behaviour of the Law Society's employees should be reflective of the Law Society's reputation for integrity.

## 2. COMPLIANCE WITH LAWS AND POLICIES

The Law Society's reputation for integrity is one of its most valued assets and essential to the fulfillment of its mission of governing the profession and protecting the public interest. It is imperative that honesty and fair dealing characterize all of the Law Society's activities both with the public and the profession. Personal integrity demonstrates soundness of moral principle and good character especially in relationship to truth and fair dealing, uprightness, honesty and sincerity. To ensure that this basic policy is followed fully, the Law Society strives at all times to be in compliance with all applicable laws and regulations and formal internal policies.

If any Law Society employee should have reason to be concerned at any time that the Law Society is not operating in compliance with applicable laws and regulations or formal internal policies, or if any Law Society employee has knowledge of any matter which might affect adversely the Law Society's reputation or operations, the employee should immediately report the concern or matter to a manager, or if preferred to any of the following: a senior manager, the Chief Executive Officer, the Treasurer, the Chair and Vice Chair of the Audit & Finance Committee. A manager to whom a report has been made, and who has reason to be concerned that the Law Society is not operating in compliance with applicable laws and regulations or formal internal policies or believes the Law Society's reputation or operations might be adversely affected, shall bring it promptly to the attention of his or her senior manager, or if preferred to any of the following: the Chief Executive Officer, the Treasurer, the Chair and Vice Chair of the Audit & Finance Committee. A senior manager to whom a report has been made, and who has reason to be concerned that the Law Society is not operating in compliance with applicable laws and regulations or formal internal policies or believes the Law Society's reputation or operations might be adversely affected, shall bring it promptly to the attention of the Chief Executive Officer, or if preferred to any of the following: the Treasurer, the Chair and Vice Chair of the Audit & Finance Committee. The Chief Executive Officer is responsible for bringing to the attention of the Audit & Finance Committee reports of non-compliance with applicable laws and regulations or formal internal policies and reports of matters that might affect adversely the Law Society's reputation or operations.

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### **3. PAYMENTS OF LAW SOCIETY FUNDS**

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### **4. GIFTS AND HOSPITALITY**

Law Society employees shall not give gifts to persons who use the services of the Law Society, clients, patrons or suppliers, other than items of nominal value, or provide them with hospitality other than such hospitality as is appropriate in a normal business relationship.

No Law Society employee shall give any service or thing of value to any public official, nor to any employee or representative of any entity, for any reason

related to the Law Society's business or with the intent to influence that person's official acts.

No Law Society employee shall accept any benefit from, or have any association, agreement or understanding with, persons who use the services of the Law Society, clients, patrons or suppliers, that would result in, or give the appearance of the persons, clients, patrons or suppliers being favoured or given preference over others.

Law Society staff and any of their family members shall not accept from a supplier any gift, other than items of nominal value, or any hospitality, which is not appropriate to the business relationship. In no circumstances is a payment of money to be accepted.

## **5. CONFLICTS OF INTEREST AND DUTIES**

Law Society employees shall not be in a position of having any undisclosed or avoidable real, perceived or potential conflict between their duties and responsibilities as employees of the Law Society and their personal interests.

A conflict of interest may exist where the employee or his or her family member has a pecuniary interest or non-pecuniary interest in a contract or proposed contract with the Law Society or where the employee may or may be seen to influence the decision made by the Law Society with respect to the contract.

The employee shall have no real, perceived or potential conflicts of interest between the duty to act in the best interest of the Law Society and duties owed to any other activity or organization with which the employee is involved.

If, for example, a Law Society employee serves on the board of directors of a charitable organization, the employee must withdraw from any meeting or other situation in which a specific transaction between the Law Society and charitable organization is or might be involved.

No Law Society employee shall undertake on behalf of the Law Society any business relationship with another entity, that is related in any way to the employee, on terms less favourable to the Law Society than are available from a similar business relationship with an unrelated third party.

## **6. OTHER EMPLOYMENT**

The Law Society's high standards of performance are attributable to its employees. To ensure that the Law Society continues to meet the standards of performance it has established for itself, Law Society employees are expected to avoid other employment, business activity or other undertakings that may

interfere with their duties and responsibilities as employees of the Law Society. Other employment means working for another employer, being self-employed or working for a charitable or volunteer organization which results in receiving or being eligible to receive profit, payment of compensation or other benefit. In appropriate circumstances, where there is no conflict of interest, the CEO may grant permission for an employee being exempted from the application of this rule, such permission to be in writing.

## **7. CONFIDENTIAL INFORMATION**

“Confidential Information” is any information concerning the Law Society that a person obtains during the course of employment with the Law Society. Examples include information about specific complaints or discipline charges against a licensee; details of the licensee’s Errors and Omissions record and information relating to the financial affairs or condition of the Law Society that has not been made available generally to the public.

No Law Society employee shall use or disclose Confidential Information except in the performance of the duties and responsibilities associated with his or her position and, in the case of the disclosure of Confidential Information, where disclosure is necessary and proper in the discharge of the Law Society’s functions or for a specific business purpose of the Law Society or where disclosure is required by law.

Because of the nature of the Law Society’s role, employees should be especially sensitive to the need for this rule. It would be unethical and in some instances illegal to use Confidential Information for any purpose whatsoever, other than the purpose for which it was made available to the Law Society.

## **8. USE OF LAW SOCIETY PROPERTY**

“Law Society Property” includes all property of the Law Society, including equipment, financial assets, land, material, documents (whether in hard or digital/electronic form), inventories, tools, electronic equipment, computers, electronic mail, internet services, Confidential Information and work time.

Law Society Property should only be used by an employee to perform the duties and responsibilities of his or her position or for activities that are supported by the Law Society (e.g., organizing Law Society sponsored social events for employees).

Law Society Property is to remain on Law Society property at all times unless it is necessary to take items off site to perform the duties and responsibilities of an employee’s position. Where Law Society Property is in the care of an employee, it must be protected and kept secure at all times.

A Law Society employee must not under any circumstances misuse Law Society Property or knowingly assist another person to do so.

The intellectual property rights in any work produced by an employee in the course of his/her employment with the Law Society are the exclusive property of the Law Society.

## **9. REPORTING TO AUDITORS**

There shall be no concealment of information from any auditors of the Law Society.

## **10. PROPER ACCOUNTING**

In all accounting and related records, the financial position of each operating entity within the Law Society and the results of its operations shall be accurately recorded and fairly presented, all in accordance with generally accepted accounting principles.

## **11. DEALING WITH SUPPLIERS**

The Law Society shall at all times deal fairly, ethically and in good faith with all suppliers. Every supplier representative shall be given a prompt and courteous hearing and a fair and equal opportunity to seek Law Society business. All major purchases of goods and services shall be made on the basis of competitive quotations, giving due consideration to all relevant factors including service, quality and delivery. A minor purchase may be approved without seeking competitive quotations if there is sufficient purchasing experience and pricing information available to satisfy senior management that the purchase is being made competitively.

With regard to companies and individuals that supply goods or services to the Law Society, employees of the Society:

- (1) shall not serve the supplier in any way;
- (2) shall not have a financial interest in the supplier that could weaken the employee's loyalty to the Law Society;
- (3) shall not ask for special treatment when purchasing goods or services for personal use.

In all dealings with suppliers, employees shall avoid any activity or interest that could in any way impair the integrity of the Law Society.

**CONCLUSION**

In conclusion, the Business Conduct Policy Statement is intended to serve only as a general guide toward compliance with the Law Society's standards of business conduct.

In any case where an employee requires more specific guidance the employee should ask his or her manager for clarification and direction.

It shall be the responsibility of all managers to ensure compliance with the standards of conduct set out in this Business Conduct Policy Statement. Managers should reinforce the Business Conduct Policy Statement by demonstrating by example the standards of conduct set out therein. Each manager shall be responsible for the appropriate distribution of the Business Conduct Policy Statement, for dissemination of the guidelines and for ensuring that they are fully understood and followed. It is the duty of management to investigate suspected violations of the Business Conduct Policy Statement and to respond appropriately. Management must treat employees in a fair and equitable manner.

**Employee Declaration:**

I have read this Business Conduct Policy Statement and confirm that I will comply with its requirements.

\_\_\_\_\_  
Employee Name (printed)

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

| <b>HUMAN RESOURCES POLICIES &amp; PROCEDURES</b>                              |  |
|---|--|
| <b>Section:</b> General Policy Statements                                     | <b>Code Number</b> 2.01                              |
| <b>Subject:</b> Business Conduct Policy                                       |  |
| <b>Effective Date:</b> <del>May, 2011, June 28, 2012-September 27, 2012</del> | <b>Page:</b> 1                                       |
| <b>Policy Issue Date:</b> <del>March 2012</del>                               | <b>Supersedes:</b> <del>November 2007—May 2011</del> |

**1. ORGANIZATIONAL AND EMPLOYEE INTEGRITY**

The Law Society’s employees interact, on a daily basis, with licensees, with members of the public, with a wide variety of other stakeholders and with many other persons. It is through the professionalism, civility and courtesy demonstrated in these interactions that respect for each other can be achieved. The Law Society’s employees are ambassadors of the Law Society and are expected to reflect a professional image at all times, whether at or away from work. Employees should be conscious of the Law Society’s function and duties and should conduct themselves with the highest degree of moral and ethical behaviour and integrity.

Improper behaviour in the workplace has a negative effect on all employees and on the Law Society’s many stakeholders (including licensees and the public). Employees should therefore be professional, civil and courteous with one another and all those with whom they deal.

Above all, the behaviour of the Law Society’s employees should be reflective of the Law Society’s reputation for integrity.

**2. COMPLIANCE WITH LAWS AND POLICIES**

The Law Society’s reputation for integrity is one of its most valued assets and essential to the fulfilment of its mission of governing the profession and protecting the public interest. It is imperative that honesty and fair dealing characterize all of the Law Society’s activities both with the public and the profession. Personal integrity demonstrates soundness of moral principle and good character especially in relationship to truth and fair dealing, uprightness, honesty and sincerity. To ensure that this basic policy is followed fully, the Law Society strives at all times to be in compliance with all applicable laws and regulations and formal internal policies.

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~~interfere conflict with their duties and responsibilities as while working employees at of the Law Society or that may conflict with their duties and responsibilities as an employee of the Law Society.~~ Other employment means working for another employer, being self-employed or working for a charitable or volunteer organization which results in receiving or being eligible to receive profit, payment of compensation or other benefit. In appropriate circumstances, where there is no conflict of interest, the CEO may grant permission for an employee being exempted from the application of this rule. such permission to be in writing.

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recorded and fairly presented, all in accordance with generally accepted accounting principles.

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**CONCLUSION**

In conclusion, the Business Conduct Policy Statement is intended to serve only as a general guide toward compliance with the Law Society’s standards of business conduct.

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**Employee Declaration:**

I have read this Business Conduct Policy Statement and confirm that I will comply with its requirements.

\_\_\_\_\_  
Employee Name (printed)

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\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

**FOR DECISION**

**2013 LIBRARYCO INC. BUDGET**

**Motion**

40. **That Convocation approve the LibraryCo Inc. budget for 2013.**

**Budget Process**

41. LibraryCo's budget process was similar to previous years in that all counties were requested to submit detailed budget requests. The board requested counties to provide explanations for increases in expenditures in excess of 2%. Materials were reviewed by staff and approved by the LibraryCo Board.
42. The 2013 LibraryCo budget results in a per lawyer fee of \$205, an increase of \$2 from 2012.
43. The budget increases expenditures from \$8.3 million to \$8.4 million. This is a 1.3% increase. In particular:
- Law Library grants are budgeted to increase by 2.0% to \$6.2 million in line with Board guidelines
  - Capital and special needs grants are budgeted to decrease by 20% or \$25,000
  - The electronic products budget remains approximately the same
  - The costs of delivering administrative and centralized services have increased by 1.2%
44. Apart from the \$2 increase in the lawyer fee, the increases are also funded by an increase in the number of lawyers by 500 and the use of \$218,000 of prior year surpluses in LibraryCo's General Fund allocated to finance operations in 2013.

45. The summarized 2013 budget is:

|                                       | <b>2013<br/>Budget</b>     | <b>2012<br/>Budget</b>     |
|---------------------------------------|----------------------------|----------------------------|
| Law Library Grants and Capital Grants | \$ 6,287,000               | \$ 6,190,000               |
| Electronic Products                   | 893,000                    | 898,000                    |
| Admin & Centralized Services          | <u>1,259,000</u>           | <u>1,244,000</u>           |
| <b>TOTAL EXPENSES</b>                 | <b><u>\$ 8,439,000</u></b> | <b><u>\$ 8,332,000</u></b> |
| <br><i>Funded by:</i>                 |                            |                            |
| Law Society Fee Levies                | \$ 7,499,000               | \$ 7,293,000               |
| Law Foundation                        | 722,000                    | 722,000                    |
| Use of General and Reserve Fund       | <u>218,000</u>             | <u>317,000</u>             |
| <b>TOTAL REVENUE</b>                  | <b><u>\$ 8,439,000</u></b> | <b><u>\$ 8,332,000</u></b> |

**General and Reserve Funds**

46. At January 1, 2012, LibraryCo’s General Fund had a balance of \$534,000 and LibraryCo’s Reserve Fund had a balance of \$500,000 for a total of the two funds of \$1,034,000.
47. The Reserve Fund is maintained to assist LibraryCo’s cash flows and act as a contingency fund. In accordance with a Board resolution, the fund will be maintained at a minimum of \$500,000, comprising a general component of \$200,000, a capital and special needs component of \$150,000, and a staffing and severance component of \$150,000; any expenses of this fund that would reduce the fund balance below \$500,000 should be replenished in the following year. The reserve fund is anticipated to have a balance of \$500,000 by the end of 2012. Therefore there is no budgeted use of the reserve fund in 2013.

48. The General Fund accounts for the delivery, management and administration of library services as analyzed below:

|  |                  |
|--|------------------|
| Opening balance Jan. 1, 2012                               | \$ 534,000       |
| Projected use in 2012 (less than the \$317,000 budgeted)   | (224,000)        |
| Balance, Dec. 31, 2012 after funding allocations for 2012. | <u>310,000</u>   |
| Budgeted use of reserve in 2013                            | (218,000)        |
| Budgeted Ending Balance, December 31, 2013                 | <u>\$ 92,000</u> |

**Electronic Product**

49. The actual cost of electronic products in 2012 was \$868,000. The contracts negotiations were finalized in 2012 and the 2013 cost has been established to be \$893,000. The Law Foundation has confirmed that funding for 2013 will remain at \$722,000.



### LIBRARYCO INC. 2013 BUDGET (DRAFT)

| Expenses  | Reference  | 2012             | 2012             | 2013             | Change 2012 / 2013 |                |
|---|------------|------------------|------------------|------------------|--------------------|----------------|
|   |            | Projected        | Budget           | Budget           | Budget             | Budget         |
|   |            | \$               | \$               | \$               | %                  | \$             |
| Library System                                      | Schedule A | 6,065,000        | 6,065,000        | 6,187,500        | 2.0%               | 122,500        |
| Supplemental Grants                                 |            | 15,000           | -                | -                | N/A                | -              |
| Capital and Special Needs                           |            | 100,000          | 125,000          | 100,000          | -20.0%             | (25,000)       |
| Electronic Products                                 |            | 868,000          | 897,597          | 892,519          | -0.6%              | (5,078)        |
|   |            | 7,048,000        | 7,087,597        | 7,180,019        | 1.3%               | 92,422         |
| Delivery of Administrative and Centralized Services | Schedule B | 1,191,000        | 1,244,000        | 1,259,000        | 1.2%               | 15,000         |
| <b>Total Expenses</b>                               |            | <b>8,239,000</b> | <b>8,331,597</b> | <b>8,439,019</b> | <b>1.3%</b>        | <b>107,422</b> |
| <b>Revenue</b>                                      |            |                  |                  |                  |                    |                |
| Law Society Fee Levies                              |            | 7,292,500        | 7,292,597        | 7,498,519        | 2.8%               | 205,922        |
| Law Foundation - Electronic Resources               |            | 722,500          | 722,000          | 722,500          | 0.1%               | 500            |
| Use of General Fund                                 |            | 224,000          | 317,000          | 218,000          | -31.2%             | (99,000)       |
| <b>Total Revenue</b>                                |            | <b>8,239,000</b> | <b>8,331,597</b> | <b>8,439,019</b> | <b>1.3%</b>        | <b>107,422</b> |
| <b>Surplus / (Deficit)</b>                          |            | <b>-</b>         | <b>-</b>         | <b>-</b>         | <b>-</b>           | <b>(0)</b>     |
| Full Fee Equivalent Paying Lawyers                  |            |                  | 36,000           | 36,500           | 1.4%               |                |
| LibraryCo Levy per Lawyer                           |            |                  | 203              | 205              | 1.0%               | 2              |

**LIBRARYCO INC.  
BUDGET ANALYSIS BY LIBRARY 2013**

Schedule A

|                                     | Actual<br>Grants<br>2012 | Grants<br>2013   | % Grant<br>Change<br>2012/2013 | Tab |
|-------------------------------------|--------------------------|------------------|--------------------------------|-----|
| Algoma District Law Association     | 128,404                  | 130,972          | 2.0%                           | 3   |
| Brant Law Association               | 95,383                   | 97,295           | 2.0%                           | 4   |
| Bruce Law Association               | 53,201                   | 54,265           | 2.0%                           | 5   |
| Carleton Law Association            | 587,845                  | 599,602          | 2.0%                           | 6   |
| Cochrane Law Association            | 46,216                   | 47,141           | 2.0%                           | 7   |
| Dufferin Law Association            | 45,890                   | 45,890           | 0.0%                           | 8   |
| Durham County Law Association       | 123,791                  | 126,267          | 2.0%                           | 9   |
| Elgin Law Association               | 72,678                   | 74,132           | 2.0%                           | 10  |
| Essex Law Association               | 267,422                  | 272,770          | 2.0%                           | 11  |
| Frontenac Law Association           | 127,353                  | 127,353          | 0.0%                           | 12  |
| Grey Law Association                | 62,016                   | 64,256           | 3.6%                           | 13  |
| Haldimand Law Association           | 28,440                   | 29,010           | 2.0%                           | 14  |
| Halton Law Association              | 132,715                  | 135,369          | 2.0%                           | 15  |
| Hamilton Law Association            | 427,235                  | 435,780          | 2.0%                           | 16  |
| Hastings Law Association            | 80,691                   | 82,305           | 2.0%                           | 17  |
| Huron Law Association               | 72,196                   | 73,640           | 2.0%                           | 18  |
| Kenora Law Association              | 83,021                   | 84,681           | 2.0%                           | 19  |
| Kent Law Association                | 67,035                   | 68,376           | 2.0%                           | 20  |
| Lambton County Law Association      | 71,281                   | 72,707           | 2.0%                           | 21  |
| County of Lanark Law Association    | 37,364                   | 38,111           | 2.0%                           | 22  |
| Leeds & Greenville Law Association  | 68,323                   | 69,689           | 2.0%                           | 23  |
| Lennox & Addington Law Association  | 25,303                   | 25,809           | 2.0%                           | 24  |
| Lincoln Law Association             | 169,784                  | 173,180          | 2.0%                           | 25  |
| Manitoulin Law Association          | 6,988                    | 0                | -100.0%                        | 26  |
| Middlesex Law Association           | 344,807                  | 351,703          | 2.0%                           | 27  |
| Muskoka Law Association             | 61,394                   | 62,622           | 2.0%                           | 28  |
| Nipissing Law Association           | 82,023                   | 83,663           | 2.0%                           | 29  |
| Norfolk Law Association             | 67,057                   | 68,398           | 2.0%                           | 30  |
| Northumberland County Law Assoc.    | 73,165                   | 74,628           | 2.0%                           | 31  |
| Oxford Law Association              | 67,681                   | 69,035           | 2.0%                           | 32  |
| Parry Sound Law Association         | 37,468                   | 38,218           | 2.0%                           | 33  |
| Peel Law Association                | 272,067                  | 288,524          | 6.0%                           | 34  |
| Perth Law Association               | 52,126                   | 53,168           | 2.0%                           | 35  |
| Peterborough Law Association        | 126,175                  | 128,699          | 2.0%                           | 36  |
| Prescott & Russell Law Association  | 13,231                   | 13,496           | 2.0%                           | 37  |
| Rainy River Law Association         | 26,173                   | 26,173           | 0.0%                           | 38  |
| Renfrew County Law Association      | 118,189                  | 120,515          | 2.0%                           | 39  |
| Simcoe Law Association              | 133,098                  | 136,260          | 2.4%                           | 40  |
| Stormont, D. & G. Law Assoc.        | 73,799                   | 75,275           | 2.0%                           | 41  |
| Sudbury District Law Association    | 179,255                  | 182,840          | 2.0%                           | 42  |
| Temiskaming Law Association         | 41,112                   | 41,934           | 2.0%                           | 43  |
| Thunder Bay Law Association         | 162,056                  | 165,297          | 2.0%                           | 44  |
| Toronto Lawyers Association         | 559,569                  | 570,760          | 2.0%                           | 45  |
| Victoria Haliburton Law Association | 83,358                   | 85,025           | 2.0%                           | 46  |
| Waterloo Law Association            | 228,045                  | 232,606          | 2.0%                           | 47  |
| Welland Law Association             | 89,295                   | 91,081           | 2.0%                           | 48  |
| Wellington Law Association          | 72,057                   | 73,498           | 2.0%                           | 49  |
| York Region Law Association         | 220,918                  | 225,336          | 2.0%                           | 50  |
|                                     | <b>6,064,693</b>         | <b>6,187,354</b> | <b>2.0%</b>                    |     |
| <i>Rounded to</i>                   | <b>6,065,000</b>         | <b>6,187,500</b> |                                |     |



**LIBRARY CO INC.  
DELIVERY OF ADMINISTRATIVE AND CENTRALIZED SERVICES**

|   | <b>2012<br/>Projected</b> | <b>2012<br/>Budget</b> | <b>2013<br/>Proposed<br/>Budget</b> | <b>%<br/>Increase Over<br/>2012 Budget</b> |
|---|---------------------------|------------------------|-------------------------------------|--|
| <b>Salaries and Benefits</b>                |                           |                        |                                     |  |
| 1 Salaries and Benefits                     | 144,000                   | 140,760                | 145,500                             | 3.4%                                       |
| 2 County Library Benefit Plan               | 244,000                   | 269,360                | 256,000                             | -5.0%                                      |
| 3 Total Salaries and Benefits (A)           | \$388,000                 | \$410,120              | \$401,500                           | -2.1%                                      |
| <b>Head Office</b>                          |                           |                        |                                     |  |
| 4 Professional Development & Memberships    | 9,000                     | 8,000                  | 9,000                               | 12.5%                                      |
| 5 Insurance                                 | 4,300                     | 4,800                  | 4,500                               | -6.3%                                      |
| 6 Publications                              | 7,000                     | 10,000                 | 10,000                              | 0.0%                                       |
| 7 Professional & Consulting Fees            | 18,000                    | 28,500                 | 23,000                              | -19.3%                                     |
| 8 Administrative Services                   | 510,000                   | 510,000                | 520,000                             | 2.0%                                       |
| 9 Web Initiatives                           | 6,000                     | 5,000                  | 3,000                               | -40.0%                                     |
| 10 Board of Directors                       | 10,000                    | 20,000                 | 15,000                              | -25.0%                                     |
| 11 Courier and Postage                      | 25,000                    | 26,000                 | 26,000                              | 0.0%                                       |
| 12 Staff & Travel                           | 8,500                     | 10,000                 | 10,000                              | 0.0%                                       |
| 13 Printing and Stationery                  | 1,000                     | 3,000                  | 3,000                               | 0.0%                                       |
| 14 Miscellaneous                            | 6,000                     | 6,000                  | 6,000                               | 0.0%                                       |
| 15 Total Head Office Expenses (B)           | \$604,800                 | \$631,300              | \$629,500                           | -0.3%                                      |
| <b>Law Libraries Centralized Purchasing</b> |                           |                        |                                     |  |
| 16 COLAL Education and Meetings             | 60,000                    | 59,000                 | 60,000                              | 1.7%                                       |
| 17 Publications County Libraries            | 64,000                    | 60,000                 | 62,000                              | 3.3%                                       |
| 18 Insurance - Counties                     | 52,000                    | 60,000                 | 82,000                              | 36.7%                                      |
| 19 CDLPA Meeting Expense                    | 11,000                    | 12,000                 | 12,000                              | 0.0%                                       |
| 20 1-800 Phone Lines                        | 11,500                    | 11,500                 | 12,000                              | 4.3%                                       |
| 21 Total Centralized Expenses (C)           | \$198,500                 | \$202,500              | \$228,000                           | 12.6%                                      |
| 22 Total Expenses<br>(Total of A, B and C)  | \$1,191,300               | \$1,243,920            | \$1,259,000                         | 1.2%                                       |

**REPORTS FOR INFORMATION**

**FOR INFORMATION**

**LAWYERS PROFESSIONAL INDEMNITY COMPANY  
FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED JUNE 30,  
2012**

50. **The second quarter financial statements for LAWPRO are presented for information.**



Lawyers' Professional Indemnity Company  
Assurance LAWPRO™

***Report to the  
Audit and Finance Committee  
of  
The Law Society of Upper  
Canada***

***September 12, 2012***



Lawyers' Professional Indemnity Company  
Assurance LAWPRO™

**Report to the Audit and Finance Committee – Law Society  
September 12, 2012**

**INDEX**

- **Key Point Summary ..... 2**
  
- LAWPRO**
- **Financial Statements, as at June 30, 2012 ..... 3**
- **Premiums ..... 7**
- **Claims & Adjustment Expenses ..... 7**
- **Claims Trends ..... 8**
- **Review of Insurance Ratios ..... 10**
- **Compliance with Investment Guidelines:**
  - **CIBC Global Asset Management Inc ..... 11**
  - **Letko Brosseau & Associates Inc ..... 12**

## ***KEY POINT SUMMARY***

- ***LAWPRO has sufficient assets to discharge its claims and other liabilities.***
- ***At June 30, 2012, LAWPRO held investment assets totaling \$546.7 million, inclusive of cash and cash equivalents and investment income due and accrued. These funds have been invested in accordance with the Company's investment policy. LAWPRO was in compliance with its policy during the six months ended June 30, 2012 (see pages 11 and 12).***
- ***LAWPRO's net loss for the six months ended June 30, 2012 was \$8.1 million compared to a budgeted income of \$0.6 million and a net income of \$5.8 million for the same period in 2011. During the six months ended June 30, 2012 LAWPRO experienced an other comprehensive loss of \$5.8 million, which reflects an increase in unrealized gains of \$2.3 million on its surplus investments, compared to a budgeted income of \$1.2 million and an income of \$6.7 million for the same period in 2011.***
- ***Overall, earned premiums on the mandatory program were substantially at expected levels. Investment income of \$7.4 million for the six months of 2012 was lower than budgeted levels by \$1.6 million and the results for the same period in 2011 by \$3.4 million, the key difference being \$2.0 million of accounting impairments recognized in the current period related to surplus portfolio equities, as well as higher unrealized losses for the matched portfolio in the current year due to a slight rise in market yields on fixed income securities.***
- ***Claims and adjustment expenses for the six months ended June 30, 2012 were \$10.0 million higher than budget due mainly to prior year unfavourable development in the E&O program. Current period claims expense was \$9.3 million higher than the same period last year, primarily due to relatively less favorable prior year loss experience in the E&O and TitlePLUS programs during the 2012 fiscal period. General expenses for the six months ended June 30, 2012 were \$1.0 million lower than budget and \$0.6 million higher than the same period in 2011.***
- ***LAWPRO is in compliance with all regulatory requirements regarding solvency and filing of financial information. A summary of LAWPRO's position with respect to standard insurance ratios at June 30 is included on page 10.***

**Lawyers' Professional Indemnity Company**  
**STATEMENTS OF FINANCIAL POSITION**

Stated in thousands of Canadian dollars

**UNAUDITED**

|   | <b>As at<br/>June 30<br/>2012</b> | <b>As at<br/>December 31<br/>2011</b> |
|---|-----------------------------------|---------------------------------------|
| <b>Assets</b>                                       |                                   |                                       |
| Cash and cash equivalents                           | 7,585                             | 16,936                                |
| Investments   | 535,680                           | 500,674                               |
| Investment income due and accrued                   | 3,365                             | 3,159                                 |
| Due from reinsurers                                 | 2,259                             | 2,179                                 |
| Due from insureds                                   | 3,555                             | 1,570                                 |
| Due from the Law Society of Upper Canada            | 32,833                            | 1,118                                 |
| Reinsurers' share of provisions for:                |                                   |                                       |
| Unpaid claims and adjustment expenses               | 41,660                            | 43,089                                |
| Unearned premiums                                   | 2,974                             | -                                     |
| Deferred policy acquisition expenses                | 1,591                             | -                                     |
| Other receivables                                   | 1,252                             | 864                                   |
| Other assets  | 2,636                             | 1,933                                 |
| Property and equipment                              | 2,656                             | 2,716                                 |
| Income taxes recoverable                            | 7,358                             | 2,528                                 |
| Deferred income tax asset                           | 3,863                             | 3,792                                 |
| <b>Total assets</b>                                 | <b>649,267</b>                    | <b>580,558</b>                        |
| <b>Liabilities</b>                                  |                                   |                                       |
| Provision for unpaid claims and adjustment expenses | 428,569                           | 408,666                               |
| Unearned premiums                                   | 53,655                            | 663                                   |
| Unearned reinsurance commissions                    | 704                               | -                                     |
| Due to reinsurers                                   | 2,112                             | 690                                   |
| Due to insureds                                     | 427                               | 263                                   |
| Expenses due and accrued                            | 1,363                             | 1,968                                 |
| Other taxes due and accrued                         | 327                               | 432                                   |
|   | 487,157                           | 412,682                               |
| <b>Equity</b>                                       |                                   |                                       |
| Capital stock                                       | 5,000                             | 5,000                                 |
| Contributed surplus                                 | 30,645                            | 30,645                                |
| Retained earnings                                   | 117,752                           | 125,859                               |
| Accumulated other comprehensive income              | 8,713                             | 6,372                                 |
|   | 162,110                           | 167,876                               |
| <b>Total liabilities and equity</b>                 | <b>649,267</b>                    | <b>580,558</b>                        |

**Lawyers' Professional Indemnity Company****STATEMENTS OF INCOME**

Stated in thousands of Canadian dollars

**UNAUDITED**

| <b><u>For six months ended June 30</u></b>          | <b><u>2012</u></b>     | <b><u>2011</u></b>   |
|---|------------------------|----------------------|
| <b>Revenue</b>                                      |                        |                      |
| Gross written premiums                              | 106,749                | 111,633              |
| Reinsurers' share of written premiums               | <u>(5,897)</u>         | <u>(5,967)</u>       |
| Net written premiums                                | 100,852                | 105,666              |
| (Increase) decrease in unearned premiums            | <u>(50,012)</u>        | <u>(52,148)</u>      |
| Net premiums earned                                 | 50,840                 | 53,518               |
| Net investment income                               | 7,428                  | 10,827               |
| Ceded commissions                                   | <u>1,038</u>           | <u>1,472</u>         |
|   | <b><u>59,306</u></b>   | <b><u>65,817</u></b> |
| <b>Expenses</b>                                     |                        |                      |
| Gross claims and adjustment expenses                | 58,797                 | 50,073               |
| Reinsurers' share of claims and adjustment expenses | <u>907</u>             | <u>(2,402)</u>       |
| Net claims and adjustment expenses                  | 59,704                 | 47,671               |
| Operating expenses                                  | 9,005                  | 8,412                |
| Premium taxes                                       | <u>1,617</u>           | <u>1,695</u>         |
|   | <b><u>70,326</u></b>   | <b><u>57,778</u></b> |
| <b>Income before income taxes</b>                   | <b><u>(11,020)</u></b> | <b><u>8,039</u></b>  |
| Income tax expense (recovery)                       |                        |                      |
| - current   | (2,843)                | 2,082                |
| - deferred  | <u>(70)</u>            | <u>131</u>           |
|   | <u>(2,913)</u>         | <u>2,213</u>         |
| <b>Net income / (loss)</b>                          | <b><u>(8,107)</u></b>  | <b><u>5,826</u></b>  |
| Unrealized gains / (losses)                         |                        |                      |
| - bonds   | (545)                  | 368                  |
| - equities  | <u>2,886</u>           | <u>475</u>           |
| <b>Other comprehensive income / (loss)</b>          | <b><u>2,341</u></b>    | <b><u>843</u></b>    |
| <b>Total comprehensive income / (loss)</b>          | <b><u>(5,766)</u></b>  | <b><u>6,669</u></b>  |

**Lawyers' Professional Indemnity Company**  
**STATEMENTS OF COMPREHENSIVE INCOME**

Stated in thousands of Canadian dollars

**UNAUDITED**

**For six months ended June 30**

|  | <b>2012</b>    | <b>2011</b>  |
|--|----------------|--------------|
| <b>Net income</b>  | <b>(8,107)</b> | <b>5,826</b> |
| Other comprehensive income, net of income tax:   |                |              |
| Net changes unrealized gains (losses) on available-for-sale financial assets,<br>net of income tax expense (recovery) of \$87 (2011: \$530)          | 979            | 1,347        |
| Reclassification adjustment for (gains) losses included in net income, net of<br>income tax (expense) recovery of (\$154) [2011: (\$198) ]           | (434)          | (504)        |
| Reclassification adjustment for impairments on available-for-sale assets,<br>included in net income, net of income tax recovery of \$209 (2011: \$0) | 1,796          | -            |
| <b>Other comprehensive income</b>  | <b>2,341</b>   | <b>843</b>   |
| <b>Comprehensive income</b>  | <b>(5,766)</b> | <b>6,669</b> |

**Lawyers' Professional Indemnity Company****STATEMENTS OF CHANGES IN EQUITY**

Stated in thousands of Canadian dollars

**UNAUDITED**

|   | Capital stock | Contributed surplus | Retained earnings | Accumulated other comprehensive income | Equity         |
|---|---------------|---------------------|-------------------|--|----------------|
| <b>Balance at December 31, 2010</b>     | <b>5,000</b>  | <b>30,645</b>       | <b>117,153</b>    | <b>6,509</b>                           | <b>159,307</b> |
| Total comprehensive income for the year | -             | -                   | 8,706             | (137)                                  | 8,569          |
| <b>Balance at December 31, 2011</b>     | <b>5,000</b>  | <b>30,645</b>       | <b>125,859</b>    | <b>6,372</b>                           | <b>167,876</b> |
| Total comprehensive income for the year | -             | -                   | (8,107)           | 2,341                                  | (5,766)        |
| <b>Balance at June 30, 2012</b>         | <b>5,000</b>  | <b>30,645</b>       | <b>117,752</b>    | <b>8,713</b>                           | <b>162,110</b> |

**LAWYERS' PROFESSIONAL INDEMNITY COMPANY  
REPORT TO AUDIT COMMITTEE - LAW SOCIETY OF UPPER CANADA  
MANDATORY E&O INSURANCE PROGRAM  
SIX MONTHS ENDED JUNE 30, 2012**

**PREMIUMS**

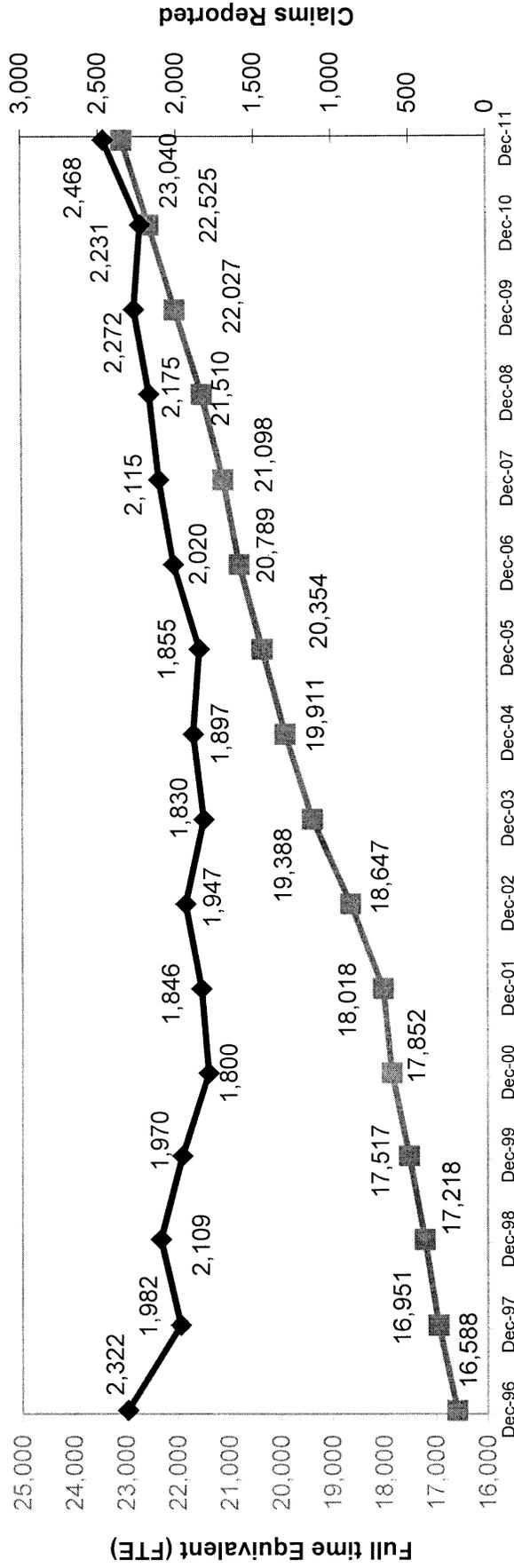
- The 2012 Ontario mandatory professional liability program is performing substantially as expected. Overall, written premiums were substantially at expected levels. At June 30, 2012, there were 23,234 full-time equivalent practitioners, a level which is on target to meet the budgeted amount of 23,436 as new calls come into the program later in the year.
- For the first six months of 2012 transaction levies are \$0.2 million under budget, compared to a \$1.4 million shortfall for in same period in 2011.
- The retrospective rating arrangement in its insurance contract with the Law Society, which was significantly restructured commencing in 2010, resulted in no additional premium recorded in the first half of 2012.

**CLAIMS & ADJUSTMENT EXPENSES**

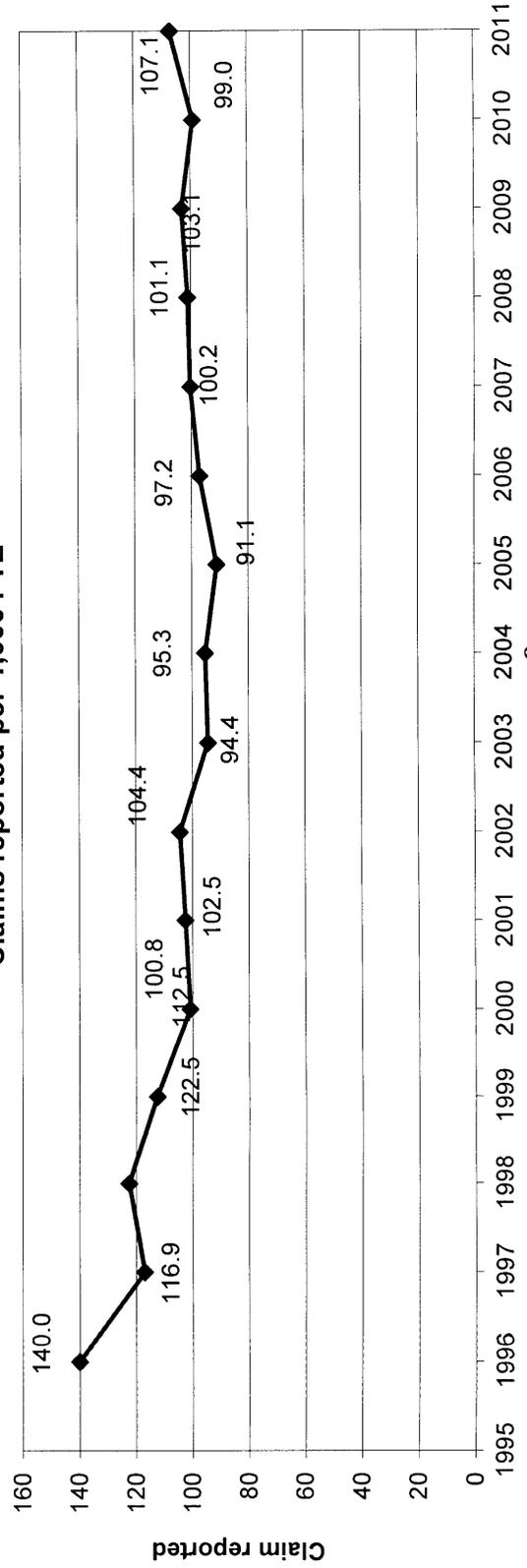
- In the first six months of 2012, there were 963 new 2012 fund year claim files reported compared with 901 in the same period in 2011.
- The number of files remaining open at June 30, 2012 was 3,476, higher than the 3,252 files remaining open at June 30, 2011.
- For all fund years, 1,265 new files were opened through June 30, 2012 and 1,149 closed. The comparable figures for the six months ended June 30, 2011 were 1,192 claims opened and 1,109 closed.

On an aggregate basis, in the first six months of 2012 there has been net unfavourable development on claims of prior years (in particular fund year 2011, offset somewhat by large favorable developments for fund years 2005 through 2007, and 2010). In the same period in 2011, a prior years' net favourable development was experienced (in particular fund years 2004, 2005 and 2006, offset somewhat by unfavorable development for fund year 2010). As a result, E&O claims and adjustment expenses for the six months ended June 30, 2012, before adjustments for margins and discounting, were significantly higher than both budget and the same prior year period.

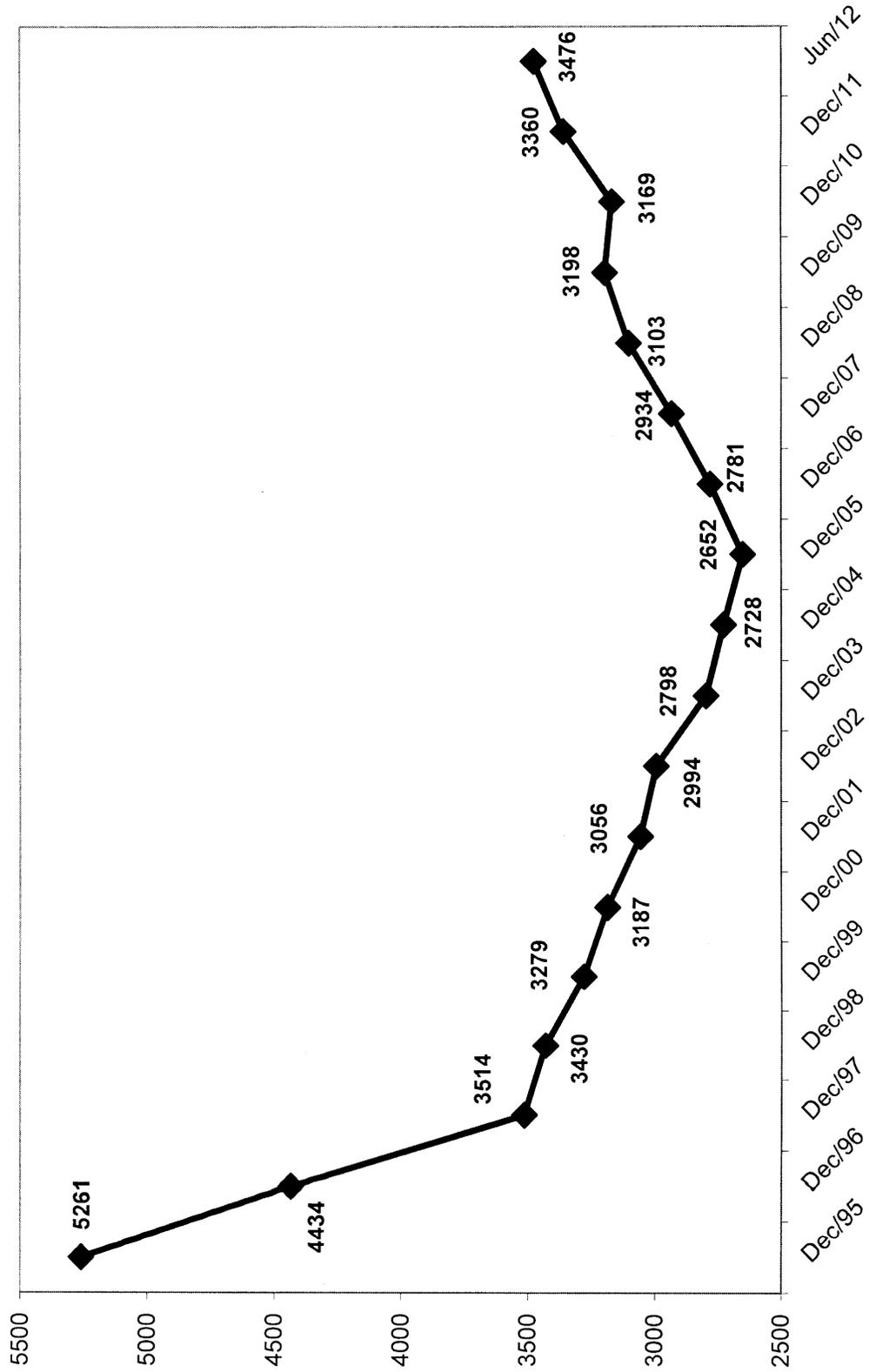
Claims Reported & Full Time Equivalents by Fund Year



Claims reported per 1,000 FTE



Open Claims (for fund years 1995 and forward)





**SECOND QUARTER 2012  
REVIEW OF INSURANCE RATIOS**

| TEST  | RECOMMENDED RANGE   | JUN 2012 | DEC 2011 | JUN 2011 | DEC 2010 |
|---|---|----------|----------|----------|----------|
| <b>I. Solvency Ratios</b>   |   |          |          |          |          |
| <b>1. Minimum Capital Test</b>  |   |          |          |          |          |
| <i>(Measures the excess of capital available to capital required based on a risk-based capital adequacy framework and is used to determine capital adequacy of a company.)</i>  | Preferred: 220-230%<br>Minimum: 185%                                  | 217%     | 220%     | 220%     | 226%     |
| <b>2. Loss reserves to equity</b>   |   |          |          |          |          |
| <i>(Measures unpaid claim and adjustment reserves as a percentage of surplus and provides a simple test of the leveraged position of the company.)</i>  | Preferred: < 225%<br>Maximum: 250%                                    | 239%     | 218%     | 213%     | 214%     |
| <b>II. Other Select Ratios</b>  |   |          |          |          |          |
| <b>1. Liabilities as a % of liquid assets</b>   |   |          |          |          |          |
| <i>(Liabilities as a percentage of Cash and other liquid assets-measures company's ability to meet its financial demands.)</i>  | Preferred: < 80%<br>Maximum: 105%                                     | 81%      | 71%      | 80%      | 71%      |
| <b>2. Net premiums written as a % of surplus</b>  |   |          |          |          |          |
| <i>(Net risk ratio measures the company's ability to absorb financial shocks. The higher the ratio of premiums to surplus, the greater is the potential risk borne by the company in relation to the surplus available to absorb loss variations.)</i>                                  | Preferred: < 80%<br>Maximum: 100%                                     | 62%      | 65%      | 64%      | 63%      |
| <b>3. Return on equity</b>  |   |          |          |          |          |
| <i>(Measures an insurer's net income as a percentage of equity. The higher the ratio, the greater the return to shareholders per unit of invested capital. Sustainability of earnings is more important than periods of high returns followed by periods of low returns or losses.)</i> | Greater than 0%,<br>sufficient to<br>maintain/grow MCT                | -10%     | 5%       | 8%       | 10%      |
| <b>4. General expense ratio</b>   |   |          |          |          |          |
| <i>(Measures an insurer's general expenses, excluding commissions, as a percentage of net earned premiums.). This ratio should be maintained at lower than or equal to comparable small insurance companies.</i>  | Up to small<br>insurance company<br>benchmark (24% as<br>at Dec 2011) | 20%      | 19%      | 19%      | 19%      |
| <b>5. Optional business segment</b>   |   |          |          |          |          |
| <i>(Excess program and TitlePLUS title insurance) is planned to operate on a break-even or better basis.</i>  | Greater than \$0  | (1270k)* | 1,160k   | 855k     | 251k     |

**Note:**

The above metrics reflect the Risk Appetite Statement approved by the Board of Directors on February 22, 2012.

\*The 2012 optional business segment loss is a result of a one-time catch-up allocation relating to discounting, provision for adverse development and internal adjustment reserves made as a result of the new P&C 1 regulatory filing requirements. Excluding this adjustment, the segment would have a profit of \$326K as at June 30, 2012.

LAWPRO & LAWPRO POST 2007

COMPLIANCE



As of and for the quarter ending June 30, 2012, we hereby certify that to the best of our knowledge the investments in the Lawyers' Professional Indemnity Company portfolio were in compliance, based on our records which are issued on a trade date basis, in accordance with the Investment Policy Statement dated April 1, 2012.

Deborah Lewis, CFA  
First Vice President

Date:





**LETKO  
BROSSEAU**

GESTION DE PLACEMENTS GLOBALE  
GLOBAL INVESTMENT MANAGEMENT  
www.letkobrosseau.ca

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☎ (514) 499-0361

July 25, 2012

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☎ (647) 426-1587

Lawyer's Professional Indemnity Company  
C/O Ms Kathleen A. Waters, President & CEO  
250 Yonge Street, Suite 3101  
P.O. Box 3  
Toronto, Ontario  
M5B 2L7

**SUBJECT: COMPLIANCE CERTIFICATE**

Dear Ms. Waters,

This is to confirm that, at the end of each month of the quarter ending June 30, 2012, Letko Brosseau was in compliance with the requirements of the Statement of Investment Policies and Procedures, effective April 1<sup>st</sup>, 2012. To the best of our knowledge, we have no reason to believe that we were not in compliance with all such requirements at any other time during such period.

Should you require additional information, please do not hesitate to contact us at your convenience.

Regards,

A handwritten signature in blue ink that reads "Peter Letko".

Peter Letko  
Letko Brosseau & Associates Inc.  
PL/mh

**FOR INFORMATION**

**LAW SOCIETY OF UPPER CANADA FINANCIAL STATEMENTS FOR  
THE SIX MONTHS ENDED JUNE 30, 2012**

51. **Convocation is requested to receive the financial statements for the Law Society for the second quarter of 2012 for information.**

**Law Society of Upper Canada Financial Statements  
For the six months ended June 30, 2012**

52. The Financial Statements are prepared under Generally Accepted Accounting Principles for Canadian not-for-profit organizations using the restricted fund method of accounting. Revenues are recognized when earned and expenses are recognized when incurred.
53. The Financial Statements for the six months ended June 30, 2012 comprise the following statements:
- Balance Sheet
  - Statement of Revenues and Expenses and Change in Fund Balances. Detailed results of operations for lawyers and paralegals are combined on the Statement of Revenue and Expenses. Supplementary schedules comparing actual results to budget are also provided for lawyers and paralegals.
  - Schedule of Restricted Funds
54. Supplemental schedules include Schedules of Revenues and Expenses for the Lawyer and Paralegal General Funds, the Compensation Fund and the Errors and Omissions Insurance Fund.
55. A description of the various funds is set out at the end of this narrative to assist in understanding the financial reporting.

**Financial Statement Highlights**

56. The Law Society is on track to meet or exceed its 2012 budget expectations and its financial position remains strong.
57. Operationally, revenues to date exceed budget by approximately 2% or just over \$700,000 with revenues from CPD and the licensing process contributing most of the excess revenue. Investment income lags budget, and with the current trend in world financial markets, this lag is expected to continue for the balance of the year. In drafting the 2013 budget, reduced investment returns is one of the pressures built into the Law Society's initial budget estimates.

58. On the expense side, professional regulation is significantly under budget on anticipated spending for outside counsel and expert witnesses. The trend is expected to continue for the balance of the year and again this trend has been factored into initial budget estimates for 2013.
59. The Law Society's 2012 budget included a contingency of \$1,000,000 of which just over \$340,000 has been earmarked for three activities. The balance of approximately \$660,000 is still available for Convocation priorities arising during the balance of 2012.
60. The general fund budget has been put under considerable pressure as a result of increasing expenditures for benchers related activities including remuneration. Remuneration, including the recently approved top up for lay benchers has exceeded the year to date budget by just over \$200,000. It is expected that by year end the actual remuneration will surpass \$1.2 million and exceed budget by approximately \$525,000. Issues driving the escalation of benchers remuneration are discussed under separate cover.
61. A detailed discussion of the June 30, 2012 interim financial statements follows.

### **Balance Sheet**

62. In May 2011, Convocation approved the Law Society's adoption of Part III of the CICA Handbook – Accounting Standards for Not-for-Profit Organizations. The implementation of these new accounting standards means the Balance Sheet has three columns:
- i. The financial position as at the end of the current period or June 30, 2012
  - ii. The financial position as at the end of the comparative period or June 30, 2011
  - iii. The financial position as at the transition date of January 1, 2011.
63. Asset balances at the end of June 2012 are relatively unchanged from a year ago. The financial surplus in the 2011 financial year has supplemented cash and short-term investment balances which have increased from \$55.7 million to \$58.1 million. Most of the prepaid expense balance relates to annual E&O insurance premiums paid or payable for the year, which are expensed over the full year.

64. The Investment in LAWPRO totaling \$35.6 million is made up of two parts. The investment represents the share capital of \$4,997,000 purchased in 1991 when LAWPRO was established plus contributed capital of \$30,645,000 accumulated between 1995 and 1997 from a special capitalization fee by the Law Society.
65. Portfolio investments are shown at fair value of \$67.5 million, a decrease from \$69.3 million in 2011 due to transfers from the E&O Fund. Approximately 13% of the portfolio is held in equity investments, limiting exposure to the ongoing stock market volatility. Investments are held in the following funds:

| <b>Fund (\$ 000's)</b>       | <b>June 30, 2012</b> | <b>June 30, 2011</b> |
|------------------------------|----------------------|----------------------|
| Errors & Omissions Insurance | \$25,565             | \$27,490             |
| Compensation Fund            | 29,095               | 29,019               |
| General Fund                 | 12,845               | 12,800               |
| <b>Total</b>                 | <b>\$67,505</b>      | <b>\$69,309</b>      |

66. Liability balances at the end of June 2012 are also relatively unchanged from a year ago. Deferred Revenue has increased to \$77.1 million from \$75.7 million. This is largely the result of increased annual fees in the General Fund. Full recognition of these revenues will occur over the remaining six months of the year.
67. The amount due to LAWPRO has decreased to \$32.8 million from \$36.0 million. The payable will decline by year-end as insurance premiums and levies collected are paid to LAWPRO. Any balance owing to LAWPRO at year end is paid by March 31 of the following year.
68. The provision for unpaid grants / claims comprises the provision for unpaid grants – Compensation Fund and the provision for unpaid claims – E&O Fund with balances at the end of June 2012 of \$12.8 million and \$665,000 respectively compared to prior year balances of \$10.5 million and \$689 million. The provision for unpaid grants in the Compensation Fund represents the estimate for unpaid claims and inquiries against the

Compensation Fund, supplemented by the costs for processing these claims. The provision for unpaid claims in the E&O Fund represents claims liabilities for 1995 and prior. Effective 1995, 100% of the risk above the individual member deductible was insured through LAWPRO so the E&O Fund is in run-off mode.

69. The Law Society Act permits a member who has dormant trust funds, to apply for permission to pay the money to the Law Society. Money paid to the Law Society is held in trust in perpetuity for the purpose of satisfying the claims of the persons who are entitled to the capital amount. At the end of June, unclaimed money held in trust amounts to \$2.6 million, compared to \$2.2 million in the prior year.
70. Fund Balances have decreased from \$123.9 million from \$128.3 million.

#### **Statement of Revenues and Expenses and Change in Fund Balances**

71. The Lawyer General Fund incurred a surplus of \$173,000 at the end of the second quarter of 2012, compared with a surplus of \$2.7 million in the first six months of 2011. As discussed below, expenses increased in effectively all areas with total net expenses increasing from \$30.2 million to \$33.6 million. Revenues were relatively static at \$33.7 million versus \$32.9 million in the same period last year. The Paralegal General Fund had a surplus of \$80,000 versus a deficit of \$89,000 last year.
72. The 2012 budget incorporates the use of \$2.75 million in funding from the Lawyer General Fund balance, \$2 million in funding from surplus investment income in the E&O Fund and \$810,000 in funding from the Paralegal General Fund balance. Actual use of all these funds is contingent on results for the year.
73. The Law Society's restricted funds report a deficit of \$1 million for the period (2011: deficit of \$2.5 million). The current deficit is attributable to the amortization expense in the Invested in Capital Assets Fund. When comparing the size of the deficits between 2012 and 2011 the difference is found in the E&O Fund where no contributions to the

insurance program have been made, over and above the premiums transferred. The 2011 contribution was \$2.5 million.

74. Annual fee revenue is recognized on a monthly basis. Total annual fees recognized in the second quarter have increased across the board due to increases in the Lawyer General Fee (\$34), Paralegal Compensation Fund fee (\$43) and Lawyer LibraryCo fee (\$7), offset by the decrease in the Paralegal General Fee (\$18), and because of the increased number of lawyer and paralegal members billed. 36,000 full time equivalent lawyers were used as the basis for the number of members in the 2012 budget. We may end the year with slightly less than this. Annual fee revenues in total have increased from \$32 million to \$33.7 million.
75. LAWPRO's base premium of \$3,350 has not changed from 2011, leading to relatively static premium and fee revenue of \$48.4 million.
76. Total professional development and competence revenue decreased from \$8.8 million in June 2011 to \$8.7 million in the current half year. In the second year of the mandatory continuing professional development requirement, registrations have dropped from 45,000 in 2011 to 40,000 in the current year and the proportion of registrations for free courses has increased from 58% to 62%. Licensing Process revenues from lawyer and paralegal candidates have increased by \$344,000 to \$3.8 million due to a higher number of candidates.
77. At \$731,000, total investment income has more than halved from the second quarter of 2011 with the decline in fixed income rates continuing to be felt and realized and unrealized gains muted.
78. Other income primarily comprises catering, Ontario Reports and the LibraryCo administration fee.
79. Total Regulatory expenses of \$10.7 million are higher than the same period in 2011 by \$481,000 because of small increases in a number of areas but are still below budget.

Expenses for outside counsel and expert opinions are currently \$462,000 under budget but these costs do not follow a consistent pattern.

80. Professional development and competence expenses are \$1.2 million higher than for the same period in 2011 at a total of \$11 million. Increases were budgeted to support the increased number of registrants and accreditation applications. While still \$300,000 under budget in total, some Continuing Professional Development program costs are trending above budget. A main reason for increased costs is due to holding more programs offsite, because on-site facilities were not available. We have been able to schedule nearly all programs on-site for 2013 so we don't anticipate a problem with the 2013 budget. The major variances are:

| EXPENSE                      | ACTUAL YTD | VARIANCE | COMMENT  |
|------------------------------|------------|----------|--|
| Advertising & Promotion      | \$131,000  | 40,000   | Activity winding down in rest of year.   |
| Audio Dubbing & Audio Visual | \$207,000  | 118,000  | Revising duties of technical team and exploiting savings in other areas                                  |
| Catering Costs               | \$241,000  | 94,000   | Off-site programs were more expensive. Catering will be reduced for rest of year.                        |
| Course Materials             | \$152,000  | 38,000   | Biennial book purchasing cost will be added to 2014 budget. Material being consolidated to reduce costs. |

81. Other expenses totaling \$3.8 million include benchner related payments, payments to other organizations such as the Federation of Law Societies, insurance, catering costs and other miscellaneous expenses. For the most part, these expenses (along with administration expenses totaling \$5.2 million), are trending higher but are in line with budget. If benchner related payments follow trends established for the first half of the year and historic patterns in the second half of the year, there will be some negative variances to budget.

82. Total Client Service Centre expenses have increased by \$400,000, to \$3.2 million from \$2.8 million. Increases were budgeted across the various departments, especially Membership Services, the Law Society Referral Service and By-law Administration to support increased workload, including that arising from administration of the Continuing Professional Development requirement.
83. Facilities expenses are relatively high compared to the same time last year - \$2.5 million compared to \$2.1 million. This is attributable to building maintenance, repairs and equipment costs which are not spread evenly over the year. Facilities expenses are still \$100,000 under budget.
84. Expenses in the Errors and Omissions Insurance Fund have decreased to \$48.2 million from \$51 million primarily because the fund has not made a contribution to the 2012 insurance program over and above the premium transfer.
85. Compensation Fund expenses have decreased from \$5.6 million to \$4.9 million because of a comparatively smaller increase in the provision for unpaid grants during the period. The provision is adjusted monthly based on the number of new inquiries and open claims and cases closed. The reduction in expenses approximately matches the reduction in investment income and recoveries so the combined deficit for the lawyer and paralegal Compensation Funds of \$308,000 matches last year at this time.
86. County Libraries Fund expenses have increased slightly by \$224,000 to \$3.6 million in line with the budgeted small increase in grants.
87. Included in Other Restricted Funds are expenses for the Parental Leave Assistance Plan of \$130,000 down from the same period last year of \$162,000 (and \$239,000 in the same period of 2010). The budget for 2012 raised \$400,000 and anticipated drawing from the fund balance, which was \$209,000 at the beginning of the year.

## THE LAW SOCIETY OF UPPER CANADA

### Balance Sheet

*Stated in thousands of dollars*

*As at June 30, 2012, June 30, 2011 and January 1, 2011*

|   | Jun. 30<br>2012 | Jun. 30<br>2011 | Jan. 1<br>2011 |
|---|-----------------|-----------------|----------------|
| <b>Assets</b>                                 |                 |                 |                |
| <b>Current Assets</b>                         |                 |                 |                |
| 1 Cash  | 19,776          | 17,971          | 17,696         |
| 2 Short-term investments                      | 38,367          | 37,739          | 14,106         |
| 3 Cash and short-term investments             | 58,143          | 55,710          | 31,802         |
| 4 Accounts receivable                         | 28,585          | 28,441          | 2,024          |
| 5 Prepaid expenses                            | 51,346          | 53,339          | 1,389          |
| 6 <b>Total current assets</b>                 | 138,074         | 137,490         | 35,215         |
| 7 <b>Investment in subsidiaries</b>           | 35,642          | 35,642          | 35,642         |
| 8 <b>Portfolio investments</b>                | 67,505          | 69,309          | 75,258         |
| 9 <b>Capital assets</b>                       | 13,849          | 15,547          | 16,989         |
| 10 <b>Total Assets</b>                        | 255,070         | 257,988         | 163,104        |
| <b>Liabilities and Fund Balances</b>          |                 |                 |                |
| <b>Current Liabilities</b>                    |                 |                 |                |
| 11 Accounts payable and accrued liabilities   | 5,198           | 4,526           | 7,129          |
| 12 Deferred revenue                           | 77,112          | 75,685          | 11,114         |
| 13 Due to LawPro                              | 32,833          | 36,043          | 4,108          |
| 14 <b>Total current liabilities</b>           | 115,143         | 116,254         | 22,351         |
| 15 Provision for unpaid grants/claims         | 13,425          | 11,186          | 10,334         |
| 16 Unclaimed trust funds                      | 2,616           | 2,248           | 2,184          |
| 17 <b>Total Liabilities</b>                   | 131,184         | 129,688         | 34,869         |
| <b>Fund Balances</b>                          |                 |                 |                |
| <b>General funds</b>                          |                 |                 |                |
| 18 Lawyers                                    | 7,346           | 9,502           | 4,891          |
| 19 Paralegals                                 | 1,061           | 1,371           | 1,460          |
| <b>Restricted funds</b>                       |                 |                 |                |
| 20 Compensation - lawyers                     | 22,924          | 25,316          | 25,726         |
| - paralegals                                  | 309             | 176             | 184            |
| 21 Errors and omissions insurance             | 62,363          | 60,612          | 64,282         |
| 22 Capital allocation                         | 4,273           | 4,110           | 3,411          |
| 23 Invested in capital assets                 | 13,849          | 15,547          | 16,989         |
| 24 County libraries                           | (67)            | (37)            | -              |
| 25 Other                                      | 1,153           | 1,028           | 617            |
| 26 Working capital reserve                    | 10,675          | 10,675          | 10,675         |
| 27 <b>Total Fund Balances</b>                 | 123,886         | 128,300         | 128,235        |
| 28 <b>Total Liabilities and Fund Balances</b> | 255,070         | 257,988         | 163,104        |

## THE LAW SOCIETY OF UPPER CANADA

## General Fund

## Statement of Revenues and Expenses and Change in Fund Balances

Stated in thousands of dollars

For the six months ended June 30

|  | 2012                   | 2011          | 2012                      | 2011         | 2012             | 2011           | 2012           | 2011           |
|--|------------------------|---------------|---------------------------|--------------|------------------|----------------|----------------|----------------|
|  | General Fund<br>Lawyer |               | General Fund<br>Paralegal |              | Restricted Funds |                | Total          |                |
| <b>Revenues</b>                                  |                        |               |                           |              |                  |                |                |                |
| 1 Annual fees                                    | 22,840                 | 21,596        | 1,150                     | 1,012        | 9,706            | 9,420          | 33,696         | 32,028         |
| 2 Insurance premiums and levies                  | -                      | -             | -                         | -            | 48,404           | 48,478         | 48,404         | 48,478         |
| 3 Professional development and competence        | 7,830                  | 8,050         | 916                       | 776          | -                | -              | 8,746          | 8,826          |
| 4 Investment income                              | 269                    | 484           | -                         | -            | 462              | 1,528          | 731            | 2,012          |
| 5 Other  | 2,814                  | 2,783         | 147                       | 68           | 172              | 447            | 3,133          | 3,298          |
| 6 <b>Total revenues</b>                          | <b>33,753</b>          | <b>32,913</b> | <b>2,213</b>              | <b>1,856</b> | <b>58,744</b>    | <b>59,873</b>  | <b>94,710</b>  | <b>94,642</b>  |
| <b>Expenses</b>                                  |                        |               |                           |              |                  |                |                |                |
| 7 Professional regulation                        | 9,684                  | 9,284         | 996                       | 915          | -                | -              | 10,680         | 10,199         |
| 8 Professional development and competence        | 10,544                 | 9,385         | 509                       | 500          | -                | -              | 11,053         | 9,885          |
| 9 Administrative                                 | 4,907                  | 4,249         | 299                       | 272          | -                | -              | 5,206          | 4,521          |
| 10 Other   | 3,648                  | 3,379         | 108                       | 107          | -                | -              | 3,756          | 3,486          |
| 11 Client service centre                         | 2,990                  | 2,610         | 186                       | 162          | -                | -              | 3,176          | 2,772          |
| 12 Facilities                                    | 2,422                  | 2,086         | 53                        | 54           | -                | -              | 2,475          | 2,140          |
| 13 Policy and legal services                     | 1,195                  | 975           | 151                       | 47           | -                | -              | 1,346          | 1,022          |
| 14 Communications                                | 749                    | 657           | 47                        | 43           | -                | -              | 796            | 700            |
| 15 Equity  | 492                    | 536           | 23                        | 24           | -                | -              | 515            | 560            |
| 16 Tribunals                                     | 762                    | 741           | 31                        | 22           | -                | -              | 793            | 763            |
| 17 Restricted (schedule of restricted funds)     | -                      | -             | -                         | -            | 59,780           | 62,401         | 59,780         | 62,401         |
| 18 Total expenses                                | 37,393                 | 33,902        | 2,403                     | 2,146        | 59,780           | 62,401         | 99,576         | 98,449         |
| 19 Less: Expenses allocated to Compensation Fund | (3,813)                | (3,671)       | (270)                     | (201)        | -                | -              | (4,083)        | (3,872)        |
| 20 <b>Net expenses</b>                           | <b>33,580</b>          | <b>30,231</b> | <b>2,133</b>              | <b>1,945</b> | <b>59,780</b>    | <b>62,401</b>  | <b>95,493</b>  | <b>94,577</b>  |
| 21 <b>(Deficit) Surplus</b>                      | <b>173</b>             | <b>2,682</b>  | <b>80</b>                 | <b>(89)</b>  | <b>(1,036)</b>   | <b>(2,528)</b> | <b>(783)</b>   | <b>65</b>      |
| 22 <b>Fund balances, beginning of year</b>       | <b>7,199</b>           | <b>4,891</b>  | <b>917</b>                | <b>1,460</b> | <b>116,553</b>   | <b>121,884</b> | <b>124,669</b> | <b>128,235</b> |
| 23 <b>Interfund transfers</b>                    | <b>(26)</b>            | <b>1,929</b>  | <b>64</b>                 | <b>-</b>     | <b>(38)</b>      | <b>(1,929)</b> | <b>-</b>       | <b>-</b>       |
| 24 <b>Fund balances, end of period</b>           | <b>7,346</b>           | <b>9,502</b>  | <b>1,061</b>              | <b>1,371</b> | <b>115,479</b>   | <b>117,427</b> | <b>123,886</b> | <b>128,300</b> |

Convocation - Audit & Finance Committee Report

**THE LAW SOCIETY OF UPPER CANADA**

**Schedule of Restricted Funds**

*Stated in thousands of dollars  
For the six months ended June 30*

|                                    | 2012              |           |                                |                    |                            |                  |                  | 2011                    |                        |         |
|------------------------------------|-------------------|-----------|--------------------------------|--------------------|----------------------------|------------------|------------------|-------------------------|------------------------|---------|
|                                    | Compensation Fund |           | Errors and omissions insurance | Capital allocation | Invested in capital assets | County libraries | Other restricted | Working capital reserve | Total Restricted funds | Total   |
|                                    | Lawyer            | Paralegal |                                |                    |                            |                  |                  |                         |                        |         |
| 1 Fund balances, beginning of year | 23,324            | 217       | 61,972                         | 4,177              | 15,218                     | -                | 970              | 10,675                  | 116,553                | 121,884 |
| <b>Revenues</b>                    |                   |           |                                |                    |                            |                  |                  |                         |                        |         |
| 2 Annual fees                      | 3,914             | 363       | -                              | 1,450              | -                          | 3,579            | 400              | -                       | 9,706                  | 9,420   |
| 3 Insurance premiums and levies    | -                 | -         | 48,404                         | -                  | -                          | -                | -                | -                       | 48,404                 | 48,479  |
| 4 Investment income                | 261               | -         | 201                            | -                  | -                          | -                | -                | -                       | 462                    | 1,528   |
| 5 Other                            | 95                | 4         | -                              | 73                 | -                          | -                | -                | -                       | 172                    | 447     |
| 6 Revenues                         | 4,270             | 367       | 48,605                         | 1,523              | -                          | 3,579            | 400              | -                       | 58,744                 | 59,873  |
| 7 Expenses                         | 4,670             | 275       | 48,214                         | 1,427              | 1,369                      | 3,646            | 179              | -                       | 59,780                 | 62,401  |
| 8 (Deficit) Surplus                | (400)             | 92        | 391                            | 96                 | (1,369)                    | (67)             | 221              | -                       | (1,036)                | (2,528) |
| 9 Interfund transfers              | -                 | -         | -                              | -                  | -                          | -                | (38)             | -                       | (38)                   | (1,929) |
| 10 Fund balances, end of period    | 22,924            | 309       | 62,363                         | 4,273              | 13,849                     | (67)             | 1,153            | 10,675                  | 115,479                | 117,427 |

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**FOR INFORMATION**

**LIBRARYCO INC.  
FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED JUNE 30,  
2012**

95. **Convocation is requested to receive the second quarter financial statements for LibraryCo, for information.**

**FOR INFORMATION**

**LIBRARYCO INC.  
FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED JUNE 30,  
2012**

**KEY POINT SUMMARY**

**Statement of Revenues and Expenses – LibraryCo only**

Results for the period identify a deficit of \$124,360 compared to a budgeted deficit of \$244,510. The deficit was budgeted to use excess reserves in the general fund. The variance is primarily a result of positive variances in capital and special needs grants, electronic products and group benefits.

**New Accounting Standards**

In compliance with the Canadian Institute of Chartered Accountants (“CICA”) requirements, the Board has approved LibraryCo’s adoption of Part III of the CICA Handbook – Accounting Standards for Not-for-Profit Organizations for our financial year beginning on January 1, 2012. The new accounting standards contain some policy options. The accounting policy options selected by the board means there is very little difference between our financial reporting under the old accounting standards and the new accounting standards. The summarized disclosure issues upon first time adoption are:

- A. The Balance Sheet / Statement of Financial Position has three columns:
  - i. The financial position as at the end of the current period or June 30, 2012
  - ii. The financial position as at the end of the comparative period or June 30, 2011
  - iii. The financial position as at the transition date of January 1, 2011.
- B. The amount of government remittances (health and payroll remittances etc) owing must be disclosed, either on the Statement of Financial Position or in a note. At the three balance sheet dates, LibraryCo did not have any payables owing to government.
- C. The format and content of the Statement of Revenues & Expenses remains the same. Accounting policies are consistent so there is no requirement to restate any figures or reconcile to previously reported amounts such as fund balances.

**Revenues**

1. Law Society grant (line 1) is the lawyer-based fee that is transferred to Library Co. This transfer includes amounts for central administration and quarterly transfers to the 48 libraries. The actual grant from the Law Society was \$3.6 million and matched budgeted amounts for the period.
2. The Law Foundation of Ontario grant (line 2) was provided to LibraryCo to subsidize the purchase of electronic resources and the amount received equalled the amount budgeted.

**Expenses**

3. Total expenses were \$4,497,949 compared to a budgeted total of \$4,612,807.
4. Other expenses (line 7) are lower than budget for the period by \$10,035 primarily because of board of directors' expenses and publications.
5. The primary component of the electronic products and services (line 9) is the contract with Lexis Nexis. The actual cost of the Lexis Nexis product was \$28,000 less than budgeted.
6. Group benefits and insurance (line 10) represent health, dental, long term disability and other benefits for the county library employees. It also includes the general commercial insurance for the county libraries. A positive variance of \$12,836 has been achieved as low claims incurred in the benefits program resulted in a lower than anticipated premium increase.
7. Capital and special needs grants (line 13) are provided to help the libraries replace aging furniture and equipment, perform library renovations and relocations, and pay for unbudgeted expenditures. These expenditures do not follow a pattern. There is a positive variance of \$57,317 as Waterloo's moving expenses (\$35,000) are still to be paid and there were fewer requests than anticipated.

**Balance Sheet**

8. Cash and short-term investments have decreased by \$334,398 since June 30, 2011 due to the budgeted deficits over the period.

9. Although we had budgeted to use \$317,000 of the General Fund in 2012, our new projections anticipate that \$224,000 will be utilized in 2012 which will leave a projected balance of \$310,000 in the General Fund at December 31, 2012. The Reserve Fund is not budgeted to be used in 2012.

**Schedule of Revenues and Expenses - LibraryCo and County Law Libraries**

**Comparison of 2012 to 2011 Actuals Year-to-Date**

10. Other income (line 3) of \$224,345 (2011 - \$205,149) noted under the Law Libraries column represents income from local recoveries such as members' dues, photocopying, faxing, printing, and fees charged for specific research services.
11. Salaries and administration (line 5) at the Law Libraries were \$1,791,220, (2011 – \$1,760,860 representing a 2% increase over 2011 in line with the budget.
12. Collections (line 10) of \$983,636 (2011 - \$956,794) increased by 2.8% over the previous year.
13. Law Library grants (line 15) are \$53,092 higher than the previous year in line with the general increase of 2% in the 2012 grant amounts.

**Other Items of Note**

14. Total payables and accrued liabilities at 47 Law libraries amounted to approximately \$348,906 (2011 – \$356,696). This represents an average balance of \$7,424 (2011 - \$7,589).
15. All law libraries except for Essex were able to submit their financial information for inclusion in this report with 80% submitting before the deadline.

**LIBRARYCO INC.**  
**Statement of Revenues and Expenses**  
**Stated in Dollars**  
**For the six months ended June 30**  
**Unaudited**

|  | 2012<br>Actual   | YTD<br>Budget    | Variance       | Annual<br>Budget |
|--|------------------|------------------|----------------|------------------|
| <b>REVENUES</b>  |                  |                  |                |                  |
| 1 Law Society of Upper Canada grant                        | 3,646,297        | 3,646,297        | -              | 7,292,597        |
| 2 Law Foundation of Ontario grant                          | 722,500          | 722,000          | 500            | 722,000          |
| 3 Other Income   | 4,792            | -                | 4,792          | -                |
| <b>4 Total revenues</b>                                    | <b>4,373,589</b> | <b>4,368,297</b> | <b>5,292</b>   | <b>8,014,597</b> |
| <b>EXPENSES</b>  |                  |                  |                |                  |
| <b>Head office / administration</b>                        |                  |                  |                |                  |
| 5 Salaries and administration                              | 326,973          | 325,660          | (1,313)        | 650,760          |
| 6 Professional fees  | 8,861            | 14,250           | 5,389          | 28,500           |
| 7 Other  | 29,765           | 39,800           | 10,035         | 70,180           |
| <b>8 Total Head office / administration expenses</b>       | <b>365,599</b>   | <b>379,710</b>   | <b>14,111</b>  | <b>749,440</b>   |
| <b>Law Libraries - centralized purchases</b>               |                  |                  |                |                  |
| 9 Electronic products and services                         | 868,432          | 897,597          | 29,165         | 897,597          |
| 10 Group benefits and insurance                            | 148,164          | 161,000          | 12,836         | 329,360          |
| 11 Other   | 76,371           | 77,000           | 629            | 165,200          |
| <b>12 Total Law Libraries - centralized purchases</b>      | <b>1,092,967</b> | <b>1,135,597</b> | <b>42,630</b>  | <b>1,392,157</b> |
| 13 County and District law Libraries - grants              | 3,031,700        | 3,032,500        | 800            | 6,065,000        |
| 14 Capital and special needs grants                        | 7,683            | 65,000           | 57,317         | 125,000          |
| <b>15 Total County and District Law Libraries Expenses</b> | <b>3,039,383</b> | <b>3,097,500</b> | <b>58,117</b>  | <b>6,190,000</b> |
| <b>16 Total expenses</b>                                   | <b>4,497,949</b> | <b>4,612,807</b> | <b>114,858</b> | <b>8,331,597</b> |
| <b>17 Excess of expenses over revenues</b>                 | <b>(124,360)</b> | <b>(244,510)</b> | <b>120,150</b> | <b>(317,000)</b> |

*This statement includes the revenues and expenses of the LibraryCo entity only.*

**LIBRARYCO INC.**  
**Balance Sheet**  
**Stated in Dollars**  
**Unaudited**

|  | June 30<br>2012 | June 30<br>2011  | January 1<br>2011 |
|--|-----------------|------------------|-------------------|
| <b>Assets</b>  |                 |                  |                   |
| <b>Current Assets</b>  |                 |                  |                   |
| 1 Cash and short-term investments                            | 921,930         | 1,256,328        | 1,113,942         |
| 2 Accounts receivable  | 18,064          | 16,902           | 16,986            |
| 3 Prepaids   | 44,550          | 50,365           | 20,146            |
| 4 <b>Total Assets</b>  | <b>984,544</b>  | <b>1,323,595</b> | <b>1,151,074</b>  |
| <b>Liabilities, Share Capital and Fund Balances</b>          |                 |                  |                   |
| <b>Liabilities</b>   |                 |                  |                   |
| 5 Accounts payable and accrued liabilities                   | 74,644          | 69,715           | 116,814           |
| 6 <b>Total Liabilities</b>                                   | <b>74,644</b>   | <b>69,715</b>    | <b>116,814</b>    |
| <b>Share Capital and Fund Balances</b>                       |                 |                  |                   |
| 7 Share capital  | 200             | 200              | 200               |
| 8 General fund   | 409,700         | 725,506          | 534,060           |
| 9 Reserve fund   | 500,000         | 528,174          | 500,000           |
| 10 <b>Total Share Capital and Fund Balances</b>              | <b>909,900</b>  | <b>1,253,880</b> | <b>1,034,260</b>  |
| 11 <b>Total Liabilities, Share Capital and Fund Balances</b> | <b>984,544</b>  | <b>1,323,595</b> | <b>1,151,074</b>  |

*This Balance Sheet includes the financial resources of the LibraryCo entity only.*

**LIBRARYCO INC.**  
**Statement of Changes in Fund Balances**  
**Stated in Dollars**  
**Unaudited**

|                                    | <b>June 30<br/>2012</b> |                         |                  | <b>June 30<br/>2011</b> |
|------------------------------------|-------------------------|-------------------------|------------------|-------------------------|
|                                    | <b>General<br/>Fund</b> | <b>Reserve<br/>Fund</b> | <b>Total</b>     | <b>Total</b>            |
| 1 Balance, beginning of year       | 534,060                 | 500,000                 | <b>1,034,060</b> | <b>1,610,894</b>        |
| 2 Excess of expenses over revenues | (124,360)               | -                       | <b>(124,360)</b> | <b>(357,214)</b>        |
| 3 <b>Balance, end of period</b>    | <b>409,700</b>          | <b>500,000</b>          | <b>909,700</b>   | <b>1,253,680</b>        |

**LIBRARYCO INC.**  
**Schedule of Revenues and Expenses**  
**Stated in Dollars**  
**For the 6 months ended June 30**  
**Unaudited**

|   | 2012             |                    |                  | 2011             |                    |                  |
|---|------------------|--------------------|------------------|------------------|--------------------|------------------|
|   | LibraryCo        | Law Libraries      | Total            | LibraryCo        | Law Libraries      | Total            |
| <b>Revenues</b>   |                  |                    |                  |                  |                    |                  |
| 1 Law Society of Upper Canada grant                                 | 3,646,297        | -                  | 3,646,297        | 3,422,492        | -                  | 3,422,492        |
| 2 Law Foundation of Ontario grant - Electronic Resources            | 722,500          | -                  | 722,500          | 722,500          | -                  | 722,500          |
| 3 Other income  | 4,792            | 224,345            | 229,137          | 5,422            | 205,149            | 210,571          |
| <b>4 Total revenues</b>   | <b>4,373,589</b> | <b>224,345</b>     | <b>4,597,934</b> | <b>4,150,414</b> | <b>205,149</b>     | <b>4,355,563</b> |
| <b>Expenses</b>   |                  |                    |                  |                  |                    |                  |
| 5 Salaries and administration                                       | 326,973          | 1,791,220          | 2,118,193        | 319,012          | 1,760,860          | 2,079,872        |
| 6 Professional fees   | 8,861            | 40,856             | 49,717           | 7,488            | 51,944             | 59,432           |
| 8 Other (Head office)   | 29,765           | -                  | 29,765           | 31,851           | -                  | 31,851           |
| 9 Electronic products and services                                  | 868,432          | -                  | 868,432          | 916,543          | -                  | 916,543          |
| 10 Collections  | -                | 983,636            | 983,636          | -                | 956,794            | 956,794          |
| 11 Group benefits and insurance                                     | 148,164          | -                  | 148,164          | 157,565          | -                  | 157,565          |
| 13 Other (Law Libraries)  | 76,371           | -                  | 76,371           | 68,811           | -                  | 68,811           |
| <b>14 Total Expenses before grants</b>                              | <b>1,458,566</b> | <b>2,815,712</b>   | <b>4,274,278</b> | <b>1,501,270</b> | <b>2,769,598</b>   | <b>4,270,868</b> |
| 15 Law Libraries - grants   | 3,031,700        | (3,031,700)        | -                | 2,978,608        | (2,978,608)        | -                |
| 16 Law Libraries - Capital and special needs grants                 | 7,683            | (7,683)            | -                | 27,750           | (27,750)           | -                |
| <b>17 Total grants</b>  | <b>3,039,383</b> | <b>(3,039,383)</b> | <b>-</b>         | <b>3,006,358</b> | <b>(3,006,358)</b> | <b>-</b>         |
| <b>18 Total expenses and grants</b>                                 | <b>4,497,949</b> | <b>(223,671)</b>   | <b>4,274,278</b> | <b>4,507,628</b> | <b>(236,760)</b>   | <b>4,270,868</b> |
| <b>19 Excess of (expenses over revenues) revenues over expenses</b> | <b>(124,360)</b> | <b>448,016</b>     | <b>323,656</b>   | <b>(357,214)</b> | <b>441,909</b>     | <b>84,695</b>    |

*This schedule includes revenues and expenses at the LibraryCo and Law Library level.*

**FOR INFORMATION**

**INVESTMENT COMPLIANCE REPORTS**

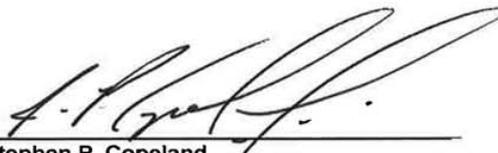
96. **Compliance Statements for the General Fund, Compensation Fund, and Errors & Omissions Insurance Fund portfolios as at June 30, 2012 are presented for information.**

**The Law Society of Upper Canada  
General Fund  
Manager: Foyston, Gordon & Payne Inc.  
Compliance Report  
(Period ending June 30, 2012)**

| 1. Asset Mix:   | Min.       | Mid-Point  | Max.       | Compliance*<br>(Y/N) |
|---|------------|------------|------------|----------------------|
| Cash & Short Term   | 0%         | 10%        | 20%        | Y                    |
| Bonds   | 60%        | 75%        | 95%        | Y                    |
| <b>Total Fixed Income</b>   | <b>80%</b> | <b>85%</b> | <b>95%</b> | <b>Y</b>             |
| North American Equity   | 5%         | 15%        | 20%        | Y                    |
| <b>Total Equity</b>   | <b>5%</b>  | <b>15%</b> | <b>20%</b> | <b>Y</b>             |
| <b>Minimum bond rating "BBB" or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.</b>                        |            |            |            | <b>Y</b>             |
| Max. 10% BBB rated bonds.   |            |            |            | Y                    |
| Max. 100% in Federal government or Federal government guaranteed bonds.   |            |            |            | Y                    |
| Max. 50% in Provincial government and Provincial government guaranteed bonds.   |            |            |            | Y                    |
| Max. 10% in Municipal bonds.  |            |            |            | Y                    |
| Max. 50% in Corporate issues.   |            |            |            | Y                    |
| Max. 10% in non-Government issuers.   |            |            |            | Y                    |
| Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer or Canadian issuer in a foreign currency. |            |            |            | Y                    |
| Bond portfolio duration 1 to 4 years.   |            |            |            | Y                    |

\*If policy not complied with, comment on specifics.

Date: July 16, 2012

  
 \_\_\_\_\_  
 Stephen P. Copeland  
 Senior Vice President Investments  
 & Private Client Services

**The Law Society of Upper Canada  
Compensation Fund  
Manager: Foyston, Gordon & Payne Inc.  
Compliance Report  
(Period ending June 30, 2012)**

| 1. Asset Mix:   | Min.       | Mid-Point  | Max.       | Compliance*<br>(Y/N) |
|---|------------|------------|------------|----------------------|
| Cash & Short Term   | 0%         | 0%         | 20%        | Y                    |
| Bonds   | 60%        | 75%        | 95%        | Y                    |
| <b>Total Fixed Income</b>   | <b>80%</b> | <b>85%</b> | <b>95%</b> | <b>Y</b>             |
| North American Equity   | 5%         | 15%        | 20%        | Y                    |
| <b>Total Equity</b>   | <b>5%</b>  | <b>15%</b> | <b>20%</b> | <b>Y</b>             |
| <b>Minimum bond rating "BBB" or better by the Dominion Bond Rating Service or equivalent rating by another recognized bond rating service.</b>                        |            |            |            | <b>Y</b>             |
| Max. 10% in BBB rated bonds.  |            |            |            | Y                    |
| Max. 100% in Federal government or Federal government guaranteed bonds.   |            |            |            | Y                    |
| Max. 50% in Provincial government and Provincial government guaranteed bonds.   |            |            |            | Y                    |
| Max. 10% in Municipal bonds.  |            |            |            | Y                    |
| Max. 50% in Corporate issues.   |            |            |            | Y                    |
| Max. 10% in non-Government issuers.   |            |            |            | Y                    |
| Not more than 10% of the total market value of the bond portfolio will be invested in securities issued by a foreign issuer or Canadian issuer in a foreign currency. |            |            |            | Y                    |
| Bond portfolio duration 1 to 4 years.   |            |            |            | Y                    |

\*If policy not complied with, comment on specifics.

July 16, 2012

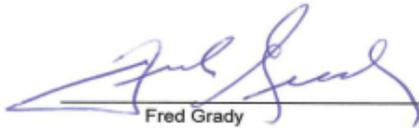
Date:



**Stephen F. Copeland  
Senior Vice President Investments  
& Private Client Services**

**STATEMENT OF INVESTMENT COMPLIANCE  
LONG TERM  
As at June 30, 2012**

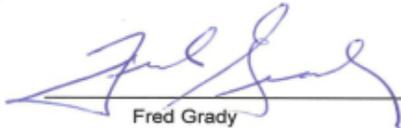
|   |            | COMPENSATION<br>FUND | GENERAL<br>FUND | E & O<br>FUND |
|---|------------|----------------------|-----------------|---------------|
| Investment Parameters                                   | Guidelines | Compliance           | Compliance      | Compliance    |
| <b>1. <u>Asset Mix</u></b>                              |            |                      |                 |               |
| Cash and Short-Term                                     | 0 - 15%    | Yes                  | Yes             | Yes           |
| Equity investments                                      | 5 - 25%    | Yes                  | Yes             | Yes           |
| Bonds   | 75 - 95%   | Yes                  | Yes             | Yes           |
| <b>2. <u>Quality Requirements</u></b>                   |            |                      |                 |               |
| Bonds   | Min. BBB   | Yes                  | Yes             | Yes           |
| <b>3. <u>Quantity Restrictions</u></b>                  |            |                      |                 |               |
| <b>Equities:</b>  |            |                      |                 |               |
| single holding  | Max. 10%   | Yes                  | Yes             | Yes           |
| weight in portfolio > weight in S&P/TSX Composite Index | Varies     | Yes                  | Yes             | Yes           |
| derivatives etc.  | None       | Yes                  | Yes             | Yes           |
| Non-Canadian  | None       | Yes                  | Yes             | Yes           |
| <b>Bonds:</b>   |            |                      |                 |               |
| single security or issuer (non-government)              | Max. 10%   | Yes                  | Yes             | Yes           |
| corporate issues  | Max 50%    | Yes                  | Yes             | Yes           |
| provincial govt. issues                                 | Max 60%    | Yes                  | Yes             | Yes           |
| municipal issues  | Max 10%    | Yes                  | Yes             | Yes           |
| foreign issues  | Max 10%    | Yes                  | Yes             | Yes           |
| BBB issues  | Max. 10%   | Yes                  | Yes             | Yes           |



Fred Grady  
Manager of Finance

**STATEMENT OF INVESTMENT COMPLIANCE  
SHORT TERM  
As at June 30, 2012**

| Investment Parameters                         | Guidelines<br>for Both            | COMPENSATION<br>FUND | GENERAL<br>FUND |
|---|-----------------------------------|----------------------|-----------------|
|   |                                   | Compliance           | Compliance      |
| <b>1. <u>Asset Mix</u></b>                    |                                   |                      |                 |
| Federal & provincial treasury bills           | Allowed                           | Yes                  | Yes             |
| Bankers acceptances                           | Allowed                           | Yes                  | Yes             |
| Commercial paper                              | Allowed                           | Yes                  | Yes             |
| Investment manager Money Market Fund          | Allowed                           | Yes                  | Yes             |
| Premium Savings Account                       | Allowed                           | Yes                  | Yes             |
| FGP S/T Invest Fund                           | Allowed                           | Yes                  | Yes             |
| <b>2. <u>Quality Requirements</u></b>         |                                   |                      |                 |
| Commercial paper rating                       | Min. R1                           | N/A                  | N/A             |
| Liquidity                                     | Max. term to maturity of 365 days | Yes                  | Yes             |
| <b>3. <u>Quantity Restrictions</u></b>        |                                   |                      |                 |
| Commercial paper of a single corporate issuer | Max. 8% of Fund                   | Yes                  | Yes             |
| <b>4. <u>Other Restrictions</u></b>           |                                   |                      |                 |
| Equity securities                             | None                              | Yes                  | Yes             |
| Direct investments in:                        |                                   |                      |                 |
| resource properties                           | None                              | Yes                  | Yes             |
| mortgages and mortgage-backed securities      | None                              | Yes                  | Yes             |
| real estate                                   | None                              | Yes                  | Yes             |
| venture capital financings                    | None                              | Yes                  | Yes             |
| Derivatives                                   | None                              | Yes                  | Yes             |

  
 \_\_\_\_\_  
 Fred Grady  
 Manager of Finance



FOYSTON, GORDON & PAYNE INC.

I N V E S T M E N T C O U N S E L

July 2012

Ms. Wendy Tysall  
Chief Financial Officer  
Osgoode Hall  
Finance Dept., 1<sup>st</sup> Floor  
130 Queen Street West  
Toronto, Ontario  
M5H 2N6

Dear Wendy:

**Re: Manager Compliance Reporting**

For the Law Society of Upper Canada Errors and Omissions Insurance Fund, we wish to confirm that the portfolio being managed by Foyston, Gordon & Payne Inc. was in compliance with the Fund's Investment Policy Statement in effect (latest revision effective April 30, 2010), for the quarter ending June 30, 2012.

Yours truly,

Stephen P. Copeland  
Senior Vice President Investments  
& Private Client Services

**FOR INFORMATION**

**OTHER COMMITTEE WORK**

**2013 Draft Budget**

97. The Committee reviewed the draft summary of the 2013 Law Society budget.
  
98. The Law Society's draft 2013 budget will be presented in detail to the Audit & Finance Committee in October and to the Audit & Finance Committee and Convocation in November for approval. It will also be presented to all benchers for input at a budget information session after Convocation on September 27.



## **Report to Convocation September 27, 2012**

---

### **Professional Regulation Committee**

#### **Committee Members**

William McDowell (Chair)  
Malcolm Mercer (Vice-Chair)  
Susan Richer (Vice-Chair)  
Paul Schabas (Vice-Chair)  
John Campion  
Robert Evans  
Alan Gold  
Janet Leiper  
Kenneth Mitchell  
Ross Murray  
Jan Richardson  
Linda Rothstein  
Peter Wardle  
Roger Yachetti

**Purpose of Report: Decision and Information**

**Prepared by the Policy Secretariat  
(Margaret Drent (416-947-7613))**

## TABLE OF CONTENTS

**For Decision** ..... **TAB 7.1**

Proposed Amendments to Protect Privileged Information

**For Information**

Terms of Reference of the Business Structures Working Group.....**TAB 7.2**

Fees for Late Payment and Late Filing.....**TAB 7.3**

Lawyer Annual Report 2012.....**TAB 7.4**

Professional Regulation Division Quarterly Report.....**TAB 7.5**

## COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on September 13, 2012. In attendance were William McDowell (Chair), Malcolm Mercer (Vice-Chair), Susan Richer (Vice-Chair), Robert Evans, Janet Leiper, Ross Murray, Linda Rothstein, and Peter Wardle. Alan Silverstein and Bob Aaron participated in the meeting by telephone. Staff members attending were Naomi Bussin, Lesley Cameron, Margaret Drent, Fred Grady, Bill Holder, Terry Knott, Zeynep Onen, Eric Smith, Juda Strawczynski, and Jim Varro.

**FOR DECISION**  
**PROPOSED AMENDMENTS TO PROTECT PRIVILEGED**  
**INFORMATION**

**Motion**

2. **That Convocation approve in principle amendments to the *Law Society Act* to increase the protection of privileged information received by the Law Society.**

**Introduction**

3. Section 49.8 of the *Law Society Act* establishes the Law Society's power to collect privileged information from licensees in the course of competence reviews, audits, conduct and capacity investigations and review of complaints. Section 49.8 speaks to the admissibility of this information in proceedings under the Act and the ongoing protection of the privileged information, despite disclosure of the information to the Law Society and its use in proceedings under the Act.
4. There is a concern that s. 49.8 may only protect privileged information provided by a licensee subject to an investigation, audit or review, and people who work with such a licensee and not such information received from a client, who is the holder of the privilege.
5. The Committee is proposing that the Act be amended to make clear that the Law Society has the ability to receive privileged information from clients and to introduce such information in proceedings under the Act without any loss of privilege.

**Discussion of the Issue**

6. The provisions of the Act relevant to this issue dealing with privilege were last reviewed in substance at the time of the comprehensive amendments to the Act in 1998. In the meantime, there have been many significant legal decisions that have emphasized that

solicitor client privilege is a fundamental right and all but absolute.<sup>1</sup> The only exceptions recognized to this privilege are public safety and innocence at stake, both of which are narrowly construed. The concept of what is privileged has also been broadened.<sup>2</sup>

7. Many investigations and proceedings under the Act require an exploration of privileged information. The client is frequently the source of this privileged information through his or her initial complaint to the Society, or upon request during the investigation. The Law Society's position is that making a complaint to the Law Society or assisting in its investigation is not, by itself, a waiver of privilege.
8. Section 49.8 of the Act, reproduced below, sets out the Law Society's power to collect privileged information and its use in proceedings under the Act.

### **Privilege**

#### **Disclosure despite privilege**

**49.8** (1) A person who is required under section 42, 49.2, 49.3 or 49.15 to provide information or to produce documents shall comply with the requirement even if the information or documents are privileged or confidential.

#### **Admissibility despite privilege**

(2) Despite clause 15 (2) (a) and section 32 of the *Statutory Powers Procedure Act*, information provided and documents produced under section 42, 49.2, 49.3 or 49.15 are admissible in a proceeding under this Act even if the information or documents are privileged or confidential.

#### **Transition**

(2.1) Despite clause 15 (2) (a) and section 32 of the *Statutory Powers Procedure Act*, information that was provided and documents that were produced under section 49.4 of this Act, before its repeal by section 43 of Schedule C to the Access to Justice Act, 2006, are admissible in a

---

<sup>1</sup> *Lavallee, Rackel & Heintz v. Canada (Attorney General)*, [2002] 3 S.C.R. 209 per Arbour J., paragraph 16, speaking for the Court, (it is a "fundamental civil and legal right" and paragraph 36, a "principle of fundamental justice under s. 7 of the *Charter*").

<sup>2</sup> *Maranda v. Richer*, 2003 SCC 67 per LeBel J., paragraph 31, speaking for the Court (quoting with approval the statement in Sopinka, Lederman and Bryant, *The Law of Evidence in Canada*, 2nd ed. Toronto: Butterworths, 1999, "The distinction between fact and communication is often a difficult one and the courts should be wary of drawing the line too fine lest the privilege be seriously emasculated.")

proceeding under this Act even if the information or documents are privileged or confidential.

**Privilege preserved for other purposes**

(3) Subsections (1), (2) and (2.1) do not negate or constitute a waiver of any privilege and, even though information or documents that are privileged must be disclosed under subsection (1) and are admissible in a proceeding under subsections (2) and (2.1), the privilege continues for all other purposes.

9. Section 49.10, which deals with orders for search and seizure, contains similar provisions allowing seizure of privileged information, providing for admissibility in proceedings under the Act and preserving privilege for all other purposes.

**The Need for an Amendment**

10. The concern with the current language of s. 49.8 is that it might be interpreted to include only privileged information provided by a licensee subject to an investigation, audit or review, and people who work with such a licensee. This is because s. 49.8 refers in various forms to the requirement to provide information or produce documents under sections that can only have application to a licensee, with accompanying powers that apply in respect of the licensee and people who work with the licensee.
11. The specific sections referred to are s. 42 [professional competence review], s. 49.2 [audit of financial records], s. 49.3 [conduct and capacity investigations], and s. 49.15 [Complaints Resolution Commissioner], which do not mention privileged information provided by a client.
12. Section 49.12 of the Act imposes an obligation on the Society's agents to keep information received confidential, subject to certain exceptions necessary to effective regulation. This alone would not necessarily preserve privilege, or permit the introduction of privileged information in proceedings under the Act.
13. An amendment to the Act to include language respecting information received from a client would clearly establish that the Society has the ability to receive privileged information from clients and to introduce such information in proceedings under the Act

without any loss of privilege. While the Law Society's position is that the voluntary provision of privileged information to the Society for the purposes set out in subsection 49.8(2) from a client does not constitute a waiver of privilege, an amendment to the Act would clarify that such information is admissible in a proceeding under the Act.

**FOR INFORMATION**

**TERMS OF REFERENCE FOR THE ALTERNATIVE BUSINESS  
STRUCTURES WORKING GROUP**

14. On December 9, 2011, Convocation approved its priorities for the 2011-12 Benchers term. One of the priorities was business structures and law firm financing.
  
15. On April 26, 2012 Convocation approved the work plan for this (and other) priorities as set out in the report of the Priority Planning Committee. The following is an excerpt from the Priority Planning Committee report on the approved work plan for this priority:

Since the mid-1990s, the Law Society has studied developments in the structures available to lawyers for delivering legal services. It has implemented regulatory schemes for professional corporations, MDPs and LLPs. These are in addition to the “traditional” partnership and sole practice vehicles for legal services. The Law Society also reviewed the feasibility of other structures, such as publicly-traded law firms, in 2005. The thinking globally on alternative legal services structures has been anything but static, and changes have occurred in other jurisdictions that may impact the Canadian legal marketplace. As a regulator, the Law Society needs to consider the implications, and should prioritize its review. As noted earlier, an initial review at the staff level has begun.

The issues include:

- How to structure a regulatory scheme that may involve new methods of oversight to permit a more flexible delivery regime and alternate business structures;
- How licensees maintain independence and other core values within new business structures;
- ensuring competence, quality of work and value to the client;
- transparency and the client’s understanding of who is providing the legal services and addressing possible conflicts of interest in alternate delivery models;
- balancing more accessible legal services potentially at a lower cost with accountabilities that maintain robust and meaningful regulation; and
- financing of law firms and alternate business structures.

Elements of the Work Plan include the following:

- creating a working group to study the issues;
- reviewing information on options for alternative business structures and alternative service delivery models;
- developing a plan to identify priorities and legal services delivery models for consideration;
- implementing the plan including a regulatory review to determine the impact of any proposal, and consultations as appropriate; and
- reporting the results to Convocation, including, as appropriate, proposals and recommendations for next steps.

16. At its first meeting on September 13, 2012, the Working Group approved its terms of reference which are as follows:

The Working Group will

- a) inform itself on developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements and the related regulatory process;
- b) consider these developments in light of regulatory requirements and develop a set of criteria to assess and prioritize these new models and structures. Criteria may include access to the services by the public (access to justice), public protection (risk assessment of various models), and other principles that inform the Law Society's public interest mandate, including the requirement that standards of professional conduct be proportionate to the significance of the regulatory objectives sought to be realized;
- c) determine the range of legal service delivery models and financing arrangements that should be explored and examine the existing regulatory constraints on delivery models and financing arrangements;
- d) create a Work Plan that will include identification of the legal services delivery models and regulatory changes that should be considered by the Law Society for possible implementation based on
  1. an initial assessment of their impacts based on the criteria developed earlier, and
  2. a high-level consultation.

- (e) report the results of its work to Convocation, including, as appropriate, proposals and recommendations for next steps.
- 17. The Working Group expects to report on an interim basis to the Professional Regulation Committee from time to time in 2012 and 2013 and will determine a schedule for the final report to the Committee.

## **FEES FOR LATE PAYMENT AND LATE FILING**

18. In June, 2012, the Finance Committee approved in principle the imposition of late fees on licensees who pay their annual fees and/or file their annual reports after the due date.
19. On September 12, 2012, the Audit & Finance Committee approved the imposition of a fee for lawyers who pay their annual fees late and/or file their Lawyer Annual Report (LAR) late. The Committee also agreed to reduce the period of default in By-Laws 5 and 8 from 120 to 60 days beginning in 2013.
20. At its meeting on September 13, 2012, the Professional Regulation Committee reviewed the June, 2012 material from the Finance Committee in regard to fees for late payment and late filing. The Committee agreed with the Finance Committee's proposal for a fee for lawyers who pay their annual fees late and/or file their Lawyer Annual Report (LAR) late. The Committee also agreed with the proposal to reduce the period of default from 120 to 60 days.
21. The motion for Convocation's approval of these proposals appears in the Audit & Finance Committee report to Convocation.

## 2012 LAWYER ANNUAL REPORT

22. The Lawyer Annual Report for the filing year 2012 appears at **TAB 7.4.1** for the information of Convocation. The Lawyer Annual Report is the form provided by the Law Society under the authority of By-Law 8, as follows:

### PART II

#### FILING REQUIREMENTS

##### ANNUAL REPORT

#### **Requirement to file annual report**

5. (1) Every licensee shall file a report with the Society, by March 31 of each year, in respect of,
- (a) the licensee’s professional business during the preceding year; and
  - (b) the licensee’s other activities during the preceding year related to the licensee’s practice of law or provision of legal services.

#### **Form, format and manner of filing**

- (2) The report required under subsection (1) shall be in a form provided, and in an electronic format specified, by the Society and shall be filed electronically as permitted by the Society.

23. The following table shows changes made to the 2012 Lawyer Annual Report.

| QUESTION/ISSUE   | CHANGES FOR 2012   |
|--|--|
| Section A, Question 1 and Question 2<br>(Client Identification and Pro Bono Services Questions)                | These items have been moved to section “F” and are now numbered Question 7 and 8, respectively. The questions that remain in Section A are optional, while those in Section F are mandatory. |
| Section B (Year End Status - Corporate Counsel Insured by LawPro and Corporate Counsel Not Insured by Law Pro) | These statuses have been changed to In House Counsel Insured by LawPro and In House Counsel not Insured by LawPro.   |

|   |  |
|---|--|
| Section D (Areas of Practice)                         | Franchise Law has been added as an option.   |
| Section E (Self-Study)                                | A note has been added to the question advising licensees that `self-study` for the purpose of this section means self-directed reading or research using print materials, electronic or otherwise. The options to select non-print materials, (video, CD ROM, audio and DVD), were removed from question 1(d).   |
| Section F (Individual Lawyer Questions)<br>Question 8 | A definition of <i>pro bono</i> legal services has been added at the start of the question. The term <i>Pro bono</i> legal services is defined as the provision of legal services to persons of limited means or to charitable or not-for profit organizations without expectation of a fee from the client. The question is also now limited to <i>pro bono</i> legal services provided in Ontario. |

24. Other reports for the filing year 2012 are also included. The 2012 Class L2 License Annual Report and the 2012 Class L3 Lawyer Canadian Legal Advisor Annual Report follow as **TABS 7.4.2** and **7.4.3**, respectively.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Lawyer Annual Report

### Introduction Page

**YOUR 2012 LAWYER ANNUAL REPORT IS DUE MARCH 31, 2013**

**PLEASE FILE THIS REPORT ONLINE AT: <https://portal.lsuc.on.ca/wps/portal>**

This report is based on the calendar year ending December 31, 2012, and is due by March 31, 2013. Failure to complete and file the report within 120 days of the due date will result in a summary order suspending your licence until such time as this report is completed and filed.

Your responses to Sections A to D will be shared with the Lawyers' Professional Indemnity Company (LawPRO), which may rely upon this information for the purposes of your professional indemnity insurance.

**GUIDE: For definitions or assistance in completing this annual report, see the enclosed Guide.**

**FINANCIAL FILING DECLARATION:** Only the Designated Financial Filing Partner for each firm should submit the Financial Filing Declaration by e-filing it. One Financial Filing Declaration is expected from each firm. The Financial Filing Declaration is enclosed.

It is not necessary to submit the e-FFD at the same time as your Lawyer Annual Report.

### **FORM 1: REPORT TO THE LAW FOUNDATION:**

Questions on completing this form and questions concerning interest on mixed trust accounts should be directed to The Law Foundation at (416) 598-1550.

**You are required to file a Form 1 if client trust monies were held in a mixed trust account during the reporting year and you are responsible for the account or you are the Designated Financial Filing Partner.**

Once completed it should be mailed directly to The Law Foundation at the address found at the top of the form.

It is not necessary to submit the e-Form 1 at the same time as your Lawyer Annual Report. The Form 1 is due March 31, 2013.

**BY-LAWS:** The applicable by-laws are available in your Annual Report Package or on our website, for your reference.

If you require assistance contact By-Law Administration Services at (416) 947-3315 or at 1-800-668-7380 ext. 3315 or by e-mail at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



**Section A IDENTIFICATION (To be reviewed by all licensees)**

Populated from Law Society records as at December 2012.

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

Name:

Address:

City Province:

Postal Code:

Lawyer E-mail:

Phone:

Status:

\*As at December 2012

Is the information above current? If not, update our records online by selecting the Change of Information tab after you have logged out and/or completed filing your annual report. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.

**Privacy Option**

On occasion, the Law Society may provide lawyers' names, business addresses and e-mail addresses to professional legal associations, organizations and institutions (e.g. Ontario Bar Association, Ontario law schools) without charge, to facilitate the maintenance of mailing lists, and enhance communications with the profession, including information about programs, initiatives, products and services.

You have the option of instructing the Law Society not to provide your name, business address and/or e-mail address to any professional association, organization or institution.

Click this box if you do not wish the Law Society to provide your name, business address and/or e-mail address to any professional association, organization or institution:



**1. Bencher Election Privacy Option (non-mandatory response)**

During the bencher election, many candidates want to communicate with voters by e-mail.

**Check the box if you give the Law Society permission to allow the use of your e-mail address for bencher election campaigning purposes:**

**2. Provision of Legal Services in French (non-mandatory response)**

a) Can you communicate with your clients and provide legal advice to them in the French language?

Yes  No

b) Can you communicate with your clients, provide legal advice to them, and represent them in the French language?

Yes  No

**3. Other Languages (non-mandatory response)**

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Arabic     | <input type="checkbox"/> Bulgarian  |
| <input type="checkbox"/> Cantonese                  | <input type="checkbox"/> Croatian   | <input type="checkbox"/> Czech      |
| <input type="checkbox"/> Danish                     | <input type="checkbox"/> Dutch      | <input type="checkbox"/> English    |
| <input type="checkbox"/> Estonian                   | <input type="checkbox"/> Farsi      | <input type="checkbox"/> Finnish    |
| <input type="checkbox"/> French                     | <input type="checkbox"/> German     | <input type="checkbox"/> Greek      |
| <input type="checkbox"/> Gujarati                   | <input type="checkbox"/> Hebrew     | <input type="checkbox"/> Hindi      |
| <input type="checkbox"/> Hungarian                  | <input type="checkbox"/> Italian    | <input type="checkbox"/> Japanese   |
| <input type="checkbox"/> Korean                     | <input type="checkbox"/> Latvian    | <input type="checkbox"/> Lithuanian |
| <input type="checkbox"/> Macedonian                 | <input type="checkbox"/> Mandarin   | <input type="checkbox"/> Norwegian  |
| <input type="checkbox"/> Polish                     | <input type="checkbox"/> Portuguese | <input type="checkbox"/> Punjabi    |
| <input type="checkbox"/> Romanian                   | <input type="checkbox"/> Russian    | <input type="checkbox"/> Serbian    |
| <input type="checkbox"/> Slovak                     | <input type="checkbox"/> Slovene    | <input type="checkbox"/> Spanish    |
| <input type="checkbox"/> Swedish                    | <input type="checkbox"/> Ukrainian  | <input type="checkbox"/> Urdu       |
| <input type="checkbox"/> Yiddish                    |                                     |                                     |

Other - Please specify



## 2012 Lawyer Annual Report

### Section B YEAR END STATUS (To be completed by all licensees)

#### NOTES ABOUT THIS SECTION:

1. Choose only one status (your status on December 31, 2012) regardless of changes during the 2012 calendar year.
2. Your response to this question will not be used to change your status. To review or update your status, please refer to the Change of Information tab in the LSUC Portal.

| December 31, 2012 Status (Select only ONE)   |                          | Mandatory Sections | Complete if Applicable |
|--|--------------------------|--------------------|------------------------|
| A sole practitioner, practising alone in Ontario   | <input type="checkbox"/> | DEFGH              |                        |
| A sole practitioner, practising in Ontario with one or more lawyers as employees         | <input type="checkbox"/> | DEFGH              |                        |
| A sole practitioner, practising in Ontario with one or more lawyers in shared facilities | <input type="checkbox"/> | DEFGH              |                        |
| A partner in a law partnership in Ontario  | <input type="checkbox"/> | DEFGH              |                        |
| An employee/associate in a law firm in Ontario   | <input type="checkbox"/> | DEFGH              |                        |
| In House Counsel Insured by LawPRO   | <input type="checkbox"/> | EF H               | CDG                    |
| In House Counsel Not Insured by LawPRO   | <input type="checkbox"/> | EF H               | CDG                    |
| Employed by Legal Aid Ontario or a community legal clinic                                | <input type="checkbox"/> | EF H               | CDG                    |
| Employed in government in Ontario  | <input type="checkbox"/> | EF H               | CDG                    |
| Employed in education in Ontario   | <input type="checkbox"/> | EF H               | CDG                    |
| Employed other, in Ontario   | <input type="checkbox"/> | EF H               | CDG                    |
| A lawyer practising law outside of Ontario   | <input type="checkbox"/> | EF H               | CDG                    |
| Employed other, outside of Ontario   | <input type="checkbox"/> | EF H               | CDG                    |
| Emeritus lawyer providing pro bono legal services through Pro Bono Law Ontario           | <input type="checkbox"/> | EF H               | CDG                    |
| Not working or on parental leave or unemployed   | <input type="checkbox"/> | EF H               | CDG                    |
| Suspended  | <input type="checkbox"/> | EF H               | CDG                    |
| In a situation not covered above (specify your status in the area below)                 | <input type="checkbox"/> | EF H               | CDG                    |



**Section C ALLOCATION OF PRACTICE (To be completed by all lawyers practising law but not in private practice in 2012)**

**NOTES ABOUT THIS SECTION:**

1. Complete Section C only if you engaged in the practice of law\* in respect of Ontario law (whether Provincial or Federal) during the course of your employment or engagement. Complete Section C only in respect of such services. Complete regardless of where you were resident.
2. “Employer” includes a corporation or other entity employing you, as well as affiliated, controlled, and subsidiary companies of that corporation or other entity.
3. “Affiliated”, “controlled” and “subsidiary” companies are as defined in the Securities Act, R.S.O. 1990, c.S.5.
4. \* Refer to the e-Guide for definitions.

|   |       |
|---|-------|
| What approximate percentage of the time spent practising law was devoted to:                                      |       |
| The practice of law for outside third parties on your employer’s behalf (e.g. employer’s clients, customers etc.) | _____ |
| The practice of law for outside third parties not on your employer’s behalf                                       | _____ |
| The practice of law directly for your employer  | _____ |
| Total:  | _____ |
| The total for the 3 rows should be 100%.  |       |



2012 Lawyer Annual Report

**Section D AREAS OF PRACTICE (To be completed by all lawyers resident in Ontario in 2012, who engaged in the practice of law, whether private practice or otherwise at the time. Other lawyers, including those resident and practising in Canada, but outside of Ontario throughout 2012, and those resident and practising outside of Canada throughout 2012, should omit this section and proceed to Section E)**

**NOTES ABOUT THIS SECTION:**

1. Questions in this section relate only to your law practice while resident in Ontario in 2012. "Resident" as used in this section, has the same meaning given it for the purposes of the Income Tax Act (Canada).
2. Where exact information is not available to respond to the questions under this heading, provide your best approximation.
3. In estimating the approximate percentage of time in each question, your response should include: a) time spent by non-lawyer staff on your behalf, and b) your docketed and undocketed time, combined.
4. If you were engaged in the practice of law\* other than in private practice, unless otherwise noted, your responses should be based upon the whole of your practice, whether for your employer or for others.
5. Do not include ADR or litigation activities in the categories of Corporate Commercial Law and Real Estate Law for the first two questions in this section. ADR and litigation activities should be reflected under "ADR" and "Civil Litigation" respectively for these noted categories.
6. In the category of "ADR/Mediation Services" for the first two questions in this section, indicate the percentage of time spent as a mediator or other role as an intermediary.

**1. Canadian Law Practice - Ontario**

a) Did you practise law relating to Ontario Law in 2012? Yes  No

**If "Yes" to a):**

b) Describe that portion of your law practice most directly relating to Ontario, by indicating the approximate percentage of time devoted by you while resident in Ontario in 2012 to each area of law listed below.

|  |       |   |       |
|--|-------|---|-------|
| Aboriginal Law                                 | _____ | Administrative Law                          | _____ |
| ADR/Mediation Services (see Notes 5 & 6 above) | _____ | Bankruptcy & Insolvency Law                 | _____ |
| Civil Litigation – Plaintiff                   | _____ | Civil Litigation – Defendant                | _____ |
| Construction Law                               | _____ | Corporate/Commercial Law (see Note 5 above) | _____ |
| Criminal/Quasi Criminal Law                    | _____ | Employment/Labour Law                       | _____ |
| Environmental Law                              | _____ | Family/Matrimonial Law                      | _____ |
| Franchise Law                                  | _____ | Immigration Law                             | _____ |
| Intellectual Property Law                      | _____ | Real Estate Law (see Note 5 above)          | _____ |
| Securities Law                                 | _____ | Tax Law                                     | _____ |
| Wills, Estates, Trusts Law                     | _____ | Workplace Safety & Insurance Law            | _____ |
| Other  | _____ |   |       |
| <b>Total:</b>                                  | _____ |   |       |

Question 1 must total 100%.

**2. Canadian Law Practice – Other than Ontario**

a) Did you practise law relating to Canadian jurisdictions other than Ontario in 2012? Yes  No

**If "Yes" to a):**

b) Describe that portion of your law practice most directly relating to Canadian jurisdictions other than Ontario, by indicating the approximate percentage of time devoted by you while resident in Ontario in 2012 to each area of law listed below.

|  |       |                              |       |
|--|-------|------------------------------|-------|
| Aboriginal Law                                 | _____ | Administrative Law           | _____ |
| ADR/Mediation Services (see Notes 5 & 6 above) | _____ | Bankruptcy & Insolvency Law  | _____ |
| Civil Litigation – Plaintiff                   | _____ | Civil Litigation - Defendant | _____ |



2012 Lawyer Annual Report

|                             |       |   |       |
|-----------------------------|-------|---|-------|
| Construction Law            | _____ | Corporate/Commercial Law (see Note 5 above) | _____ |
| Criminal/Quasi Criminal Law | _____ | Employment/Labour Law                       | _____ |
| Environmental Law           | _____ | Family/Matrimonial Law                      | _____ |
| Franchise Law               | _____ | Immigration Law                             | _____ |
| Intellectual Property Law   | _____ | Real Estate Law (see Note 5 above)          | _____ |
| Securities Law              | _____ | Tax Law                                     | _____ |
| Wills, Estates, Trusts Law  | _____ | Workplace Safety & Insurance Law            | _____ |
| Other                       | _____ |   |       |
| Total:                      | _____ |   |       |

Question 2 must total 100%.

**3. Canadian Law Practice - Other than Ontario**  
 What percentage of your total Canadian law practice relates most directly to Canadian jurisdictions other than Ontario? \_\_\_\_\_

**4. Details of Real Estate Practice (if applicable)**  
 a) Of the time you devoted to your overall real estate practice in 2012, what approximate percentage of the time related to:

|                         |       |                             |       |
|-------------------------|-------|-----------------------------|-------|
| Purchases and mortgages | _____ | Sales                       | _____ |
| Development/Land use    | _____ | Residential landlord/tenant | _____ |
| Commercial leasing      | _____ | Mortgage remedies work      | _____ |
| Other                   | _____ |                             |       |
| Total:                  | _____ |                             |       |

The total for the 7 rows should be 100%.

b) Of the time you devoted to your overall residential real estate practice in 2012, what approximate percentage of the time related to:

|  |  |
|--|--|
| <b>--Non-Condominiums--</b>                              |  |
| Residential single unit dwellings                        | _____ Residential multiple unit dwellings of 4 units or less _____ |
| Residential multiple unit dwellings of more than 4 units | _____  |
| <b>--Condominiums--</b>                                  |  |
| Residential  | _____  |
| Total:   | _____  |

The total for the 4 rows should be 100%.

c) Of the time you devoted to conveyancing-related work, including mortgage work in 2012, what approximate percentage of the time related to:

|  |       |                       |       |
|--|-------|-----------------------|-------|
| Residential urban (i.e. within town/city limits) | _____ | Residential non-urban | _____ |
| Commercial                                       | _____ | Industrial            | _____ |
| Other  | _____ |                       |       |
| Total:   | _____ |                       |       |

The total for the 5 rows should be 100%.



**Section E SELF-STUDY (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. Refer to the "Additional Information Menu" above and click on "e-Guide" for more information regarding self study.
2. The annual minimum expectation is 50 hours of self-study.
3. For the purposes of this section self-study means self-directed reading or research using print materials, electronic or otherwise.
4. CPD hours must be reported in the CPD section of the LSUC Portal by December 31 of each calendar year.

**1. Self-Study**

a) Did you undertake any self-study during 2012?

Yes  No

**If "Yes" to a),** answer b) to d).

**If "No" to a),** you may provide an explanation in the area at the end of this section.

b) Approximate total number of self-study hours spent on file specific reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on general reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Click all that apply:

Printed Material                       Internet                       Other

If required, use the area below to provide further information on your self study (Section E)



2012 Lawyer Annual Report

**Section F INDIVIDUAL LAWYER QUESTIONS (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide.
2. \*Refer to the e-Guide for definitions.

**1. Cash Transactions - All lawyers must report on large cash transactions regardless of jurisdiction of practice.**

a) Did you receive cash\* in an aggregate amount equivalent to \$7,500 CDN or more in respect of any one client file in 2012? Yes  No

**If "Yes" to a):**

b) Was the cash solely for legal fees and/or client disbursements\*? Yes  No

**If "No" to b),** provide full particulars below with respect to compliance with By-Law 9, Part III (Cash Transactions).

**2. Trust Funds/Property - 2a), 2b) and 2c) must be answered.**

a) In 2012, did you receive\* trust funds\* and/or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

b) In 2012, did you disburse\* (payout), or did you have signing authority to disburse, trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

c) In 2012, did you hold\* trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

**3. Estates and Power(s) of Attorney - 3a), 3b) and 3c) must be answered.**

a) i) In 2012, did you act as a sole estate trustee\* in Ontario? Yes  No

**If "Yes" to i),** answer ii), iii) & iv)

ii) Were you sole estate trustee\* only for related\* persons in Ontario? Yes  No

iii) In 2012, the total number of estates in which you were sole estate trustee\* was: \_\_\_\_\_ N/A

iv) As sole estate trustee\* for any estate, did you receive, hold\*, or disburse estate funds or estate property? Yes  No

**If "Yes" to iv),** answer v), vi) & vii)

v) The total dollar value as at December 31, 2012 of all separate\* bank accounts and investments\* for the estates referred to in iv) was: \$\_\_\_\_\_ N/A

vi) Were books and records maintained in accordance with By-Law 9? Yes  No  N/A

vii) Was the total dollar value indicated in v) recorded in the firm's accounting records? Yes  No  N/A

**If "No" to vii),** provide a written explanation in the text box at the end of this section.

b) i) In 2012, did you exercise a power of attorney\* for property in Ontario? Yes  No

**If "Yes" to i),** answer ii), iii) & iv)

ii) Did you exercise the power(s) of attorney\* for property only for related\* persons in Ontario? Yes  No

iii) In 2012, the total number of persons for whom you exercised a power of attorney\* was: \_\_\_\_\_ N/A

12345A

Name

9



iv) In exercising the power(s) of attorney\* for any person, did you receive, hold\*, or disburse the donors' funds or property? Yes  No

**If "Yes" to iv), answer v), vi) & vii)**

v) The total dollar value as at December 31, 2012 of all separate\* bank accounts and investments\* for the powers of attorney\* referred to in iv) was: \$ \_\_\_\_\_ N/A

vi) Were books and records maintained in accordance with By-Law 9? Yes  No  N/A

vii) Was the total dollar value indicated in v) recorded in the firm's accounting records? Yes  No  N/A

**If "No" to vii), provide a written explanation in the text box at the end of this section.**

c) i) In 2012, did you control\* estate assets as a solicitor, and not as an estate trustee, in Ontario? Yes  No

(Only the lawyer responsible for the estate should answer "Yes")

**If "Yes" to i), answer ii) & iii)**

ii) In 2012, the total number of estate files open at any time during the year in which you were a solicitor with control\* over estate assets, but not an estate trustee was: \_\_\_\_\_ N/A

iii) As a solicitor, did you receive, hold\*, or disburse estate funds or estate property? Yes  No

**If "Yes" to iii), answer iv), v) & vi)**

iv) The total dollar value as at December 31, 2012 of all separate\* bank accounts and investments\* for the estate files referred to in iii) was: \$ \_\_\_\_\_ N/A

v) Were books and records maintained in accordance with By-Law 9? Yes  No  N/A

vi) Was the total dollar value indicated in iv) recorded in the firm's accounting records? Yes  No  N/A

**If "No" to vi), provide a written explanation in the text box at the end of this section.**

**4. Borrowing from Clients - 4a) and 4b) must be answered.**

Note: If your borrowing was/is from a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, answer "No" to i) and "N/A" to ii).

See subrule 2.04(4), Commentary, and subrule 2.04(5) of the Rules of Professional Conduct.

a) i) At any time in 2012, were you personally indebted to a client or person who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No

**If "Yes" to i):**

ii) Was the client or person a related person as defined in the Income Tax Act (Canada)? Yes  No  N/A

**If "Yes" to i) or ii) provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.**

b) At any time in 2012, was your spouse or a corporation, syndicate or partnership in which either you or your spouse has, or both of you have, directly or indirectly, a substantial interest, indebted to a client or person who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Lawyer Annual Report

If "Yes" to b), provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal representation.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

2012 Lawyer Annual Report

**5. Mortgage Transactions**

In 2012, did you either directly or indirectly through a related person\* or corporation\*, hold\* mortgages or other charges on real property in trust for clients or other persons?

Yes  No

**6. Private Mortgages - 6a) and 6b) must be answered. Refer to the e-Guide for Private Mortgage reporting information.**

a) In 2012, did you act for a lender, lending money through a mortgage broker?

Yes  No

b) i) In 2012, did you act for, or receive money from, a lender who was lending money secured by a charge, or charges, on real property, except for transactions listed in By-Law 9 subrule 24(2)? Note: For the exception in subrule 24 (2)(a)(i), funds loaned through RRSPs and RSPs belong to the plan holder, not the financial institution.

Yes  No

**If "Yes" to i):**

ii) In 2012, approximately how many private mortgage\* loans were advanced? \_\_\_\_\_

iii) In 2012, the approximate total dollar value of private mortgage\* loans advanced was: \$\_\_\_\_\_

**If required, use the area below to provide further information on your Individual Lawyer Questions (Section F).**

**7. Client Identification - All lawyers must answer questions 1a) and 1b)**

a) In 2012, when you were retained to provide professional services to clients, did you obtain or were you exempt from the requirement to obtain identification information for every (each) client and any third party, in accordance with By-Law 7.1, Part III?

Yes  No  N/A

**If "No" to a), provide an explanation below with particulars.**

b) In 2012, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain or were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with By-Law 7.1, Part III?

Yes  No  N/A

**If "No" to b), provide an explanation below with particulars.**



**8. Pro Bono Legal Services**

(Pro bono legal services means the provision of legal services to persons of limited means or to charitable or not-for profit organizations without expectation of a fee from the client.)

a) Did you provide pro bono legal services in Ontario in 2012?

Yes  No

**If "Yes" to a),** complete b) and c).

b) How many hours did you devote to pro bono legal services in Ontario in 2012?

\_\_\_\_\_

c) Did you provide pro bono legal services for Pro Bono Law Ontario (PBLO) sponsored programs?

Yes  No



**Section G FINANCIAL REPORTING**

To be completed by:

- All sole practitioners, partners/employees/associates of law firms;
- Lawyers employed by Legal Aid responsible for general(non-trust) accounts or trust accounts; and
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario as at December 31, 2012.

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide available on our Resource Centre website at [www.lsuc.on.ca](http://www.lsuc.on.ca).

2. \* Refer to the e-Guide for definitions.

1. Trust and General (Non-Trust) Accounts - 1a) and 1b) must be answered.

a) As at December 31, 2012, did either you or your firm operate a trust\* account in Ontario?

Yes  No

**If "Yes" to a),** proceed to question 2.

b) As at December 31, 2012, did either you or your firm operate a general\* (non-trust) account in Ontario?

Yes  No

**If "No" to a) and "Yes" to b)** proceed to question 4, and then proceed to Section H.

**If "No" to both a) and b)** proceed to Section H.

2. As at December 31, 2012, were you a sole practitioner, or were you the lawyer responsible for filing the trust account information on behalf of your firm in Ontario?

Yes  No

**If "Yes" to 2** proceed to questions 4 through 10.

**NOTE about E-FFD:** If you are reporting financial information on behalf of other lawyers and/or paralegals in your firm, you must also submit a Financial Filing Declaration.

**NOTE about E-Form 1:** If you have answered 'Yes' to question 2, remember to complete and submit the e-FORM 1.

If "No" to 2, complete the "Designated Financial Filing Option" (question 3) below.

**3. Designated Financial Filing Option**

**This option is available to you if you are not responsible for filing trust account information. Indicate on lines a) and b) below, who will be reporting the firm financial information on your behalf. Then proceed to Section H.**

**ENTER DESIGNATED FINANCIAL FILING PARTNER'S NAME & LAW SOCIETY NUMBER**

a) FINANCIAL FILING PARTNER'S NAME

b) Law Society Number

(e.g. 12345A or P12345)

The filing partner you have named is responsible to file the Financial Filing Declaration to report the firm financial information on your behalf. Your filing will not be considered complete without the submission of the Financial Filing Declaration by the person you have named.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

2012 Lawyer Annual Report

**4. Firm Records**

Were financial records for all your firm's trust\* accounts (mixed\*, separate\*, estates, power(s) of attorney\* and other interest generating investments\*) and/or general\* (non-trust) bank accounts maintained throughout 2012, on a current basis, in accordance with all applicable sections in By-Law 9 ? Yes  No

If "No" to 4), indicate below which areas were deficient and provide an explanation for each.

**COMPLETE THIS CHART ONLY IF YOU ANSWERED "NO" ABOVE.  
COMPLETE ONLY THOSE AREAS WHERE YOU WERE DEFICIENT.**

| By-Law 9: Financial Transactions and Records  | By-Law 9 Sections 18, 19 & 20 (Maintain) | By-Law 9 Section 22 (Current) | Explanation for Deficiency |
|---|--|-------------------------------|----------------------------|
| 1. Trust Receipts Journal Subsection 18(1)  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 2. Trust Disbursements Journal Subsection 18(2)   | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 3. Clients' Trust Ledger Subsection 18(3)   | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 4. Trust Transfer Journal Subsection 18(4)  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 5. General Receipts Journal Subsection 18(5)  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 6. General Disbursements Journal Subsection 18(6)   | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 7. Fees Book or Chronological Billing File Subsection 18(7)   | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 8. Trust Bank Comparison ** Subsection 18(8)  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 9. Valuable Property Record Subsection 18(9)  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 10. Source documents including deposit slips, bank statements and cashed cheques Subsection 18(10)      | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 11. Electronic Trust Transfer Requisitions and Confirmations Subsection 18(11) and section 12 (Form 9A) | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 12. Teranet Authorizations and Confirmations Subsection 18(12) and section 15 (Form 9B)                 | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 13. Duplicate Cash Receipts Book for all cash received Section 19                                       | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |
| 14. Records for mortgages held in trust Section 20  | <input type="checkbox"/>                 | <input type="checkbox"/>      |                            |

\*\* Trust comparisons are to be completed within 25 days of the effective date of the monthly trust reconciliation.



2012 Lawyer Annual Report

**5. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2012**

Name and address of financial institution(s) where trust account(s) is (are) held and account number(s):

FINANCIAL INSTITUTION NAME: ADDRESS: TRANSIT/ACCOUNT NUMBER:

| Reconciliation<br>To refer to a sample reconciliation in the e-Guide click here.  | December 31, 2012 Balances |
|---|----------------------------|
| a) The total dollar value of mixed* trust bank accounts   | \$                         |
| b) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*   | + \$                       |
| c) The total dollar value of separate* estate and/or power of attorney* accounts and investments* Include the total dollar value indicated in questions F 3 a) v), F 3 b) v) and/or F 3 c) iv) (if any) | + \$                       |
| d) TOTAL of a) to c)  | =                          |
| e) Total outstanding deposits (if any)  | +                          |
| f) Total bank/posting errors (if any)   | +/-                        |
| g) Total outstanding cheques (if any)   | -                          |
| <b>h) Reconciled Bank Balance</b>   | =                          |
| <b>i) Total Client Trust Liabilities (Client Trust Listing)</b>   | -                          |
| <b>j) Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>   | =                          |

If there is a difference between the Reconciled Bank Balance (h) and the Total Client Trust Liabilities (i), provide a written explanation below.

**6. Answer all questions as at December 31, 2012.**

- a) i) What is the total number of mixed\* trust bank accounts referred to in 5a)? \_\_\_\_\_
- ii) Of the total mixed\* trust bank account balance recorded in 5a), what is the estimated value of estate assets? \$\_\_\_\_\_
- b) What is the total number of separate\* interest bearing trust accounts or income generating trust accounts/investments\* referred to in 5b)? \_\_\_\_\_
- c) What is the total number of separate\* estate and/or power of attorney\* accounts and investments\* referred to in 5c)? \_\_\_\_\_

**7. Overdrawn Accounts**

- a) During 2012, did your records at any month end disclose overdrawn clients' trust ledger account(s)? Yes  No
- If "Yes" to a):**
- b) Were the account(s) corrected by December 31, 2012? Yes  No
- If "No" to b):**
- c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2012 was: \$\_\_\_\_\_
- d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2012 was: \_\_\_\_\_



**8. Outstanding Deposits**

a) During 2012, did your records at any month end disclose outstanding trust account deposits, not deposited the following business day? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2012? Yes  No

**If "No" to b):**

c) The total dollar value of outstanding trust account deposits as at December 31, 2012 was: \$\_\_\_\_\_

d) The total number of outstanding trust account deposits as at December 31, 2012 was: \_\_\_\_\_

**9. Unchanged Client Trust Ledger Account Balances**

a) Were there client trust ledger account balances that were unchanged \* (i.e. had no activity) for the entire year? Yes  No

**If "Yes" to a):**

b) The total dollar value of these account balances as at December 31, 2012 was: \$\_\_\_\_\_

c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2012 was: \_\_\_\_\_

d) Were any of the unchanged\* client trust ledger account balances for the registration of mortgage discharges? Yes  No

**If "Yes" to d):**

e) The total number of unchanged\* client trust ledger account balances held for the registration of mortgage discharges was: \_\_\_\_\_

**10. Unclaimed Client Trust Ledger Account Balances**

a) Of the amounts identified in question 9, were any unclaimed\* for two years or more? (Refer to section 59.6 of the Law Society Act) Yes  No  N/A

**If "Yes" to a):**

b) The total dollar value of the unclaimed\* client trust ledger account balances was: \$\_\_\_\_\_

c) The total number of unclaimed\* client trust ledger accounts was: \_\_\_\_\_

**11. e-FFD**

Will you be filing the above financial information on behalf of any other lawyers and/or paralegals? Yes  No

Sole practitioners practising alone in Ontario do not need to file the e-FFD.

If required, use the area below to provide further information on your Financial Reporting (Section G).



**Section H CERTIFICATION AND SUBMISSION (To be completed by all licensees)**

I am the lawyer filing this 2012 Lawyer Annual Report. I have reviewed the matters reported and the information contained herein is complete, true and accurate. I acknowledge that it is professional misconduct to make a false or misleading reporting to The Law Society of Upper Canada.

\_\_\_\_\_  
Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
DD MM YYYY



The Law Society of  
Upper Canada

Barreau  
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## 2012 Class L2 Licence Annual Report

### Introduction Page

#### **YOUR 2012 CLASS L2 LICENCE ANNUAL REPORT IS DUE MARCH 31, 2013**

This report is based on the calendar year ending December 31, 2012, and is due by March 31, 2013. Failure to complete and file the report within 120 days of the due date will result in a summary order suspending your licence until such time as this report is completed and filed.

**GUIDE:** For definitions or assistance in completing this annual report, see the enclosed Guide.

**BY-LAWS:** The applicable by-laws are available in your Annual Report Package or on our website, for your reference.

If you require assistance contact By-Law Administration Services at (416) 947-3315 or at 1-800-668-7380 ext. 3315 or by e-mail at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



**Section A IDENTIFICATION (To be reviewed by all licensees)**

Populated from Law Society records as at December 2012.

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

Name:

Address:

City Province:

Postal Code:

Lawyer E-mail:

Phone:

Status:

\*As at December 2012

Is the information above current? If not, update our records online by selecting the Change of Information tab after you have logged out and/or completed filing your annual report. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.

**Privacy Option**

On occasion, the Law Society may provide lawyers' names, business addresses and e-mail addresses to professional legal associations, organizations and institutions without charge, to facilitate the maintenance of mailing lists, and enhance communications with the profession, including information about programs, initiatives, products and services.

You have the option of instructing the Law Society not to provide your name, business address and/or e-mail address to any professional association, organization or institution.

Click this box if you do not wish the Law Society to provide your name, business address and/or e-mail address to any professional association, organization or institution:



**1. Bencher Election Privacy Option (non-mandatory response)**

During the bencher election, many candidates want to communicate with voters by e-mail. Check the box if you give the Law Society permission to allow the use of your e-mail address for bencher election campaigning purposes:

**2. Provision of Legal Services in French (non-mandatory response)**

a) Can you communicate with your clients and provide legal advice to them in the French language?

Yes  No

b) Can you communicate with your clients, provide legal advice to them, and represent them in the French language?

Yes  No

**3. Other Languages (non-mandatory response)**

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Arabic     | <input type="checkbox"/> Bulgarian  |
| <input type="checkbox"/> Cantonese                  | <input type="checkbox"/> Croatian   | <input type="checkbox"/> Czech      |
| <input type="checkbox"/> Danish                     | <input type="checkbox"/> Dutch      | <input type="checkbox"/> English    |
| <input type="checkbox"/> Estonian                   | <input type="checkbox"/> Farsi      | <input type="checkbox"/> Finnish    |
| <input type="checkbox"/> French                     | <input type="checkbox"/> German     | <input type="checkbox"/> Greek      |
| <input type="checkbox"/> Gujarati                   | <input type="checkbox"/> Hebrew     | <input type="checkbox"/> Hindi      |
| <input type="checkbox"/> Hungarian                  | <input type="checkbox"/> Italian    | <input type="checkbox"/> Japanese   |
| <input type="checkbox"/> Korean                     | <input type="checkbox"/> Latvian    | <input type="checkbox"/> Lithuanian |
| <input type="checkbox"/> Macedonian                 | <input type="checkbox"/> Mandarin   | <input type="checkbox"/> Norwegian  |
| <input type="checkbox"/> Polish                     | <input type="checkbox"/> Portuguese | <input type="checkbox"/> Punjabi    |
| <input type="checkbox"/> Romanian                   | <input type="checkbox"/> Russian    | <input type="checkbox"/> Serbian    |
| <input type="checkbox"/> Slovak                     | <input type="checkbox"/> Slovene    | <input type="checkbox"/> Spanish    |
| <input type="checkbox"/> Swedish                    | <input type="checkbox"/> Ukrainian  | <input type="checkbox"/> Urdu       |
| <input type="checkbox"/> Yiddish                    |                                     |                                     |

Other - Please specify



**Section B YEAR END STATUS (To be completed by all licensees)**

**NOTES ABOUT THIS SECTION:**

1. Choose only one status (your status on December 31, 2012) regardless of changes during the 2012 calendar year.
2. Your response to this question will not be used to change your status. To review or update your status, please refer to the Change of Information tab in the LSUC Portal.

| December 31, 2012 Status (Select only ONE)                                |                          | Mandatory Sections |
|---|--------------------------|--------------------|
| A barrister & solicitor in the employ of the Attorney General for Ontario | <input type="checkbox"/> | DEFH               |
| Appointed as a Crown Attorney under the Crown Attorneys Act               | <input type="checkbox"/> | DEFH               |
| Appointed as an Assistant Crown Attorney under the Crown Attorneys Act    | <input type="checkbox"/> | DEFH               |
| Employed other, in Ontario  | <input type="checkbox"/> | DEFH               |
| A lawyer practising law outside of Ontario                                | <input type="checkbox"/> | DEFH               |
| Not working or on parental leave or unemployed                            | <input type="checkbox"/> | DEFH               |
| Suspended   | <input type="checkbox"/> | DEFH               |
| In a situation not covered above (specify your status in the area below)  | <input type="checkbox"/> | DEFH               |

**Section C NOT APPLICABLE TO A CLASS L2 LICENCE**

**Section D AREAS OF PRACTICE**

**NOTE ABOUT THIS SECTION:**

1. Where exact information is not available, provide your best approximation.

|   |       |
|---|-------|
| A barrister & solicitor in the employ of the Attorney General for Ontario | _____ |
| Appointed as a Crown Attorney under the Crown Attorneys Act               | _____ |
| Appointed as an Assistant Crown Attorney under the Crown Attorneys Act    | _____ |
| Total   | _____ |
| Question 1 must total 100%.   |       |



**Section E SELF-STUDY (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. The annual minimum expectation is 50 hours of self-study.
2. For the purposes of this section self-study means self-directed reading or research using print materials, electronic or otherwise.
3. CPD hours must be reported in the CPD section of the LSUC Portal by December 31 of each calendar year.

**Self-Study**

a) Did you undertake any self-study during 2012?

Yes  No

**If "Yes" to a), answer b) to d).**

**If "No" to a), you may provide an explanation in the area at the end of this section.**

b) Approximate total number of self-study hours spent on file specific reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on general reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Click all that apply:

Printed Material  Internet  Other

If required, use the area below to provide further information on your self study (Section E)

**Section F INDIVIDUAL LAWYER QUESTIONS (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide.
2. \*Refer to the Guide for definitions.

**1. Client Identification – All lawyers must answer questions 1 a) and 1 b)**

a) In 2012, when you were retained to provide professional services to clients, did you obtain or were you exempt from the requirement to obtain identification information for every (each) client and any third party, in accordance with By-Law 7.1, Part III?

Yes  No  N/A

**If "No" to a), provide an explanation below with particulars.**

b) In 2012, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain or were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with By-Law 7.1, Part III?

Yes  No  N/A

**If "No" to b), provide an explanation below with particulars.**

**Section G – NOT APPLICABLE TO A CLASS L2 LICENCE**



**Section H CERTIFICATION AND SUBMISSION (To be completed by all licensees)**

I am the lawyer filing this 2012 Class L2 Licence Annual Report. I have reviewed the matters reported, and the information contained herein is complete, true and accurate. I acknowledge that it is professional misconduct to make a false or misleading reporting to The Law Society of Upper Canada.

\_\_\_\_\_  
Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
DD MM YYYY



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### Introduction Page

#### **YOUR 2012 CLASS L3 LICENCE CANADIAN LEGAL ADVISOR ANNUAL REPORT IS DUE MARCH 31, 2013**

This report is based on the calendar year ending December 31, 2012, and is due by March 31, 2013. Failure to complete and file the report within 120 days of the due date will result in a summary order suspending your licence until such time as this report is completed and filed.

**GUIDE:** For definitions or assistance in completing this annual report, see the enclosed Guide.

**FINANCIAL FILING DECLARATION:** Only the Designated Financial Filing Partner for each firm should submit the Financial Filing Declaration. One Financial Filing Declaration is expected from each firm. The Financial Filing Declaration is enclosed.

It is not necessary to submit the FFD at the same time as your Annual Report.

#### **FORM 1: REPORT TO THE LAW FOUNDATION:**

Questions on completing this form and questions concerning interest on mixed trust accounts should be directed to The Law Foundation at (416) 598-1550.

**You are required to file a Form 1 if client trust monies were held in a mixed trust account during the reporting year and you are responsible for the account or you are the Designated Financial Filing Partner.**

Once completed it should be mailed directly to The Law Foundation at the address found at the top of the form.

It is not necessary to submit the Form 1 at the same time as your Annual Report. The Form 1 is due March 31, 2013.

**BY-LAWS:** The applicable by-laws are available in your Annual Report Package or on our website, for your reference.

If you require assistance contact By-Law Administration Services at (416) 947-3315 or at 1-800-668-7380 ext. 3315 or by e-mail at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### Section A IDENTIFICATION (To be reviewed by all licensees)

Populated from Law Society records as at December 2012.

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

Name:

Address:

City Province:

Postal Code:

Lawyer E-mail:

Phone:

Status:

\*As at December 2012

Is the information above current? If not, update our records online by selecting the Change of Information tab after you have logged out and/or completed filing your annual report. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.

**Privacy Option**

On occasion, the Law Society may provide lawyers' names, business addresses and e-mail addresses to professional legal associations, organizations and institutions without charge, to facilitate the maintenance of mailing lists, and enhance communications with the profession, including information about programs, initiatives, products and services.

You have the option of instructing the Law Society not to provide your name, business address and/or e-mail address to any professional association, organization or institution.

Click this box if you do not wish the Law Society to provide your name, business address and/or e-mail address to any professional association, organization or institution:



The Law Society of  
Upper Canada

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## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### 1. Bencher Election Privacy Option (non-mandatory response)

During the bencher election, many candidates want to communicate with voters by e-mail. Check the box if you give the Law Society permission to allow the use of your e-mail address for bencher election campaigning purposes:

### 2. Provision of Legal Services in French and English (non-mandatory response)

- a) Can you communicate with your clients and provide legal advice to them in both the French and English languages? Yes  No
- b) Can you communicate with your clients, provide legal advice to them, and represent them in both the French and English languages? Yes  No

### 3. Other Languages (non-mandatory response)

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Arabic     | <input type="checkbox"/> Bulgarian  |
| <input type="checkbox"/> Cantonese                  | <input type="checkbox"/> Croatian   | <input type="checkbox"/> Czech      |
| <input type="checkbox"/> Danish                     | <input type="checkbox"/> Dutch      | <input type="checkbox"/> English    |
| <input type="checkbox"/> Estonian                   | <input type="checkbox"/> Farsi      | <input type="checkbox"/> Finnish    |
| <input type="checkbox"/> French                     | <input type="checkbox"/> German     | <input type="checkbox"/> Greek      |
| <input type="checkbox"/> Gujarati                   | <input type="checkbox"/> Hebrew     | <input type="checkbox"/> Hindi      |
| <input type="checkbox"/> Hungarian                  | <input type="checkbox"/> Italian    | <input type="checkbox"/> Japanese   |
| <input type="checkbox"/> Korean                     | <input type="checkbox"/> Latvian    | <input type="checkbox"/> Lithuanian |
| <input type="checkbox"/> Macedonian                 | <input type="checkbox"/> Mandarin   | <input type="checkbox"/> Norwegian  |
| <input type="checkbox"/> Polish                     | <input type="checkbox"/> Portuguese | <input type="checkbox"/> Punjabi    |
| <input type="checkbox"/> Romanian                   | <input type="checkbox"/> Russian    | <input type="checkbox"/> Serbian    |
| <input type="checkbox"/> Slovak                     | <input type="checkbox"/> Slovene    | <input type="checkbox"/> Spanish    |
| <input type="checkbox"/> Swedish                    | <input type="checkbox"/> Ukrainian  | <input type="checkbox"/> Urdu       |
| <input type="checkbox"/> Yiddish                    |                                     |                                     |

Other - Please specify



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### Section B YEAR END STATUS (To be completed by all licensees)

#### NOTES ABOUT THIS SECTION:

1. Choose only one status (your status as a Canadian Legal Advisor in Ontario on December 31, 2012) regardless of changes during the 2012 calendar year.
2. Your response to this question will not be used to change your status. To review or update your status, please refer to the Change of Information tab in the LSUC Portal.
3. \*Refer to the Guide for definitions.

| December 31, 2012 Status (Select only ONE)  |                          | Mandatory Sections | Complete if Applicable |
|---|--------------------------|--------------------|------------------------|
| Canadian Legal Advisor Practising* in Ontario   | <input type="checkbox"/> | DEFGH              |                        |
| Canadian Legal Advisor Prohibited* from practising in Ontario (Pursuant to s.4.1 of By-Law 4) | <input type="checkbox"/> | EFH                | DG                     |
| Canadian Legal Advisor Suspended* in Ontario  | <input type="checkbox"/> | EFH                | DG                     |
| In a situation not covered above (specify your status in the area below)                      | <input type="checkbox"/> | EFH                | DG                     |

### Section C – NOT APPLICABLE TO A CLASS L3 LICENCE

### Section D AREAS OF PRACTICE (Complete if you engaged in the practice of law in Ontario, whether in private practice or otherwise.)

#### NOTE ABOUT THIS SECTION:

1. Where exact information is not available provide your best approximation.

|  |       |
|--|-------|
| Indicate the percentages of time devoted by you as a Lawyer in Ontario to each area of practice. |       |
| The Laws of Canada   | _____ |
| The Laws of Quebec   | _____ |
| Public International Law   | _____ |
| <b>Total</b>   | _____ |
| Question 1 must total 100%.  |       |



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### Section E SELF-STUDY (To be completed by all licensees regardless of status)

#### NOTES ABOUT THIS SECTION:

1. The annual minimum expectation is 50 hours of law related self-study. Canadian Legal Advisors can complete self-study in Ontario or Quebec.
2. For the purposes of this section self-study means self-directed reading or research using print materials, electronic or otherwise.
3. CPD hours must be reported in the CPD section of the LSUC Portal by December 31 of each calendar year.

#### 1. Self-Study

a) Did you undertake any self-study during 2012?

Yes

No

**If "Yes" to a),** answer b) to d).

**If "No" to a),** you may provide an explanation in the area at the end of this section.

b) Approximate total number of self-study hours spent on file specific reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on general reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Click all that apply:

Printed Material

Internet

Other

If required, use the area below to provide further information on your self study (Section E)



**2012 Class L3 Licence Canadian Legal  
Advisor Annual Report**

**Section F INDIVIDUAL LAWYER QUESTIONS (To be completed by all licensees in Ontario regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide.
2. \*Refer to the Guide for definitions.

**1. Cash Transactions – All lawyers must report on large cash transactions regardless of jurisdiction of practice.**

a) Did you receive cash\* in an aggregate amount equivalent to \$7,500 CDN or more in respect of any one client file in 2012? Yes  No

**If "Yes" to a):**

b) Was the cash solely for legal fees and/or client disbursements\*? Yes  No

**If "No" to b),** provide full particulars below with respect to compliance with By-Law 9, Part III (Cash Transactions).

**2. Trust Funds/Property - 2a), 2b) and 2c) must be answered.**

a) In 2012, did you receive\* trust funds\* and/or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

b) In 2012, did you disburse\* (payout), or did you have signing authority to disburse, trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

c) In 2012, did you hold\* trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

**3. Estates and Power(s) of Attorney - 3a), 3b) and 3c) must be answered.**

a) i) In 2012, did you act as a sole estate trustee\* in Ontario? Yes  No

**If "Yes" to i), answer ii)**

ii) Were you sole estate trustee\* only for related\* persons in Ontario? Yes  No

b) i) In 2012, did you exercise a power of attorney\* for property in Ontario? Yes  No

**If "Yes" to i), answer ii)**

ii) Did you exercise the power(s) of attorney\* for property only for related\* persons in Ontario? Yes  No

c) i) In 2012, did you control\* estate assets as a solicitor / legal counsel, and not as an estate trustee, in Ontario? (Only the lawyer responsible for the estate should answer "Yes") Yes  No



**2012 Class L3 Licence Canadian Legal  
Advisor Annual Report**

**4. Borrowing from Clients resident in Ontario - 4a) and 4b) must be answered.**

Note: If your borrowing was / is from a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, answer “No” to i) and “N/A” to ii).

See subrule 2.04(4), Commentary, and subrule 2.04(5) of the *Rules of Professional Conduct*.

a) i) At any time in 2012, were you personally indebted to a client or person resident in Ontario who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No

**If “Yes” to i):**

ii) Was the client or person a related person as defined in the Income Tax Act (Canada)? Yes  No  N/A

**If “Yes” to i) or ii),** provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.

b) At any time in 2012, was your spouse or a corporation, syndicate or partnership in which either you or your spouse has, or both of you have, directly or indirectly, a substantial interest, indebted to a client or person resident in Ontario who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No

**If “Yes” to b),** provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal representation.

5. NOT APPLICABLE TO A CLASS L3 LICENCE

6. NOT APPLICABLE TO A CLASS L3 LICENCE

**7. Client Identification – All lawyers must answer questions 1 a) and 1 b)**

a) In 2012, when you were retained to provide professional services to clients, did you obtain or were you exempt from the requirement to obtain identification information for every (each) client and any third party, in accordance with By-Law 7.1, Part III? Yes  No  N/A

**If “No” to a), provide an explanation below with particulars.**

b) In 2012, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain or were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with By-Law 7.1, Part III? Yes  No  N/A

**If “No” to b), provide an explanation below with particulars.**



## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### 8. Pro Bono Legal Services

(Pro bono legal services means the provision of legal services to persons of limited means or to charitable or not-for profit organizations without expectation of a fee from the client.)

a) Did you provide pro bono legal services in Ontario in 2012?

Yes  No

**If "Yes" to a), complete b) and c).**

b) How many hours did you devote to pro bono legal services in Ontario in 2012?

\_\_\_\_\_

c) Did you provide pro bono legal services for Pro Bono Law Ontario (PBLO) sponsored programs?

Yes  No



**2012 Class L3 Licence Canadian Legal  
Advisor Annual Report**

**Section G FINANCIAL REPORTING** Answer the following questions as they relate to clients resident in Ontario. To be completed by:

- All sole practitioners, partners/employees/associates of law firms;
- Lawyers employed by Legal Aid Ontario responsible for general (non-trust) accounts or trust accounts;
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario as at December 31, 2012.

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide available on our Resource Centre website at [www.lsuc.on.ca](http://www.lsuc.on.ca).
2. \* Refer to the Guide for definitions.

1. Trust and General (Non-Trust) Accounts - 1a) and 1b) must be answered.

a) As at December 31, 2012, did either you or your firm operate a trust\* account for clients resident in Ontario? Yes  No

If “Yes” to a), proceed to question 2.

b) As at December 31, 2012, did either you or your firm operate a general\* (non-trust) account for clients resident in Ontario? Yes  No

If “No” to a) and “Yes” to b) proceed to question 4 , and then proceed to Section H;

If “No” to both a) and b) proceed to Section H.

2. As at December 31, 2012, were you a sole practitioner, or were you the lawyer responsible for filing the trust account information on behalf of your firm in Ontario? Yes  No

If “Yes” to 2, proceed to questions 4 through 10

**NOTE about FFD:** If you are reporting financial information on behalf of other lawyers and/or paralegals in your firm, you must also submit a Financial Filing Declaration.

**NOTE about Form 1:** If you have answered 'Yes' to question 2, remember to complete and submit the FORM 1.

If “No” to 2, complete the “Designated Financial Filing Option” (question 3) below.

**3. Designated Financial Filing Option**

This option is available to you if you are not responsible for filing trust account information. Indicate on lines a) and b) below, who will be reporting the firm financial information on your behalf. Then proceed to Section H.

**ENTER DESIGNATED FINANCIAL FILING PARTNER'S NAME & LAW SOCIETY NUMBER**

a) FINANCIAL FILING PARTNER'S NAME

b) Law Society Number (e.g. 12345A or P12345)

The filing partner you have named is responsible to file the Financial Filing Declaration to report the firm financial information on your behalf. Your filing will not be considered complete without the submission of the Financial Filing Declaration by the person you have named.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### 4. Firm Records

For your clients resident in Ontario, were financial records for all your firm's trust\* accounts (mixed\*, separate\*, estates, power(s) of attorney\* and other interest generating investments\*) and/or general\* (non-trust) bank accounts maintained throughout 2012, on a current basis, in accordance with all applicable sections in By-Law 9 ? Yes  No

If "No" to 4), indicate below which areas were deficient and provide an explanation for each.

**COMPLETE THIS CHART ONLY IF YOU ANSWERED "NO" ABOVE.  
COMPLETE ONLY THOSE AREAS WHERE YOU WERE DEFICIENT.**

| By-Law 9: Financial Transactions and Records  | By-Law 9<br>Sections 18 & 19<br>(Maintain) | By-Law 9<br>Section 22<br>(Current) | Explanation for Deficiency |
|---|--|-------------------------------------|----------------------------|
| 1. Trust Receipts Journal Subsection 18(1)  | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 2. Trust Disbursements Journal Subsection 18(2)   | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 3. Clients' Trust Ledger Subsection 18(3)   | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 4. Trust Transfer Journal Subsection 18(4)  | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 5. General Receipts Journal Subsection 18(5)  | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 6. General Disbursements Journal Subsection 18(6)   | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 7. Fees Book or Chronological Billing File Subsection 18(7)   | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 8. Trust Bank Comparison ** Subsection 18(8)  | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 9. Valuable Property Record Subsection 18(9)  | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 10. Source documents including deposit slips, bank statements and cashed cheques Subsection 18(10)      | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 11. Electronic Trust Transfer Requisitions and Confirmations Subsection 18(11) and section 12 (Form 9A) | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 12. NOT APPLICABLE TO CLASS L3 LICENCE  |  |                                     |                            |
| 13. Duplicate Cash Receipts Book for all cash received Section 19                                       | <input type="checkbox"/>                   | <input type="checkbox"/>            |                            |
| 14. NOT APPLICABLE TO CLASS L3 LICENCE  |  |                                     |                            |

\*\* Trust comparisons are to be completed within 25 days of the effective date of the monthly trust reconciliation.



**2012 Class L3 Licence Canadian Legal  
Advisor Annual Report**

**5. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2012**

Name and address of financial institution(s) where trust account(s) is (are) held and account number(s) for clients resident in Ontario:

FINANCIAL INSTITUTION NAME:      ADDRESS:      TRANSIT/ACCOUNT NUMBER:

| Reconciliation<br>To refer to a sample reconciliation in the Guide click here.  | December 31, 2012 Balances |
|---|----------------------------|
| a) The total dollar value of mixed* trust bank accounts   | \$                         |
| b) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*                           | + \$                       |
| c) The total dollar value of separate* estate and/or power of attorney* accounts and investments*   | + \$                       |
| d) TOTAL of a) to c)  | =                          |
| e) Total outstanding deposits (if any)  | +                          |
| f) Total bank/posting errors (if any)   | +/-                        |
| g) Total outstanding cheques (if any)   | -                          |
| <b>h) Reconciled Bank Balance</b>   | =                          |
| <b>i) Total Client Trust Liabilities (Client Trust Listing)</b>   | -                          |
| <b>j) Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>   | =                          |
| If there is a difference between the Reconciled Bank Balance (h) and the Total Client Trust Liabilities (i), provide a written explanation below. |                            |

**6. NOT APPLICABLE TO CLASS L3 LICENCE**

**7. Overdrawn Accounts**

a) During 2012, did your records, at any month end, disclose overdrawn clients' trust ledger account(s) for clients resident in Ontario?      Yes       No

**If "Yes" to a)**

b) Were the account(s) corrected by December 31, 2012?      Yes       No

**If "No" to b):**

c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2012 was:      \$ \_\_\_\_\_

d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2012 was:      \_\_\_\_\_



**2012 Class L3 Licence Canadian Legal  
Advisor Annual Report**

**8. Outstanding Deposits**

a) During 2012, did your records, at any month end, disclose outstanding trust account deposits, not deposited the following business day for clients resident in Ontario? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2012? Yes  No

**If "No" to b):**

c) The total dollar value of outstanding trust account deposits as at December 31, 2012 was: \$\_\_\_\_\_

d) The total number of outstanding trust account deposits as at December 31, 2012 was: \_\_\_\_\_

**9. Unchanged Client Trust Ledger Account Balances**

a) Were there client trust ledger account balances that were unchanged\*(i.e. had no activity) for the entire year for clients resident in Ontario? Yes  No

**If "Yes" to a):**

b) The total dollar value of these account balances as at December 31, 2012 was: \$\_\_\_\_\_

c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2012 was: \_\_\_\_\_

**10. Unclaimed Client Trust Ledger Account Balances**

a) Of the amounts identified in question 9, were any unclaimed\* for two years or more for clients resident in Ontario? (Refer to section 59.6 of the Law Society Act) Yes  No  N/A

**If "Yes" to a):**

b) The total dollar value of the unclaimed\* client trust ledger account balances was: \$\_\_\_\_\_

c) The total number of unclaimed\* client trust ledger accounts was: \_\_\_\_\_

**11. FFD**

Will you be filing the above financial information on behalf of any other lawyers and/or paralegals? Yes  No

Sole practitioners practising alone in Ontario do not need to file the FFD.

If required, use the area below to provide further information on your Financial Reporting (Section G).



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Class L3 Licence Canadian Legal Advisor Annual Report

### Section H CERTIFICATION AND SUBMISSION (To be completed by all licensees)

I am the lawyer filing this 2012 Class L3 Licence Canadian Legal Advisor Annual Report. I have reviewed the matters reported, and the information contained herein is complete, true and accurate. I acknowledge that it is professional misconduct to make a false or misleading reporting to The Law Society of Upper Canada.

\_\_\_\_\_  
Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
DD MM YYYY

## **PROFESSIONAL REGULATION DIVISION QUARTERLY REPORT**

25. The Professional Regulation Division's Quarterly Report (second quarter 2012), provided to the Committee by Zeynep Onen, the Director of Professional Regulation, appears on the following pages. The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period April – June 2012.



The Law Society of  
Upper Canada

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# The Professional Regulation Division

## Quarterly Report

April – June 2012

## **The Quarterly Report**

The Quarterly Report provides a summary of the Professional Regulation Division's activities and achievements during the past quarter, April 1 to June 30, 2012. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter, to explain the factors that may have influenced the Division's performance, and to provide a description of exceptional or unusual projects or events in the period.

## **The Professional Regulation Division**

Professional Regulation is responsible for the resolution, investigation and prosecution of complaints against licensees of the Law Society of Upper Canada, within the jurisdiction provided under the *Law Society Act*. In addition the Professional Regulation provides trusteeship services for the practices of licensees who are incapacitated by legal or health reasons. Professional Regulation also includes the Compensation Fund which compensates clients for losses suffered as a result of the wrongful acts of licensees.

See the Appendices for a case flow chart describing the complaints process.

## INDEX

|  | Page      |
|--|-----------|
| <b>SECTION 1 – REPORT HIGHLIGHTS</b>   | <b>5</b>  |
| <b>Highlights of Quarterly Performance</b>   | <b>6</b>  |
| The Division   | 6         |
| Intake   | 6         |
| Complaints Resolution  | 6         |
| Investigations   | 6         |
| Discipline   | 6         |
| <br>   |           |
| <b>SECTION 2 – DIVISIONAL PERFORMANCE DURING THE QUARTER</b>                                 | <b>7</b>  |
| <b>Performance in the Professional Regulation Division</b>                                   | <b>8</b>  |
| Graph 2A: Complaints Received in the Division  | 8         |
| Graph 2B: Complaints Closed in the Division  | 9         |
| Graph 2C: Total Inventory  | 10        |
| <br>   |           |
| <b>SECTION 3 – DEPARTMENT PERFORMANCE DURING THE QUARTER</b>                                 | <b>11</b> |
| <b>3.1 – Intake</b>  | <b>12</b> |
| Graph 3.1A: Input  | 12        |
| Graph 3.1B: Complaints Closed and Transferred Out  | 13        |
| Graph 3.1C: Department Inventory   | 14        |
| Graph 3.1D: Median Age of Complaints   | 15        |
| <br>   |           |
| <b>3.2 – Complaints Resolution</b>   | <b>16</b> |
| Graph 3.2A: Input  | 16        |
| Graph 3.2B: Complaints Closed and Transferred Out  | 17        |
| Graph 3.2C: Department Inventory   | 18        |
| Graph 3.2D: Median Age of Complaints   | 19        |
| Graph 3.2E: Aging of Complaints  | 20        |
| <br>   |           |
| <b>3.3 – Investigations</b>  | <b>21</b> |
| Graph 3.3A: Input  | 21        |
| Graph 3.3B: Complaints Closed and Transferred Out  | 22        |
| Graph 3.3C: Department Inventory   | 23        |
| Graph 3.3D: Median Age of Complaints   | 24        |
| Graph 3.3E: Aging of Complaints  | 25        |
| <br>   |           |
| <b>3.4 – Unauthorized Practice (UAP)</b>   | <b>27</b> |
| Graph 3.4A: Unauthorized Practice Complaints in Intake                                       | 27        |
| Graph 3.4B: Unauthorized Practice Investigations (in Complaints Resolution & Investigations) | 28        |
| UAP Enforcement Actions  | 28        |

|  | <b>Page</b> |
|--|-------------|
| <b>3.5 – Complaints Resolution Commissioner</b>                | <b>29</b>   |
| Graph 3.5A: Reviews Requested and Files Reviewed (by Quarters) | 29          |
| Graph 3.5B: Status of Files Reviewed in each Quarter           | 29          |
| Graph 3.5C: Decisions Rendered, by Quarter & Active Inventory  | 30          |
| <b>3.6 – Discipline</b>  | <b>31</b>   |
| Graph 3.6A: Input  | 31          |
| Graph 3.6B: Department Inventory                               | 32          |
| Graph 3.6C: Notices Issued                                     | 33          |
| Graph 3.6D: Completed Matters - Hearings                       | 34          |
| Graph 3.6E: Appeals  | 35          |
| <b>SECTION 4 - APPENDICES</b>                                  | <b>36</b>   |
| The Professional Regulation Complaint Process                  | 37          |
| Professional Regulation Organization Chart                     | 38          |

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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# **SECTION 1**

## **REPORT HIGHLIGHTS**

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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## Highlights of Quarterly Performance

### **The Division**

In the first six months of 2012, the number of complaints received against lawyers and paralegals declined slightly when compared to the same period in 2011. In 2011, the Law Society received 2559 complaints, while in the first six months of 2012, 2489 complaints were received. This is attributable to a 5% decline in complaints against lawyers during the period. Complaints against paralegals remained stable, as did those alleging unauthorized practice. There was also a slight decline in the overall inventory of complaint files on June 30, 2012 when compared to the same period in 2011.

### **Intake**

The Intake inventory at the end of the second quarter remains higher than the previous quarter, although still within expected limits. The rise in the inventory is attributable to staffing changes, as well as an anomalous case with multiple complaints that remained in the inventory as a case management measure. In addition, typically in this quarter a large number of cases concerning lawyer and paralegal applicant good character are referred to Professional Regulation. These cases are reviewed in the Intake department and either closed or forwarded for investigation. In the second quarter of 2012, Intake results show that the department completed 6% more cases than it did in Q1.

### **Complaints Resolution**

The department closed 6% more complaints than in the first quarter and maintained its aging targets. In the second quarter the department received fewer files, which allowed it to reduce its inventory and to remain current.

### **Investigations**

The Investigations department received fewer new cases in the first half of 2012 when compared with 2011. The department's inventory remained stable, and the targeted median age for the case inventory was maintained with 11% of cases aged in excess of 18 months. These cases were typically those which had been in abeyance awaiting production from the licensee through the summary hearing process, or awaiting further information from the complainant, or they were related to newer cases which still required completion.

### **Discipline**

Despite a moderation in intake, the Discipline department inventory continues to be high, with cases related to 197 licensees at the end of the second quarter in 2012. This caseload includes all cases at the hearing and appeal stages of the process, as well as cases that are in preparation for the Proceedings Authorization Committee.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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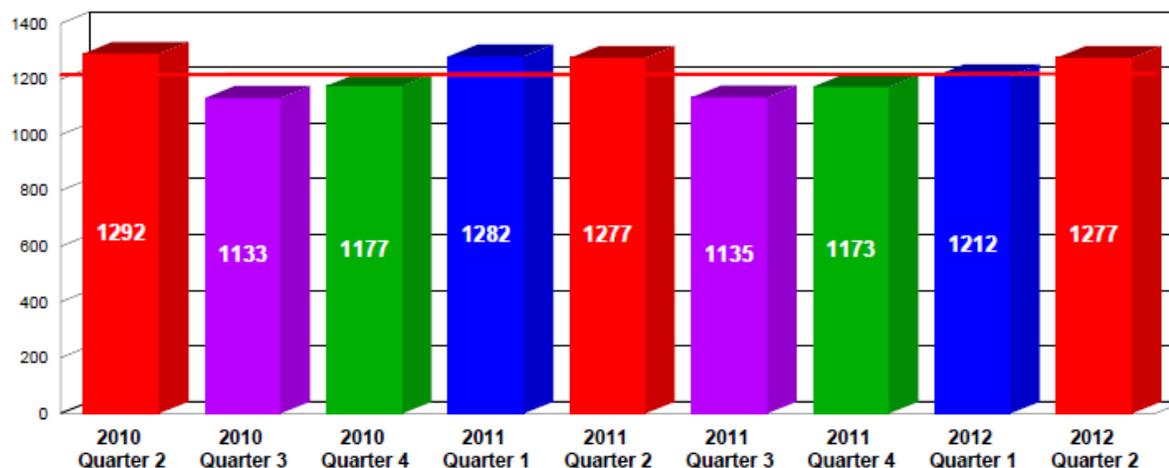
## **SECTION 2**

### **DIVISIONAL PERFORMANCE DURING THE QUARTER**

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

## Performance in the Professional Regulation Division

**Graph 2A: Complaints<sup>1</sup> Received in the Division**



The number of new complaints received in the second quarter of 2012 increased by 5% when compared to the number received in Q1 2012 (1277 vs. 1212); the number was the same as the number of new complaints received in the second quarter of 2011. The analysis of new complaints received (below) shows that the increase in Q2 2012 is mainly attributable to the receipt of good character cases involving lawyer and paralegal applicants, which is a yearly occurrence.

### Detailed Analysis of Complaints Received in the Division

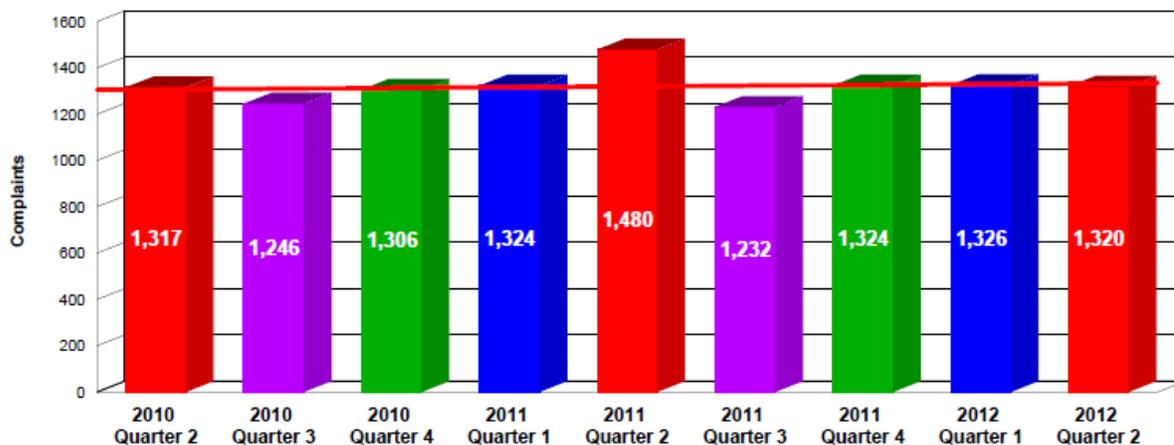
|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 956     | 925     | 960     | 997     | 944     |
| <b>Complaints against Lawyer Applicants</b>             | 72      | 11      | 6       | 5       | 59      |
| <b>Complaints against Licensed Paralegals</b>           | 118     | 119     | 117     | 110     | 143     |
| <b>Complaints against Paralegal Applicants</b>          | 77      | 18      | 33      | 29      | 80      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 54      | 62      | 57      | 71      | 51      |
| <b>TOTAL</b>  | 1277    | 1135    | 1173    | 1212    | 1277    |

\* For a complete analysis of Unauthorized Practice (UAP) complaints against Non-Licensees/Non-Applicants see section 3.4.

<sup>1</sup> Includes all complaints received in PRD from Complaints Services

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

**Graph 2B: Complaints Closed<sup>2</sup> in the Division**



The number of cases closed in the Division in Q2 2012 was virtually the same as the number closed in the last quarter.

**Detailed Analysis of Complaints Closed in the Division**

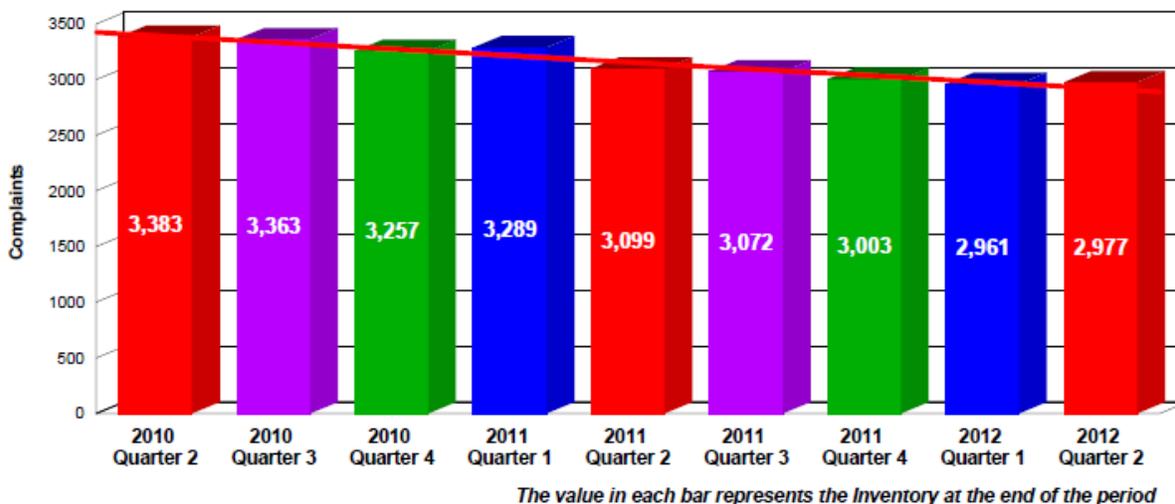
|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 1151    | 1023    | 1075    | 1109    | 1015    |
| <b>Complaints against Lawyer Applicants</b>             | 69      | 21      | 8       | 5       | 56      |
| <b>Complaints against Licensed Paralegals</b>           | 138     | 103     | 164     | 118     | 113     |
| <b>Complaints against Paralegal Applicants</b>          | 58      | 33      | 38      | 36      | 56      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 64      | 52      | 39      | 58      | 80      |
| <b>TOTAL</b>  | 1480    | 1232    | 1324    | 1326    | 1320    |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

<sup>2</sup> This graph includes all complaints closed in Intake, Complaints Resolution, Investigations and Discipline.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

**Graph 2C: Total Inventory<sup>3</sup>**



At the end of Q2 2012, the Division's inventory was virtually the same as at the end of Q1 2012, however as depicted in the graph above, the long term trend is a decrease in the division's inventory, particularly with respect to complaints against lawyers.

#### Detailed Analysis of Division Inventory

|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 2564    | 2528    | 2465    | 2419    | 2400    |
| <b>Complaints against Lawyer Applicants</b>             | 28      | 19      | 18      | 18      | 21      |
| <b>Complaints against Licensed Paralegals</b>           | 306     | 326     | 306     | 303     | 337     |
| <b>Complaints against Paralegal Applicants</b>          | 87      | 74      | 72      | 64      | 86      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 114     | 125     | 142     | 157     | 133     |
| <b>TOTAL</b>  | 3099    | 3072    | 3003    | 2961    | 2977    |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

<sup>3</sup> This graph does not include active complaints in the Monitoring & Enforcement Department.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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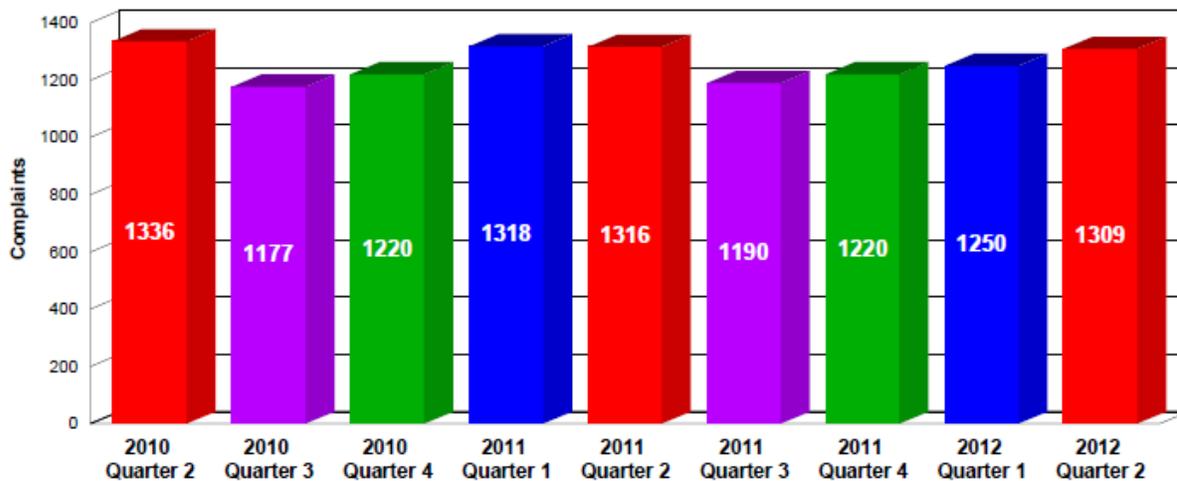
## **SECTION 3**

# **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

**3.1 – Intake**

**Graph 3.1A: Intake - Input<sup>4</sup>**



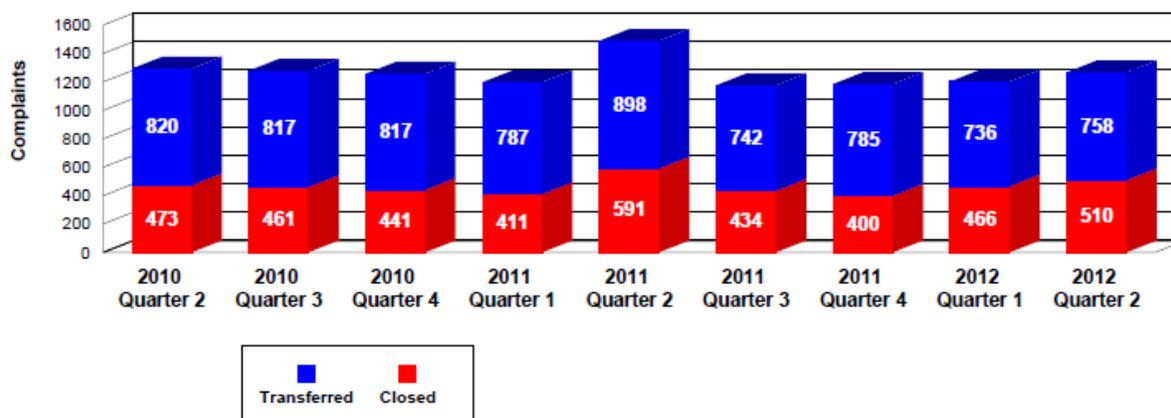
The Intake department processes all new regulatory complaints. In Q2 2012, in addition to the 1277 new cases received, Intake re-opened 32 complaints which met the threshold for reopening a closed matter.

<sup>4</sup> includes new complaints received and re-opened complaints  
 Page 12

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

### 3.1 – Intake

**Graph 3.1B: Intake - Complaints Closed and Transferred Out**



In Q2 2012, the Intake department completed approximately 6% more cases than were completed in Q1 2012 (1268 cases completed in Q2 2012 vs 1202 cases completed in Q1 2012). This increase is largely attributable to the completion of the good character cases involving paralegal and lawyer applicants, which is a yearly occurrence.

#### Detailed Analysis of Complaints Closed and Transferred From Intake

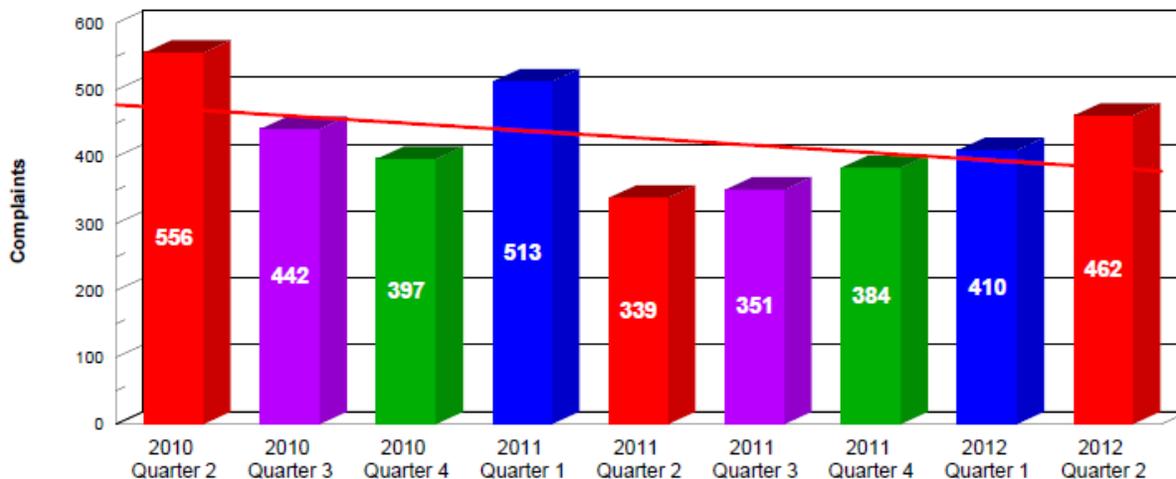
|   |             | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|-------------|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | Closed      | 429     | 369     | 336     | 407     | 359     |
|   | Transferred | 709     | 600     | 619     | 598     | 583     |
| <b>Complaints against Lawyer Applicants</b>             | Closed      | 51      | 4       | 3       | 1       | 47      |
|   | Transferred | 21      | 8       | 4       | 3       | 11      |
| <b>Complaints against Licensed Paralegals</b>           | Closed      | 42      | 40      | 24      | 26      | 38      |
|   | Transferred | 99      | 82      | 101     | 70      | 97      |
| <b>Complaints against Paralegal Applicants</b>          | Closed      | 48      | 7       | 19      | 18      | 40      |
|   | Transferred | 30      | 14      | 13      | 11      | 29      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | Closed      | 21      | 14      | 18      | 14      | 25      |
|   | Transferred | 39      | 38      | 48      | 54      | 38      |
| <b>TOTAL</b>  | Closed      | 591     | 434     | 400     | 466     | 510     |
|   | Transferred | 898     | 742     | 785     | 736     | 758     |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.1 – Intake

**Graph 3.1C: Intake - Department Inventory**



*The value in each bar represents the Inventory at the end of the period*

#### Detailed Analysis of Intake Inventory

|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 294     | 295     | 338     | 347     | 389     |
| <b>Complaints against Lawyer Applicants</b>             | 0       | 0       | 0       | 1       | 2       |
| <b>Complaints against Licensed Paralegals</b>           | 31      | 30      | 29      | 40      | 52      |
| <b>Complaints against Paralegal Applicants</b>          | 2       | 1       | 2       | 2       | 13      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 12      | 25      | 15      | 20      | 6       |
| <b>TOTAL</b>  | 339     | 351     | 384     | 410     | 462     |

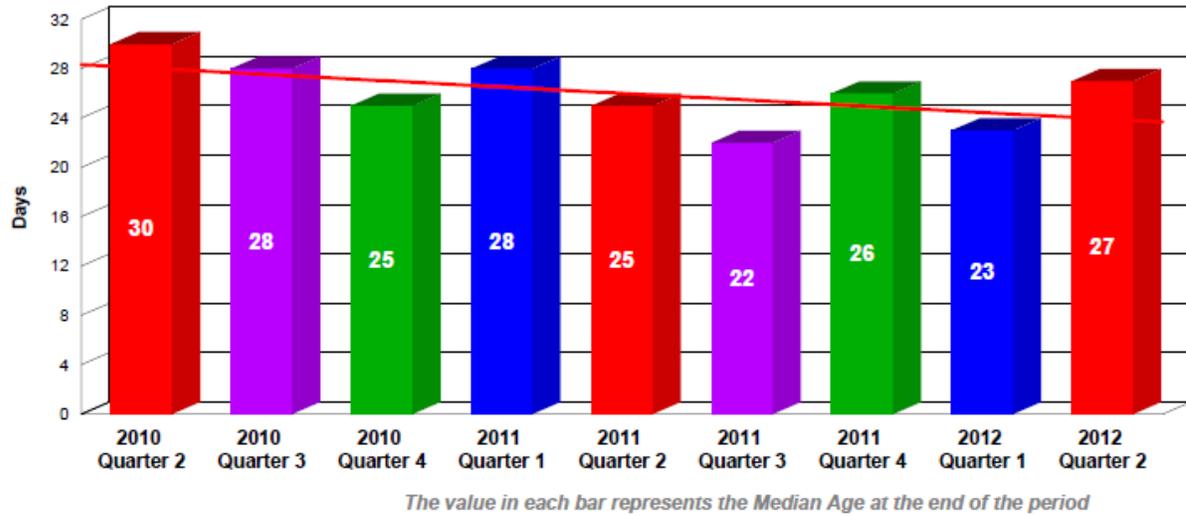
\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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### 3.1 – Intake

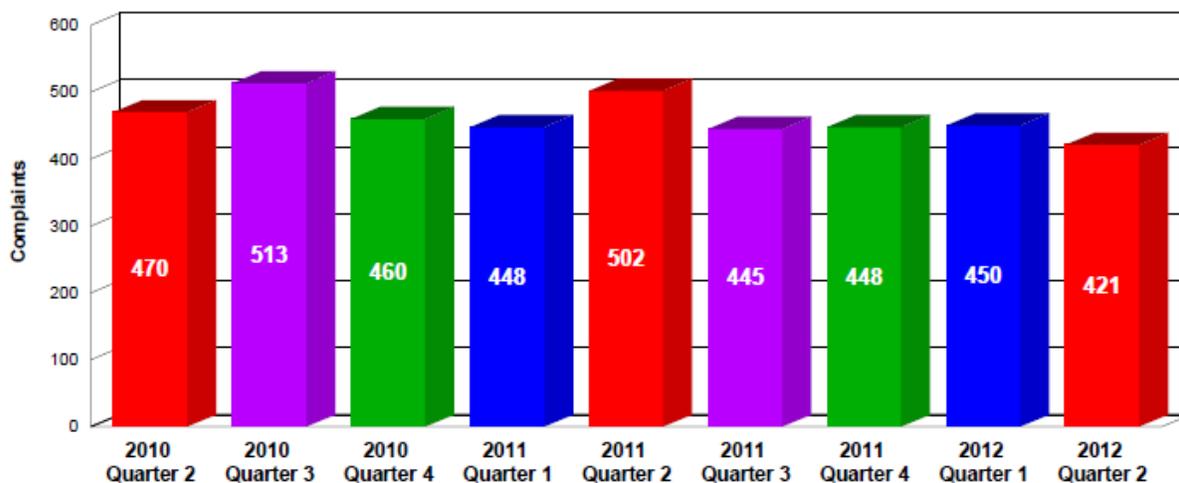
**Graph 3.1D: Intake - Median Age of Complaints**



The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.2 – Complaints Resolution

**Graph 3.2A: Complaints Resolution – Input<sup>5</sup>**



#### Detailed Analysis of New and Re-opened Complaints in Complaints Resolution

|  | Q2 2011    | Q3 2011    | Q4 2011    | Q1 2012    | Q2 2012    |
|--|------------|------------|------------|------------|------------|
| Complaints against Lawyers                       | 468        | 410        | 403        | 418        | 393        |
| Complaints against Lawyer Applicants             | 0          | 0          | 0          | 0          | 0          |
| Complaints against Licensed Paralegals           | 34         | 35         | 44         | 32         | 28         |
| Complaints against Paralegal Applicants          | 0          | 0          | 0          | 0          | 0          |
| Complaints against Non-Licensees/Non-Applicants* | 0          | 0          | 1          | 0          | 0          |
| <b>TOTAL</b>                                     | <b>502</b> | <b>445</b> | <b>448</b> | <b>450</b> | <b>421</b> |

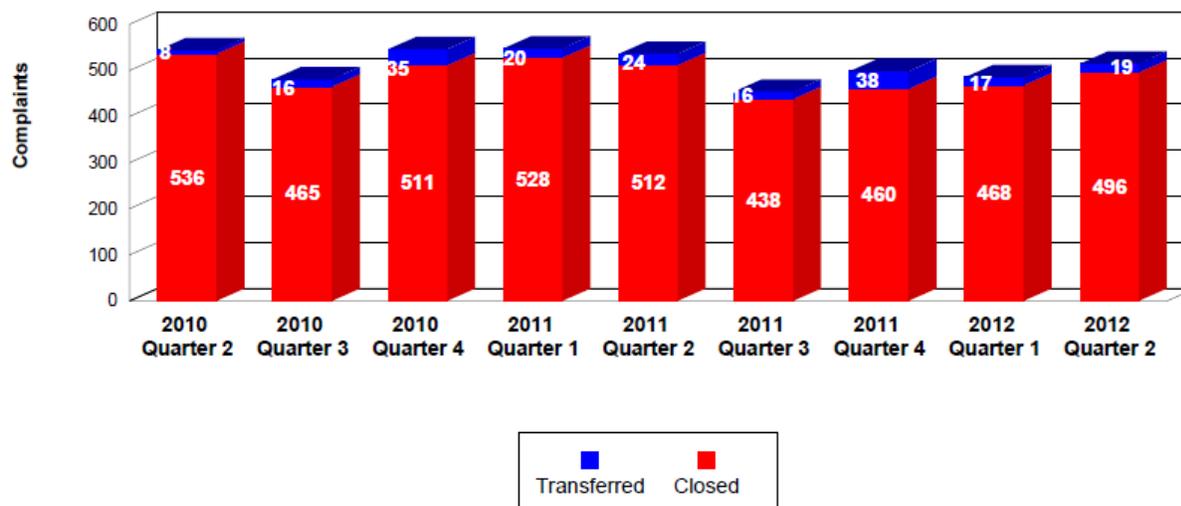
\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

<sup>5</sup> Includes new complaints received into the department as well as complaints re-opened during the Quarter.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

### 3.2 – Complaints Resolution

**Graph 3.2B: Complaints Resolution - Complaints Closed and Transferred Out**



#### Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

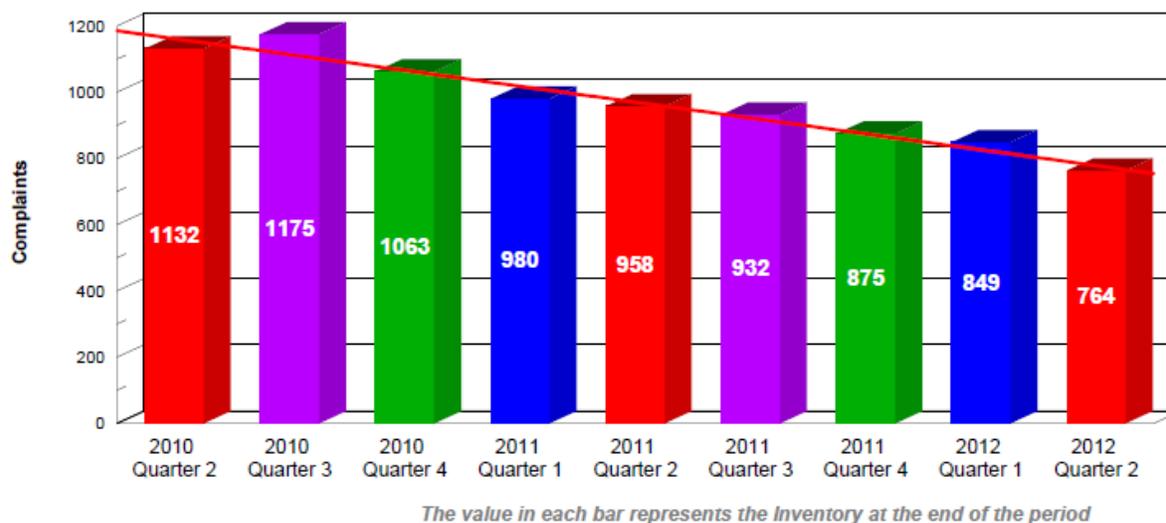
|   |             | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|-------------|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                   | Closed      | 463     | 403     | 432     | 423     | 465     |
|   | Transferred | 19      | 15      | 33      | 16      | 15      |
| <b>Complaints against Lawyer Applicants</b>         | Closed      | 0       | 0       | 0       | 0       | 0       |
|   | Transferred | 0       | 0       | 0       | 0       | 0       |
| <b>Complaints against Licensed Paralegals</b>       | Closed      | 48      | 35      | 28      | 45      | 31      |
|   | Transferred | 5       | 1       | 4       | 1       | 4       |
| <b>Complaints against Paralegal Applicants</b>      | Closed      | 0       | 0       | 0       | 0       | 0       |
|   | Transferred | 0       | 0       | 0       | 0       | 0       |
| <b>Complaints against Non-Licensees/Applicants*</b> | Closed      | 1       | 0       | 0       | 0       | 0       |
|   | Transferred | 0       | 0       | 1       | 0       | 0       |
| <b>TOTAL</b>  | Closed      | 512     | 438     | 460     | 468     | 496     |
|   | Transferred | 24      | 16      | 38      | 17      | 19      |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

## 3.2 – Complaints Resolution

**Graph 3.2C: Complaints Resolution – Department Inventory**



In Q2 2012, the department continued to complete more cases than it received, resulting in a 10% reduction in its inventory at the end of the quarter when compared to the end of Q1 2012. The decrease is noted in the inventory of complaints against both lawyers and licensed paralegals.

### Detailed Analysis of Complaint Resolution's Inventory

|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 891     | 865     | 800     | 786     | 708     |
| <b>Complaints against Lawyer Applicants</b>             | 0       | 0       | 0       | 0       | 0       |
| <b>Complaints against Licensed Paralegals</b>           | 67      | 67      | 75      | 63      | 56      |
| <b>Complaints against Paralegal Applicants</b>          | 0       | 0       | 0       | 0       | 0       |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 0       | 0       | 0       | 0       | 0       |
| <b>TOTAL</b>  | 958     | 932     | 875     | 849     | 764     |

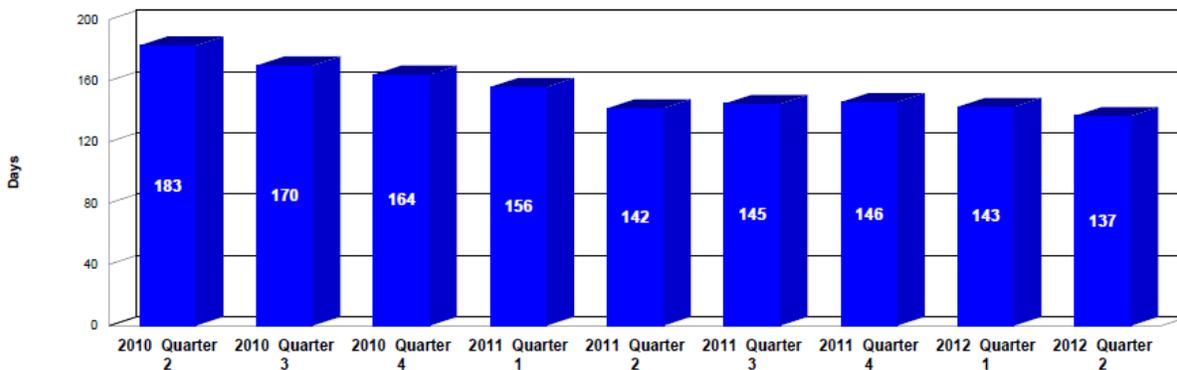
\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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### 3.2 – Complaints Resolution

**Graph 3.2D: Complaints Resolution - Median Age of Complaints**

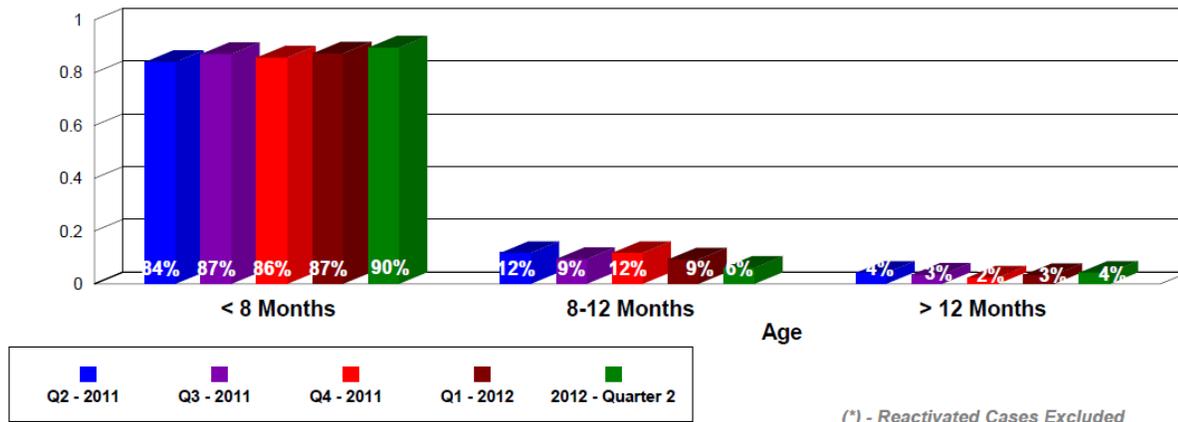


The department’s median age decreased from the previous quarter and remains below the department’s target range of 150 – 170 days.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.2 – Complaints Resolution

**Graph 3.2E: Complaints Resolution – Aging of Complaints**



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated cases) as at the end of each of the 5 quarters displayed. Excluding reactivated cases, Complaint Resolution’s inventory at the end of Q2 2012 was 702 cases involving 619 subjects. The distribution of those cases was:

|                     |                                  |
|---------------------|----------------------------------|
| Less than 8 months  | 629 cases involving 559 subjects |
| 8 to 12 months      | 43 cases involving 40 subjects   |
| More than 12 months | 30 cases involving 20 subjects   |

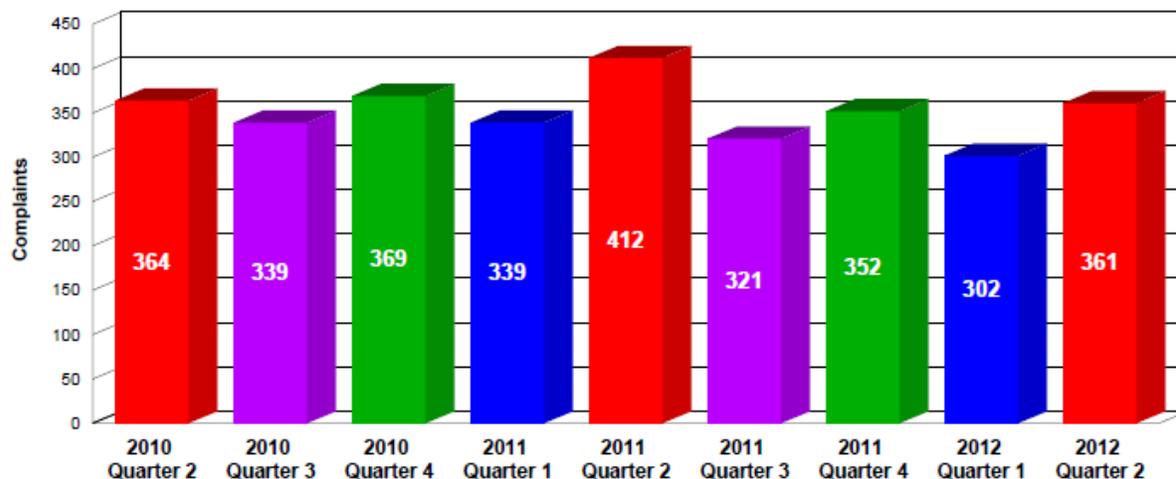
The goal is to reduce the proportion of cases in the older time frames and increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be cases that are older than 12 months in Complaints Resolution for the following reasons:

- newer complaints against the lawyer/paralegal are received. In order to move forward together, the older cases await the completion of younger cases;
- delays on the part of licensees in providing representations and in responding to the investigators’ requests. In a number of instances, the Summary Hearing process is required;
- delays on the part of complainants in responding to licensee’s representations and to investigators’ requests for additional information; and
- new issues raised by the complainant during the course of the investigation for which new instructions to investigate are required and for which subsequent representations are required from the lawyer or paralegal.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.3 – Investigations

Graph 3.3A: Investigations – Input<sup>6</sup>



The number of complaints received by the Investigations department in Q2 2012 increased by approximately 20% over the number that it received in Q1 2012. As noted in the chart below, an increase was noted in all categories except the complaints received against non-licensees/non-applicants (which decreased from 53 to 39).

#### Detailed Analysis of New and Re-opened Complaints Received in Investigations

|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 256     | 210     | 225     | 195     | 209     |
| <b>Complaints against Lawyer Applicants</b>             | 21      | 8       | 4       | 3       | 11      |
| <b>Complaints against Licensed Paralegals</b>           | 66      | 51      | 59      | 40      | 71      |
| <b>Complaints against Paralegal Applicants</b>          | 30      | 14      | 16      | 11      | 31      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 39      | 38      | 48      | 53      | 39      |
| <b>TOTAL</b>  | 412     | 321     | 352     | 302     | 361     |

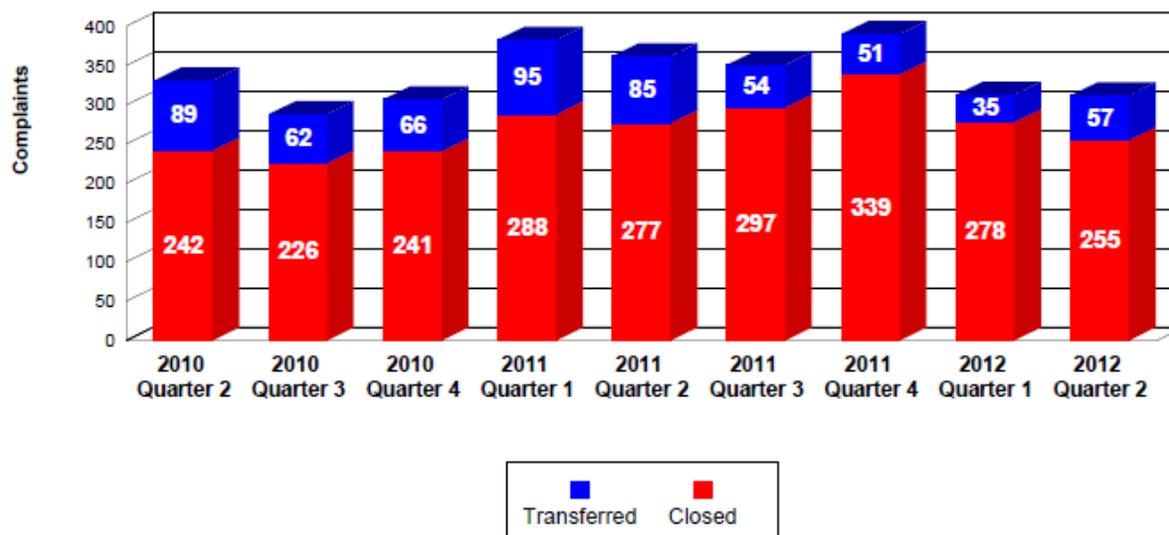
\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

<sup>6</sup> Includes new complaints received in Investigations and re-opened complaints

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

### 3.3 – Investigations

**Graph 3.3B: Investigations - Complaints Closed and Transferred Out**



The number of cases closed/transferred by the Investigations department in Q2 2012 (312) was virtually the same as the number completed in Q1 2012 (313). When compared to the first half of 2011, the number of cases completed by the department in the first half of 2012 (625) decreased by approximately 16% from the number completed in the first half of 2011 (745).

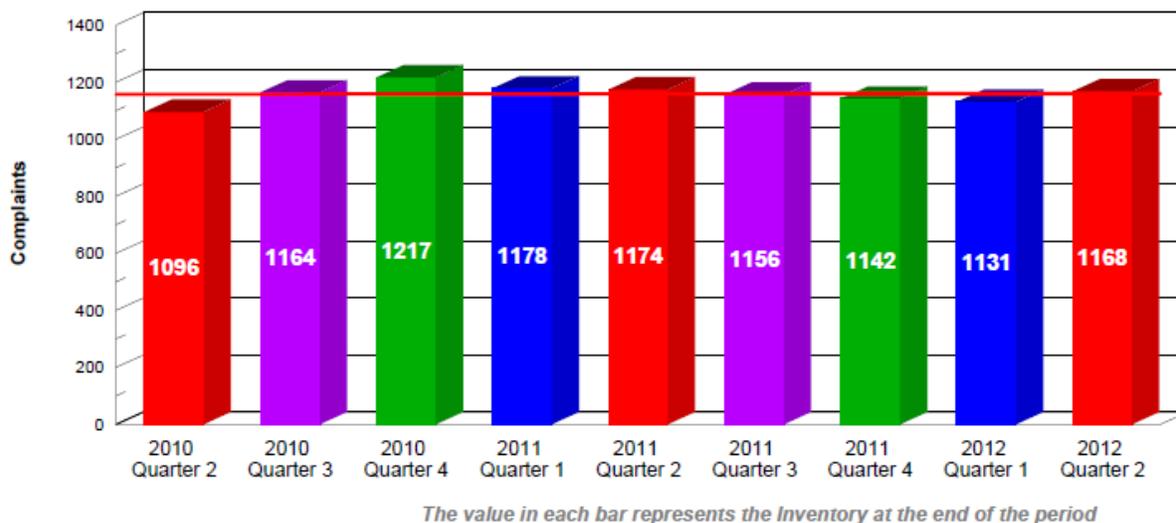
#### Detailed Analysis of Complaints Closed and Transferred Out of Investigations

|  |             | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|--|-------------|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                      | Closed      | 191     | 198     | 214     | 189     | 162     |
|  | Transferred | 64      | 41      | 38      | 24      | 27      |
| <b>Complaints against Lawyer Applicants</b>            | Closed      | 10      | 15      | 5       | 3       | 8       |
|  | Transferred | 1       | 0       | 0       | 2       | 1       |
| <b>Complaints against Licensed Paralegals</b>          | Closed      | 36      | 28      | 81      | 40      | 23      |
|  | Transferred | 9       | 12      | 6       | 6       | 21      |
| <b>Complaints against Paralegal Applicants</b>         | Closed      | 4       | 18      | 19      | 15      | 15      |
|  | Transferred | 2       | 0       | 5       | 0       | 0       |
| <b>Complaints against Non-Licensees/Non-Applicants</b> | Closed      | 36      | 38      | 20      | 31      | 47      |
|  | Transferred | 9       | 1       | 2       | 3       | 8       |
| <b>TOTAL</b>   | Closed      | 277     | 297     | 339     | 278     | 255     |
|  | Transferred | 85      | 54      | 51      | 35      | 57      |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4.

### 3.3 – Investigations

**Graph 3.3C: Investigations – Department Inventory**



The department's inventory continues to remain stable. In Q2 2012, the department received more cases than it completed and, therefore, there was a slight increase in the department's inventory at the end of the quarter.

#### Detailed Analysis of Investigations Inventory

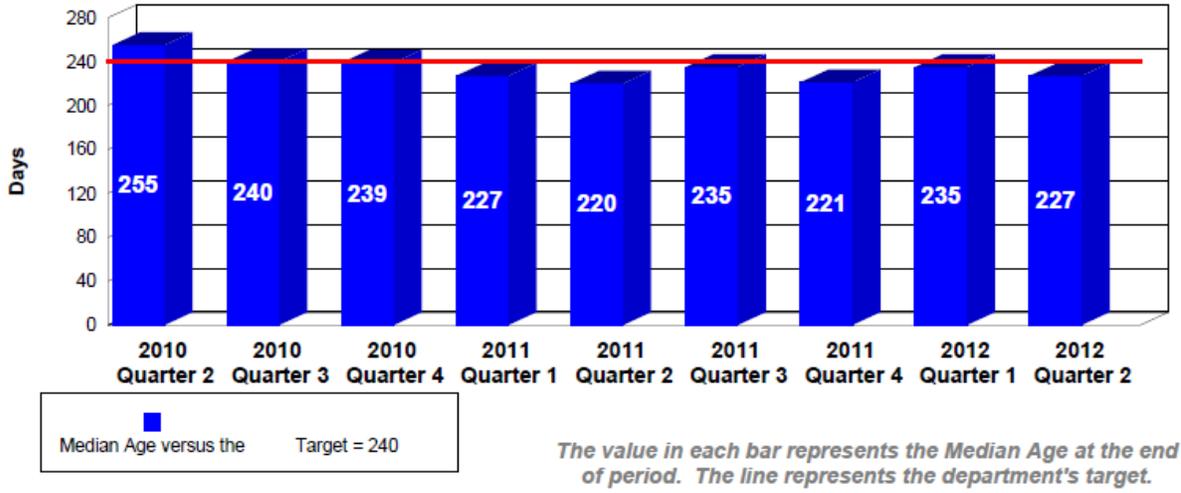
|   | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|---|---------|---------|---------|---------|---------|
| <b>Complaints against Lawyers</b>                       | 862     | 847     | 822     | 802     | 816     |
| <b>Complaints against Lawyer Applicants</b>             | 23      | 16      | 15      | 12      | 14      |
| <b>Complaints against Licensed Paralegals</b>           | 158     | 167     | 161     | 159     | 182     |
| <b>Complaints against Paralegal Applicants</b>          | 49      | 45      | 37      | 32      | 47      |
| <b>Complaints against Non-Licensees/Non-Applicants*</b> | 82      | 81      | 107     | 126     | 109     |
| <b>TOTAL</b>  | 1174    | 1156    | 1142    | 1131    | 1168    |

\* For a complete analysis of UAP complaints against Non-Licensees/Non-Applicants see section 3.4

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.3 – Investigations

**Graph 3.3D: Investigations – Median Age of All Complaints**

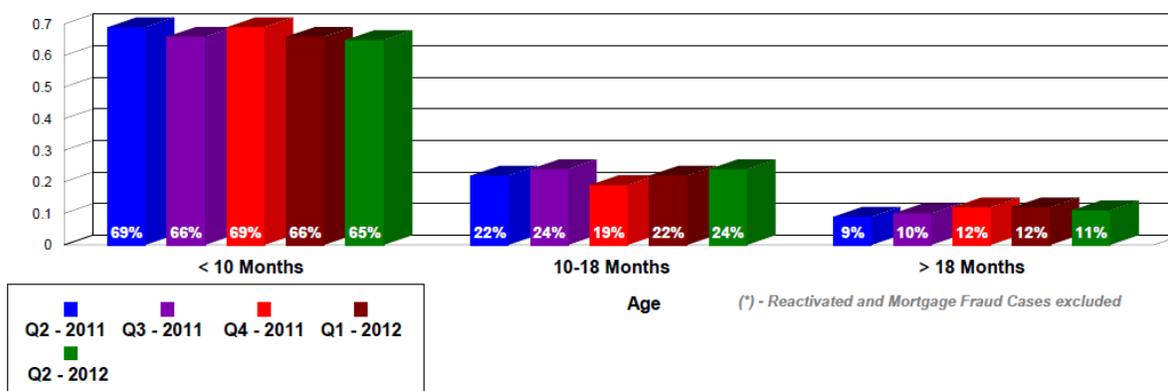


The department's median age decreased in the past quarter and remains well below the target of 240 days.

### 3.3 – Investigations

**Graph 3.3D: Investigations – Aging of Complaints**

**(a) Core Cases**



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated and mortgage fraud cases) as at the end of each of the 5 quarters displayed. Excluding reactivated and mortgage fraud cases, the inventory of Investigations at the end of Q2 2012 was 1014 cases involving 826 subjects. The distribution of those cases was:

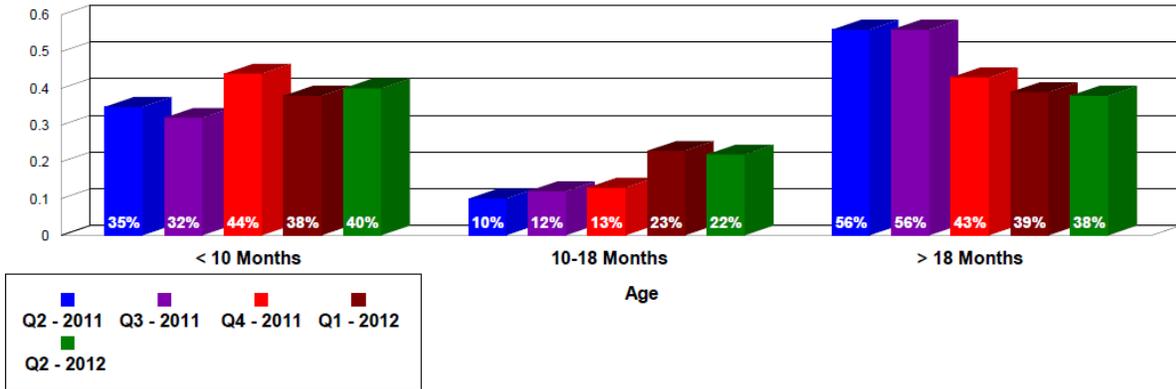
|                     |                                  |
|---------------------|----------------------------------|
| Less than 10 months | 655 cases involving 538 subjects |
| 10 to 18 months     | 241 cases involving 198 subjects |
| More than 18 months | 118 cases involving 90 subjects  |

While the department strives to reduce the proportion of cases in the older time frame and to increase the proportion of cases in the youngest time frame, it is recognized that there will always be cases that are older than 18 months in Investigations for the following reasons:

- the investigator has to wait for evidence from a third party source (i.e. not the complainant or the licensee/subject), for example psychiatric evaluation, review by outside counsel, court transcripts, etc;
- newer complaints against the licensee/subject are received. In order to move forward together to the Proceedings Authorization Committee, the older cases await the completion of younger cases;
- a need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter).
- multiple cases involve one lawyer. These investigations are complex and time consuming.
- in addition to allegations of misconduct, capacity issues have been raised in ongoing investigations, increasing the time required to complete the investigation.

### 3.3 – Investigations

#### (b) Mortgage Fraud Cases



The above graph sets out the spectrum of aging in the department’s mortgage fraud case inventory at the end of each of the 5 quarters displayed. The inventory of mortgage fraud cases at the end of Q2 2012 was 85 cases involving 68 subjects. The distribution of those cases was:

|                     |                                |
|---------------------|--------------------------------|
| Less than 10 months | 34 cases involving 28 subjects |
| 10 to 18 months     | 19 cases involving 18 subjects |
| More than 18 months | 32 cases involving 22 subjects |

As noted above, the department strives to reduce the proportion of mortgage fraud cases in the older time frame and to increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be mortgage fraud cases that are older than 18 months in Investigations for the reasons cited above, particularly:

- When newer complaints against the licensee/subject are received, existing investigations may have to await their completion in order that all the cases can be taken to Proceedings Authorization Committee together.
- There is a need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter).
- There are multiple cases involve one lawyer resulting in greater complexity.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.4 – Unauthorized Practice (UAP)

Chart 3.4A: Unauthorized Practice Complaints in Intake

| Quarter                      | New               | Closed/Transferred |                |                 | Active at end of Quarter |
|------------------------------|-------------------|--------------------|----------------|-----------------|--------------------------|
|                              |                   | Closed             | Transfer to CR | Transfer to Inv |                          |
| Q1 2008                      | 86                | 16                 | 16             | 51              | 48                       |
| Q2 2008                      | 102               | 17                 | 24             | 51              | 57                       |
| Q3 2008                      | 70                | 41                 | 4              | 34              | 44                       |
| Q4 2008                      | 79                | 48                 | 6              | 32              | 23                       |
| <b>Totals – 2008</b>         | <b>337</b>        | <b>122</b>         | <b>50</b>      | <b>168</b>      |                          |
| Q1 2009                      | 115               | 53                 | 19             | 23              | 49                       |
| Q2 2009                      | 118               | 48                 | 24             | 69              | 30                       |
| Q3 2009                      | 99                | 26                 | 41             | 47              | 30                       |
| Q4 2009                      | 113               | 38                 | 2              | 53              | 49                       |
| <b>Totals – 2009</b>         | <b>445</b>        | <b>165</b>         | <b>86</b>      | <b>192</b>      |                          |
| Q1 2010                      | 94                | 42                 | 0              | 76              | 36                       |
| Q2 2010                      | 89                | 32                 | 0              | 69              | 32                       |
| Q3 2010                      | 67                | 32                 | 1              | 50              | 29                       |
| Q4 2010                      | 80                | 45                 | 0              | 54              | 18                       |
| <b>Totals – 2010 (+ POL)</b> | <b>330* (398)</b> | <b>151</b>         | <b>1</b>       | <b>249</b>      |                          |
| Q1 2011 (+ POL)              | 61 (74)           | 24                 | 0              | 41              | 20                       |
| Q2 2011 (+ POL)              | 61 (84)           | 20                 | 1              | 54              | 12                       |
| Q3 2011 (+ POL)              | 70 (80)           | 27                 | 0              | 49              | 28                       |
| Q4 2011 (+ POL)              | 63(83)            | 16                 | 1              | 62              | 15                       |
| <b>Totals – 2011 (+POL)</b>  | <b>255 (321)</b>  | <b>87</b>          | <b>2</b>       | <b>206</b>      |                          |
| Q1 2012 (+ POL)              | 77(91)            | 16                 | 0              | 61              | 17                       |
| Q2 2012 (+POL)               | 58 (80)           | 22                 | 0              | 49              | 6                        |
| <b>Totals – 2012 (+POL)</b>  | <b>135 (171)</b>  | <b>38</b>          | <b>0</b>       | <b>110</b>      |                          |

\* In response to the number of UAP complaints being received in the division, a new allegation of “Practising Outside the Scope of Licence” (“POL”) was added to the division’s case management system at the beginning of 2010. This allows for improved identification of the nature of these complaints. In the 2<sup>nd</sup> quarter of 2012, complaints alleging practicing outside the scope of licence were received in 22 cases. Prior to Q1 2010, these would have been included in the UAP figures. As noted, including these cases with the UAP cases increases the new complaints received in 2010 to 398, in 2011 to 321 and in the first half of 2012 to 171.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.4 – Unauthorized Practice (UAP)

**Chart 3.4B: Unauthorized Practice investigations (in Complaints Resolution and Investigations)**

|                     | New |     | Closed <sup>7</sup> |     | Inventory |     |
|---------------------|-----|-----|---------------------|-----|-----------|-----|
|                     | CR  | Inv | CR                  | Inv | CR        | Inv |
| <b>Totals: 2008</b> | 52  | 171 | 64                  | 126 | 106       |     |
| <b>Totals: 2009</b> | 77  | 187 | 48                  | 138 | 168       |     |
| <b>Q1 2010</b>      | 0   | 76  | 12                  | 73  | 17        | 79  |
| <b>Q2 2010</b>      | 0   | 70  | 6                   | 54  | 10        | 90  |
| <b>Q3 2010</b>      | 1   | 50  | 2                   | 31  | 8         | 108 |
| <b>Q4 2010</b>      | 0   | 54  | 8                   | 32  | 0         | 124 |
| <b>Totals: 2010</b> | 1   | 249 | 28                  | 190 | 124       |     |
| <b>Q1 2011</b>      | 0   | 41  | 0                   | 61  | 0         | 104 |
| <b>Q2 2011</b>      | 1   | 54  | 0                   | 56  | 1         | 102 |
| <b>Q3 2011</b>      | 0   | 49  | 0                   | 45  | 1         | 106 |
| <b>Q4 2011</b>      | 1   | 62  | 0                   | 26  | 1         | 139 |
| <b>Totals: 2011</b> | 2   | 206 | 0                   | 188 | 140       |     |
| <b>Q1 2012</b>      | 0   | 61  | 1                   | 45  | 0         | 156 |
| <b>Q2 2012</b>      | 0   | 49  | 0                   | 65  | 0         | 140 |
| <b>Totals: 2012</b> | 0   | 110 | 1                   | 110 | 140       |     |

As noted in the chart above, during Q2 2012, Investigations closed a total of 65 UAP cases. As the number of new UAP investigation complaints received was lower (49), the inventory of unauthorized practice investigation complaints at the end of the quarter decreased by 10% from the end of Q1 2012 (from 156 to 140 cases).

#### UAP Enforcement Actions

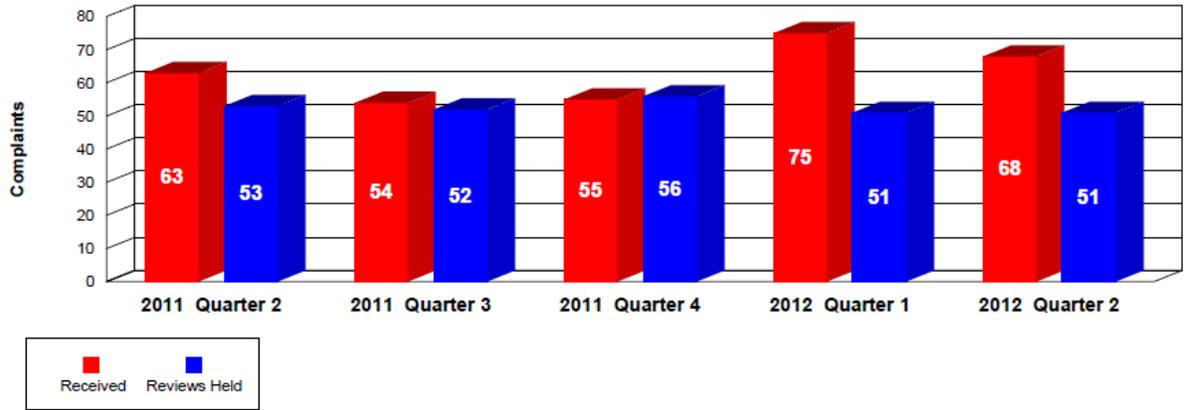
There were no UAP enforcement actions authorized by PAC in the second quarter of 2012. Currently, there is 1 open UAP matter in which a permanent injunction is being sought pursuant to s.26.3 of the *Law Society Act*. There are no open unauthorized practice prosecutions.

<sup>7</sup> “Closed” refers to completed investigations and therefore consists of both those investigations that were closed by the Law Society and those that were referred for prosecution/injunctive relief.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

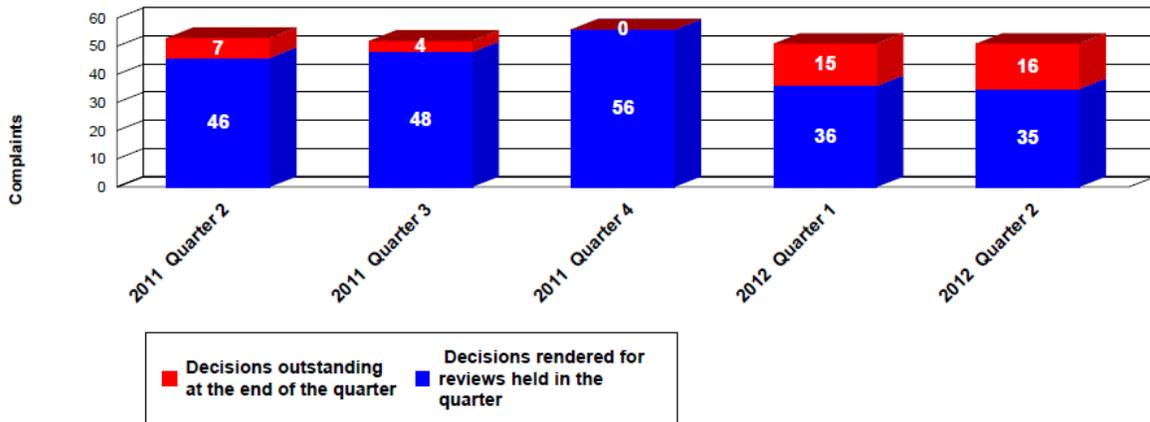
### 3.5 – Complaints Resolution Commissioner

**Graph 3.5A – Reviews Requested and Files Reviewed (by Quarters)**



While there are quarterly fluctuations, complaints referred to the Complaints Resolution Commissioner for review of the staff decision to close the complaint file is stable over time.

**Graph 3.5B – Status of Files Reviewed in each Quarter**



A file may be reviewed in one quarter, however the final decision by the Commissioner with respect to that file may not be rendered in the same quarter. As noted in Graph 3.5A above, 51 files were reviewed by the Commissioner in Q2 2012. Decisions were rendered in 35 cases by the end of the quarter. Decisions in 16 of the cases reviewed in Q2 2012 were outstanding as at June 30, 2012.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.5 – Complaints Resolution Commissioner

**Graph 3.5C – Decisions Rendered, by Quarter**

| Quarter           | Decisions Rendered<br>(# of decisions where review in<br>previous quarter(s)) | Files to Remain<br>Closed | Files Referred Back<br>to PRD |
|-------------------|---|---------------------------|-------------------------------|
| <b>Total 2009</b> | 194   | 174 (90%)                 | 20 (10%)                      |
| Q1 2010           | 48 (3)  | 39                        | 9                             |
| Q2 2010           | 25  | 22                        | 3                             |
| Q3 2010           | 46 (15)   | 37                        | 8                             |
| Q4 2010           | 75(20)  | 62                        | 13                            |
| <b>Total 2010</b> | 193   | 160 (83%)                 | 33 (17%)                      |
| Q1 2011           | 84 (12)   | 78 (93%)                  | 6 (7%)                        |
| Q2 2011           | 60 (14)   | 58 (96%)                  | 2 (4%)                        |
| Q3 2011           | 53 (5)  | 51 (96%)                  | 2 (4%)                        |
| Q4 2011           | 62 (6)  | 61 (98%)                  | 1 (2%)                        |
| <b>Total 2011</b> | 260   | 248 (95%)                 | 12 (5%)                       |
| Q1 2012           | 36  | 33 (92%)                  | 3 (8%)                        |
| Q2 2012           | 50 (15)   | 48 (96%)                  | 2 (4%)                        |

The Commissioner rendered 50 decisions in Q2 2012 (35 decisions were in relation to reviews held in Q2; 15 decisions were in relation to reviews held in the previous quarter). In relation to 2 of those files, the Commission referred the files back to Professional Regulation with recommendations for further investigations.

#### Active Inventory

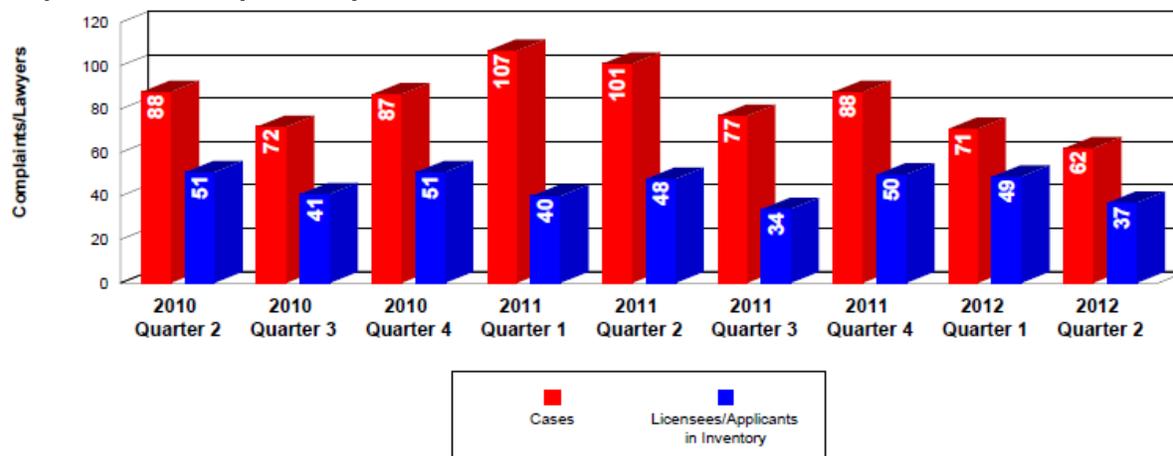
As at June 30, 2012, the Office of the Complaints Resolution Commissioner had an inventory of 181 cases:

|   |           |
|---|-----------|
| Request received; awaiting preparation of CRC materials | 104 files |
| Ready for Scheduling                                    | 11 files  |
| Review Meeting Scheduled                                | 38 files  |
| Files Ready to be Reviewed in Writing                   | 12 files  |
| Awaiting Decisions                                      | 16 files  |

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

### 3.6 – Discipline

Graph 3.6A: Discipline - Input<sup>8</sup>



“Input” refers to complaints that were transferred into Discipline from various other departments during the quarter for preparation for the Proceedings Authorization Committee. As noted in the chart below, in Q2 2012, the cases involve both lawyers (31 cases involving 26 lawyers) and licensed paralegals (27 cases involving 9 licensed paralegals).

#### Detailed Analysis of New Cases Received in Discipline

|                             |                        | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|-----------------------------|------------------------|---------|---------|---------|---------|---------|
| <b>Lawyers</b>              | Cases                  | 80      | 65      | 73      | 60      | 31      |
|                             | Lawyers                | 37*     | 28*     | 40*     | 39*     | 26*     |
| <b>Lawyer Applicants</b>    | Cases                  | 3       | 0       | 0       | 2       | 1       |
|                             | Lawyer Applicants      | 1*      | 0       | 0       | 2*      | 1*      |
| <b>Licensed Paralegals</b>  | Cases                  | 14      | 11      | 10      | 7       | 27      |
|                             | Licensed Paralegals    | 6*      | 5*      | 9*      | 7*      | 9*      |
| <b>Paralegal Applicants</b> | Cases                  | 4       | 1       | 5       | 2       | 3       |
|                             | Paralegal Applicants   | 4*      | 1*      | 1*      | 1*      | 1*      |
| <b>TOTAL</b>                | Cases                  | 101     | 77      | 88      | 71      | 62      |
|                             | Licensees & Applicants | 48*     | 34*     | 50*     | 49*     | 37*     |

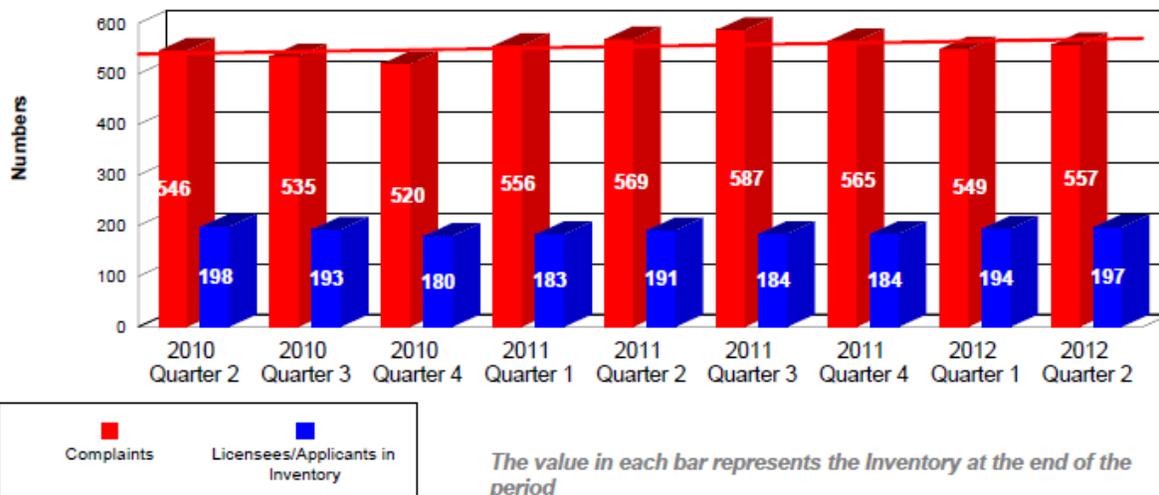
\* The number of new Lawyers and Paralegals cited represents the number coming into the department each quarter. However, there may, in fact, already be cases involving the licensee/applicant in the department.

<sup>8</sup> Includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

### 3.6 – Discipline

Graph 3.6B: Discipline – Department Inventory<sup>9</sup>



While the number of licensees/applicants in the Discipline department process has remained fairly stable in the last 2 years, the number of cases relating to these matters has increased, demonstrating, in part, an increasing complexity in discipline cases.

#### Detailed Analysis of Discipline's Inventory

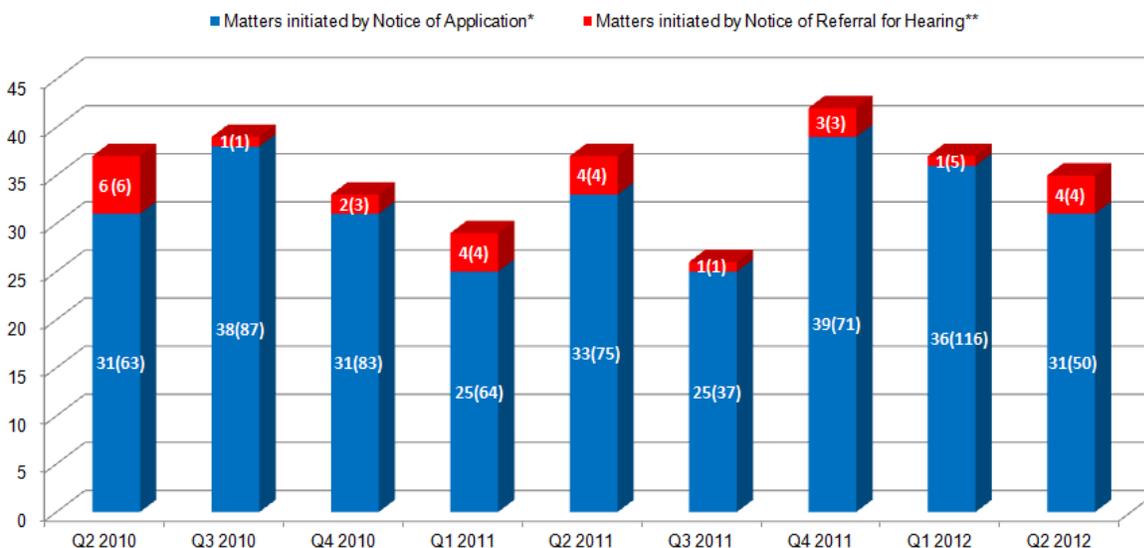
|                             |                        | Q2 2011 | Q3 2011 | Q4 2011 | Q1 2012 | Q2 2012 |
|-----------------------------|------------------------|---------|---------|---------|---------|---------|
| <b>Lawyers</b>              | Cases                  | 482     | 498     | 501     | 476     | 479     |
|                             | Lawyers                | 160     | 154     | 156     | 159     | 162     |
| <b>Lawyer Applicants</b>    | Cases                  | 5       | 3       | 3       | 5       | 5       |
|                             | Lawyer Applicants      | 5       | 3       | 3       | 5       | 5       |
| <b>Licensed Paralegals</b>  | Cases                  | 50      | 62      | 42      | 41      | 47      |
|                             | Licensed Paralegals    | 11      | 15      | 14      | 18      | 19      |
| <b>Paralegal Applicants</b> | Cases                  | 32      | 24      | 29      | 27      | 23      |
|                             | Paralegal Applicants   | 15      | 12      | 11      | 12      | 11      |
| <b>TOTAL</b>                | Cases                  | 569     | 587     | 565     | 549     | 557     |
|                             | Licensees & Applicants | 191     | 184     | 184     | 194     | 197     |

<sup>9</sup> Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Panel or on appeal.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.6 – Discipline

**Graph 3.6D: Discipline - Notices Issued**



\* Matters which are initiated by Notice of Application include conduct, capacity, non-compliance and competency matters. Also included in this category are interlocutory suspension/restriction motions.

\*\* Matters which are initiated by Notice of Referral for Hearing (formerly Notice of Hearing) include licensing (including readmission matters), reinstatement and restoration matters.

The above graph shows the number of notices issued by the Discipline department in the past 9 quarters. The numbers in each bar indicate the number of notices issued and, in brackets, the number of cases relating to those notices. One notice may relate to more than one case. For example, in Q2 2012, 31 Notices of Application/Notices of Motion for Interim Suspension Order were issued (relating to 50 cases) and 4 Notices of Referral for Hearing was issued (relating to 4 cases).

With respect to the 31 Notices of Application<sup>10</sup>/Notices of Motion for Interim Suspension Order which were issued in Q2 2012:

- 23 were issued less than 1 month after PAC authorization;
- 6 were issued between 1 and 2 months after PAC authorization;
- 1 was issued between 2 and 3 months after PAC authorization; and
- 1 was issued more than 3 months after PAC authorization.

With respect to the 4 matters for which a Notice of Referral for Hearing were issued in Q2 2012, 3 were issued less than a month after PAC authorization. One matter did not require PAC authorization as it related to a reinstatement matter.

<sup>10</sup> Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.6 – Discipline

Graph 3.6D: Discipline – Completed Matters (Hearings)

|   |                      | Q1<br>2011 | Q2<br>2011 | Q3<br>2011 | Q4<br>2011 | Q1<br>2012 | Q2<br>2012 |
|---|----------------------|------------|------------|------------|------------|------------|------------|
| <b>Conduct Hearings</b>                                   | Lawyers              | 27         | 19         | 24         | 14         | 17         | 18         |
|   | Licensed Paralegals  | 4          | 3          | 1          | 9          | 6          | 6          |
| <b>Interlocutory<br/>Suspension Hearings/<br/>Orders</b>  | Lawyers              | 3          | 1          | 1          | -          | 2          | 1          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | 1          |
| <b>Capacity Hearings</b>                                  | Lawyers              | -          | -          | -          | -          | -          | -          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | -          |
| <b>Competency Hearings</b>                                | Lawyers              | -          | -          | -          | -          | -          | -          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | -          |
| <b>Non-Compliance<br/>Hearings</b>                        | Lawyers              | -          | -          | -          | -          | -          | -          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | -          |
| <b>Reinstatement / Terms<br/>Dispute<br/>Hearings</b>     | Lawyers              | 2          | 1          | 2          | -          | 2          | 1          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | -          |
| <b>Restoration</b>  | Lawyers              | -          | -          | -          | -          | -          | -          |
|   | Licensed Paralegals  | -          | -          | -          | -          | -          | -          |
| <b>Licensing Hearings<br/>(including<br/>Readmission)</b> | Lawyer Applicants    | -          | 1          | 2          | 1          | -          | 1          |
|   | Paralegal Applicants | 2          | 4          | -          | 1          | 3          | 1          |
| <b>TOTAL NUMBER<br/>OF HEARINGS</b>                       | Lawyer matters       | 31         | 22         | 29         | 15         | 21         | 21         |
|   | Paralegal matters    | 6          | 7          | 1          | 10         | 9          | 8          |
|   | <b>TOTAL</b>         | <b>38</b>  | <b>29</b>  | <b>30</b>  | <b>25</b>  | <b>30</b>  | <b>29</b>  |
|   |                      | <b>122</b> |            |            |            | <b>59</b>  |            |

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

### 3.6 – Discipline

#### Graph 3.6E - Discipline – Appeals

The following chart sets out the number of appeals filed with the Appeal Panel, the Divisional Court or the Court of Appeal in the calendar years 2008, 2009, 2010 and in the first half of 2012.

| Quarter/Year            | Appeal Panel | Divisional Court              | Court of Appeal                |
|-------------------------|--------------|-------------------------------|--------------------------------|
| 2008                    | 14           | 8                             |                                |
| 2009                    | 19           | 1                             | 3 motions for leave; 2 appeals |
| 2010                    | 27           | 2 appeals; 3 judicial reviews | 4 motions for leave            |
| 2011                    | 18           | 1 appeal, 3 judicial reviews  | 2 motions for leave            |
| 2012                    |              |                               |                                |
| 1 <sup>st</sup> Quarter | 5*           | 3 appeals; 1 judicial review  |                                |
| 2 <sup>nd</sup> Quarter | 6            | 2 judicial reviews            | 1 motion for leave             |

\* The Licensee and the Law Society both filed appeals in relation to an Order of the Hearing Panel.

With respect to appeals before the Appeal Panel in Q2 2012,

- 3 appeals before the Appeal Panel were dismissed on the merits.
- 1 appeal was allowed in part; the Appeal Panel is seized and will be hearing evidence and submissions on penalty
- 1 appeal was deemed abandoned.

As of June 30, 2012, there are 12 appeals pending before the Appeal Panel and 3 appeals in which the Appeal Panel has reserved on judgment. There is one appeal before the Appeal Panel that has been suspended. There are also 8 matters pending in Divisional Court. There are no matters pending in the Court of Appeal.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

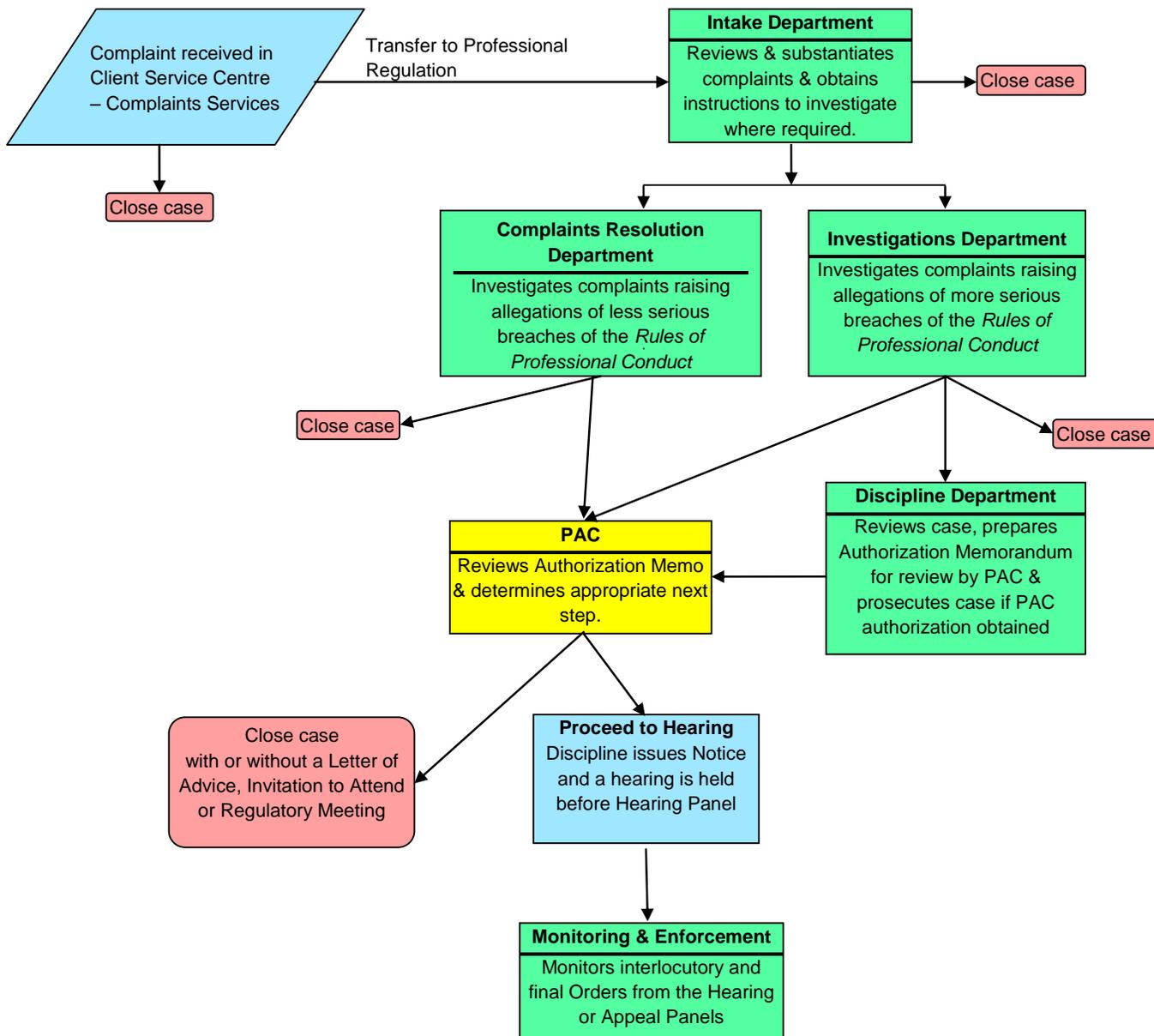
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## **SECTION 4**

### **APPENDICES**

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2012)

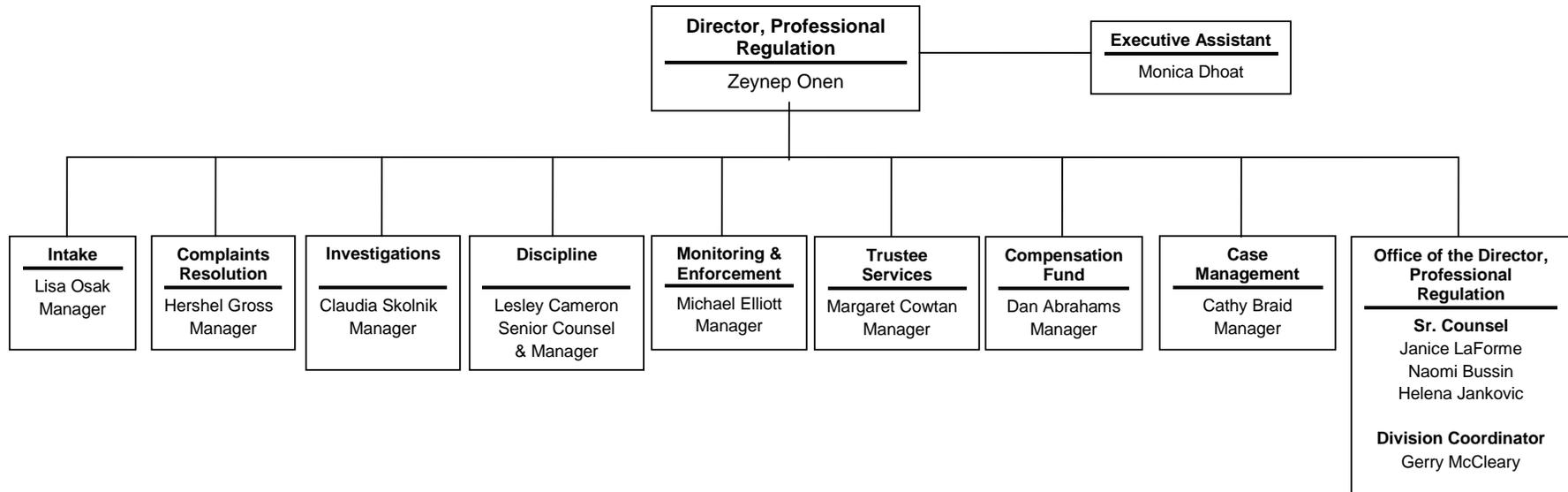
**The Professional Regulation Complaint Process**



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2012)

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**PROFESSIONAL REGULATION ORGANIZATIONAL CHART**





**Report to Convocation  
September 27<sup>th</sup>, 2012**

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**Paralegal Standing Committee**

**Committee Members**

**Cathy Corsetti, Chair**

**Susan McGrath, Vice-Chair**

**Marion Boyd**

**Robert Burd**

**Paul Dray**

**Ross Earnshaw**

**Robert Evans**

**Michelle Haigh**

**Jacqueline Horvat**

**Dow Marmur**

**Malcolm M. Mercer**

**Kenneth Mitchell**

**Jan Richardson**

**Purpose of Report: Decision and Information**

**Prepared by the Policy Secretariat**

**Julia Bass 416 947 5228**

## TABLE OF CONTENTS

### **For Decision**

Amendments to By-Law 6, Part II: Insurance ..... **TAB 8.1**

**For Information** ..... **TAB 8.2**

5 Year Review of Paralegal Regulation

2012 Paralegal Annual Report

Proposed Fees for Late Filing and Late Fee Payment

Proposed Amendments to Protect Privileged Information

Reception for Newly-Licensed Paralegals

## COMMITTEE PROCESS

1. The Committee met on September 13<sup>th</sup>, 2012. Committee members present were Cathy Corsetti (Chair), Susan McGrath (Vice-Chair), Marion Boyd, Robert Burd, Paul Dray, Ross Earnshaw, Robert Evans, Michelle Haigh, Jacqueline Horvat, Dow Marmur, Malcolm M. Mercer and Kenneth Mitchell. Staff members attending were Zeynep Onen, Terry Knott, Roy Thomas, Sheena Weir, Elliot Spears, Eric Smith and Julia Bass.

## FOR DECISION

### AMENDMENTS TO BY-LAW 6: PROFESSIONAL LIABILITY INSURANCE

#### Motion

2. That Convocation approve amendments to By-Law 6, Part II “Licensees Holding A Class P1 Licence” to,
  - a. remove the requirement that paralegals submit proof of insurance in writing;
  - b. require paralegals to provide details about the claiming of an exemption from the insurance requirement, and
  - c. add the By-Law 4 list of licensing exemptions to By-Law 6.

#### Issue

3. It is appropriate to make a number of minor adjustments to By-law 6, Part II, to clarify the requirements for paralegals to provide information about their professional liability insurance.

#### Requirement for written evidence

4. Section 13 of By-Law 6 currently requires paralegals to provide “written evidence to the satisfaction of the Society” that the licensee is in compliance with the insurance requirements. Relevant excerpts from the current by-law are shown at **TAB 8.1.1**.
5. With the introduction of the Law Society Portal as the preferred means of communication with members, it is appropriate to amend By-Law 6 to permit members to submit insurance information via the Portal. It is not intended to remove the authority to compel the production of written evidence of compliance, as this may be necessary for audit and investigatory purposes.

#### Requirements for paralegals exempt from insurance

6. Subsection 12 (2) provides an exemption from the insurance requirements for certain paralegals, e.g. in-house employees. For compliance purposes, it is appropriate to add wording requiring paralegals who are claiming an exemption to provide details about the exemption being claimed and permitting the Law Society to require further information.
7. The insurance exemption is based on the exemptions from licensing set out in By-Law 4. However, to understand subsection 12 (2) (b) of By-Law 6, it is necessary for a licensee to refer to the exemption provisions in By-Law 4. This has proven confusing for licensees and generates many questions. It would be clearer to re-state the licensing exemptions list in By-Law 6. (This will mean that By-Law 6 will require amendment whenever the exemptions in By-Law 4 are changed).
8. A draft of the required amendments is shown in redline at **TAB 8.1.2**. The Motion to implement these changes is shown at **TAB 8.1.3**. The necessary bilingual motion will be made available prior to the meeting of Convocation.

### **Implementation**

9. If the above changes are made, instructions in the Portal for claiming an exemption from insurance would be created to match the wording in By-Law 6.

### **The Committee's Deliberations**

10. The Committee considered the proposal and recommends the changes summarized as follows:
  - a. remove the requirement that proof of insurance be in written form, to permit members to submit insurance information via the Portal;
  - b. add wording requiring paralegals to provide details about the claiming of an exemption and permitting the Law Society to require further information, and
  - c. re-state the By-Law 4 licensing exemptions list in By-Law 6.

**TAB 8.1.1.**

**BY-LAW 6 PROFESSIONAL LIABILITY INSURANCE [EXCERPT]**

**PART II**

**LICENSEES HOLDING A CLASS P1 LICENCE**

**MANDATORY INSURANCE**

**Mandatory insurance**

12. (1) Every licensee who holds a Class P1 licence shall maintain insurance against professional liability under a policy of professional liability insurance issued by a company licensed to carry on business in the province of Ontario which complies with the following minimum requirements and is otherwise comparable to a policy of professional liability insurance issued by the Lawyers' Professional Indemnity Company to a licensee who holds a Class L1 licence:

1. A policy limit for each single claim of not less than \$1 million and an aggregate policy limit for all claims of not less than \$2 million per year.
2. A maximum deductible amount under the policy that is reasonable in relation to the financial resources of the licensee.
3. Coverage for liability for errors, omissions and negligent acts arising out of the provision by the licensee of legal services authorized under a Class P1 licence.
4. A provision granting an extended reporting period of ninety days from the date of cancellation of the policy.
5. A provision naming the Society as an additional insured, for the purposes of reporting claims and receiving notice of the cancellation or amendment of the policy.
6. A provision that the policy may not be cancelled or amended without at least 60 days written notice to the Society.

**Exemption from insurance requirement**

(2) A licensee is not required to be insured against professional liability under subsection (1) if the licensee provides written evidence to the satisfaction of the Society that,

- (a) the licensee is not providing legal services in Ontario; or
- (b) the licensee is providing legal services in Ontario in the circumstances specified in paragraph 1, 2 or 4 of subsection 30 (1) of By-Law 4, subsection 31 (2), (3) or (4) of By-Law 4 or subsection 32 (2) of By-Law 4.

**Proof of compliance with s. 12**

13. A licensee shall, prior to the commencement of the provision of legal services and on an annual basis thereafter, by not later than the anniversary date of the commencement of the provision of legal services, provide written evidence to the satisfaction of the Society that the licensee is in compliance with section 12.

**TAB 8.1.2**

**BY-LAW 6**

May 1, 2007  
Amended: June 28, 2007  
February 21, 2008  
September 24, 2009  
November 24, 2011

**PROFESSIONAL LIABILITY INSURANCE**

....

**PART II**

**LICENSEES HOLDING A CLASS P1 LICENCE**

**MANDATORY INSURANCE**

**Mandatory insurance**

12. (1) Unless exempted, eEvery licensee who holds a Class P1 licence shall maintain insurance against professional liability under a policy of professional liability insurance issued by a company licensed to carry on business in the province of Ontario ~~which-that~~ complies with the following minimum requirements and is otherwise comparable to a policy of professional liability insurance issued by the Lawyers' Professional Indemnity Company to a licensee who holds a Class L1 licence:

1. A policy limit for each single claim of not less than \$1 million and an aggregate policy limit for all claims of not less than \$2 million per year.
2. A maximum deductible amount under the policy that is reasonable in relation to the financial resources of the licensee.
3. Coverage for liability for errors, omissions and negligent acts arising out of the provision by the licensee of legal services authorized under a Class P1 licence.
4. A provision granting an extended reporting period of ninety days from the date of cancellation of the policy.

5. A provision naming the Society as an additional insured, for the purposes of reporting claims and receiving notice of the cancellation or amendment of the policy.
6. A provision that the policy may not be cancelled or amended without at least 60 days written notice to the Society.

**Exemption from insurance requirement**

(2) A licensee who holds a Class P1 licence is not exempt from the requirement to be insured maintain insurance against professional liability under contained in subsection (1) if the licensee provides written evidence to the satisfaction of the Society that,

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- (a) the licensee is not providing legal services in Ontario; or

(b) the licensee is providing legal services in Ontario in the circumstances specified in paragraph 1, 2 or 4 of subsection 30 (1) of By Law 4, subsection 31 (2), (3) or (4) of By Law 4 or subsection 32 (2) of By Law 4, the licensee is providing legal services in Ontario only in any of the following circumstances:

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1. The licensee,

- i. is employed by a single employer that is not a licensee or a licensee firm,
- ii. provides legal services only for and on behalf of the single employer, and
- iii. does not provide any legal services to any person other than the single employer,

2. The licensee,

- i. is employed by a clinic, within the meaning of the *Legal Aid Services Act, 1998*, that is funded by Legal Aid Ontario,
- ii. provides legal services only through the clinic to the community that the clinic serves and does not otherwise provide legal services, and
- iii. has professional liability insurance coverage for the provision of the legal services that is comparable in coverage and limits to

professional liability insurance that is required of a licensee who holds a Class L1 licence.

3. The licensee.

- i. is employed by a not-for-profit organization that is established for the purposes of providing legal services and is funded by the Government of Canada, the Government of Ontario or a municipal government in Ontario.
- ii. provides legal services only through the organization to the community that the organization serves and does not otherwise provide legal services, and
- iii. has professional liability insurance coverage for the provision of the legal services that is comparable in coverage and limits to the professional liability insurance that is required of a licensee who holds a Class L1 licence.

4. The licensee.

- i. is a public servant in the service of the Office of the Worker Adviser.
- ii. provides only the following legal services through the Office of the Worker Adviser:
  - I. advises a worker, who is not a member of a trade union, or a survivor of the worker of her or his legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997*,
  - II. acts on behalf of a worker, who is not a member of a trade union, or a survivor of the worker in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and
- iii. does not otherwise provide any legal services to any person.

5. The licensee.

- i. is a public servant in the service of the Office of the Employer

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Adviser.

ii. provides only the following legal services through the Office of the Employer Adviser:

I. advises an employer of her, his or its legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997* or any predecessor legislation,

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II. acts on behalf of an employer in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and

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iii. does not otherwise provide any legal services to any person.

6. The licensee.

i. volunteers in an injured workers' group,

ii. provides only the following legal services through the group:

I. gives a worker advice on her or his legal interests, rights or responsibilities under the *Workplace Safety and Insurance Act, 1997*,

II. acts on behalf of a worker in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and

iii. does not otherwise provide any legal services to any person.

7. The licensee.

i. is an employee of a trade union, a volunteer representative of the trade union or an individual designated by the Ontario Federation of Labour for the purposes of the trade union,

ii. provides to the trade union, a member of the trade union, a former member of the trade union or a spouse, child or dependant of a deceased member of the trade union only the following legal services:

- I. gives the person advice on her, his or its legal interests, rights or responsibilities in connection with a workplace issue or dispute.
  - II. acts on behalf of the person in connection with a workplace issue or dispute or a related proceeding before an adjudicative body other than a federal or provincial court.
  - III. acts on behalf of the person in enforcing benefits payable under a collective agreement before the Small Claims Court, and
- iii. does not otherwise provide any legal services to any person.

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**Interpretation: "licensee firm"**

(3) In paragraph 1 of clause (2) (b), "licensee firm" means a partnership or other association of licensees, a partnership or association mentioned in Part III of By-Law 7 [Business Entities] or a professional corporation.

**Interpretation of words used in paragraphs 4, 5 and 6 of clause (2) (b)**

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(4) In this subsection and in paragraphs 4, 5 and 6 of clause (2) (b),

"employer" has the meaning given it in the *Workplace Safety and Insurance Act, 1997*;

"injured workers' group" means a not-for-profit organization that is funded by the Workplace Safety and Insurance Board to provide specified legal services to workers;

"public servant" has the meaning given it in the *Public Service of Ontario Act, 2006*;

"survivor" has the meaning given it in the *Workplace Safety and Insurance Act, 1997*;

"worker" has the meaning given it in the *Workplae Safety and Insurance Act, 1997*.

**Interpretation of words used in paragraph 7 of clause (2) (b)**

(5) In this subsection and in paragraph 7 of clause (2) (b),

"dependant" means each of the following persons who was wholly or partly dependent upon the earnings of a member of a trade union at the time of the member's death or who, but for the member's incapacity due to an accident, would have been so dependent;

1. parent, stepparent or person who stood in the role of parent to the member,
2. sibling or half-sibling,
3. grandparent,
4. grandchild;

“workplace” means,

- (a) in the case of a former member of a trade union, a workplace of the former member when he or she was a member of the trade union, and
- (b) in the case of a spouse, child or dependant of a deceased member of a trade union, a workplace of the deceased member when he or she was a member of the trade union.

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#### **Proof of compliance with s. 12**

13. A licensee who holds a Class P1 licence shall, prior to the commencement of the provision of legal services and on an annual basis thereafter, by not later than the anniversary date of the commencement of the provision of legal services, provide ~~written~~ evidence to the satisfaction of the Society that the licensee is in compliance with section 12;

- (a) immediately after the licensee is issued a Class P1 licence;
- (b) prior to the commencement of the provision of legal services;
- (c) prior to any change in the circumstances in which the licensee provides legal services, where the change in circumstances,
  - (i) would result in the licensee being required to maintain insurance against professional liability under subsection 12 (1),
  - (ii) would entitle the licensee to claim an exemption from the requirement to maintain insurance against professional liability under subsection 12 (2), or
  - (iii) would entitle the licensee to claim an exemption from the requirement to maintain insurance against professional liability under a different paragraph of subsection 12 (2) than the paragraph of subsection 12 (2)

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under which the licensee claimed an exemption from the requirement to maintain insurance against professional liability prior to the change in the circumstances of providing legal services;

(d) where the licensee maintains insurance against professional liability, prior to the expiry of the licensee's policy of professional liability insurance;

(e) on the anniversary date of the last time the licensee provided evidence to the satisfaction of the Society that the licensee was in compliance with section 12 under clause (a), (b), (c) or (d); and

(f) immediately after being required by the Society to provide evidence to the satisfaction of the Society that the licensee is in compliance with section 12,

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THE LAW SOCIETY OF UPPER CANADA

**BY-LAWS MADE UNDER  
SUBSECTIONS 62 (0.1) AND (1) OF THE *LAW SOCIETY ACT***

**BY-LAW 6  
[PROFESSIONAL LIABILITY INSURANCE]**

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON  
SEPTEMBER 27, 2012

MOVED BY

SECONDED BY

THAT By-Law 6 [Professional Liability Insurance], made by Convocation on May 1, 2007 and amended by Convocation on June 28, 2007, February 21, 2008, September 24, 2009 and November 24, 2011, be further amended as follows:

1. **Subsection 12 (1) of the English version of the By-Law is amended by,**
  - (a) **striking out “Every licensee” at the beginning and substituting “Unless exempted, every licensee”; and**
  - (b) **striking out “which” before “complies” in the introductory portion of the subsection and substituting “that”.**
  
2. **Subsection 12 (2) (including the marginal note) of the English version of the By-Law is revoked and the following substituted:**

**Exemption from insurance requirement**

(2) A licensee who holds a Class P1 licence is exempt from the requirement to maintain insurance against professional liability contained in subsection (1) if,

- (a) the licensee is not providing legal services in Ontario; or
- (b) the licensee is providing legal services in Ontario only in any of the following circumstances:
  1. The licensee,

- i. is employed by a single employer that is not a licensee or a licensee firm,
  - ii. provides legal services only for and on behalf of the single employer, and
  - iii. does not provide any legal services to any person other than the single employer,
2. The licensee,
  - i. is employed by a clinic, within the meaning of the *Legal Aid Services Act, 1998*, that is funded by Legal Aid Ontario,
  - ii. provides legal services only through the clinic to the community that the clinic serves and does not otherwise provide legal services, and
  - iii. has professional liability insurance coverage for the provision of the legal services that is comparable in coverage and limits to professional liability insurance that is required of a licensee who holds a Class L1 licence,
3. The licensee,
  - i. is employed by a not-for-profit organization that is established for the purposes of providing legal services and is funded by the Government of Canada, the Government of Ontario or a municipal government in Ontario,
  - ii. provides legal services only through the organization to the community that the organization serves and does not otherwise provide legal services, and
  - iii. has professional liability insurance coverage for the provision of the legal services that is comparable in coverage and limits to the professional liability insurance that is required of a licensee who holds a Class L1 licence,
4. The licensee,
  - i. is a public servant in the service of the Office of the Worker Adviser,

- ii. provides only the following legal services through the Office of the Worker Adviser:
    - I. advises a worker, who is not a member of a trade union, or a survivor of the worker of her or his legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997*, as amended from time to time,
    - II. acts on behalf of a worker, who is not a member of a trade union, or a survivor of the worker in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and
  - iii. does not otherwise provide any legal services to any person.
5. The licensee,
- i. is a public servant in the service of the Office of the Employer Adviser,
  - ii. provides only the following legal services through the Office of the Employer Adviser:
    - I. advises an employer of her, his or its legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997*, as amended from time to time, or any predecessor legislation,
    - II. acts on behalf of an employer in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and
  - iii. does not otherwise provide any legal services to any person.
6. The licensee,
- i. volunteers in an injured workers' group,

- ii. provides only the following legal services through the group:
    - I. gives a worker advice on her or his legal interests, rights or responsibilities under the *Workplace Safety and Insurance Act, 1997*, as amended from time to time,
    - II. acts on behalf of a worker in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings, and
  - iii. does not otherwise provide any legal services to any person.
7. The licensee,
- i. is an employee of a trade union, a volunteer representative of the trade union or an individual designated by the Ontario Federation of Labour for the purposes of the trade union,
  - ii. provides to the trade union, a member of the trade union, a former member of the trade union or a spouse, child or dependant of a deceased member of the trade union only the following legal services:
    - I. gives the person advice on her, his or its legal interests, rights or responsibilities in connection with a workplace issue or dispute,
    - II. acts on behalf of the person in connection with a workplace issue or dispute or a related proceeding before an adjudicative body other than a federal or provincial court,
    - III. acts on behalf of the person in enforcing benefits payable under a collective agreement before the Small Claims Court, and
  - iii. does not otherwise provide any legal services to any person.

**3. Section 12 of the English version of the By-Law is further amended by adding the following:**

**Interpretation: “licensee firm”**

(3) In paragraph 1 of clause (2) (b), “licensee firm” means a partnership or other association of licensees, a partnership or association mentioned in Part III of By-Law 7 [Business Entities] or a professional corporation.

**Interpretation of words used in paragraphs 4, 5 and 6 of clause (2) (b)**

(4) In this subsection and in paragraphs 4, 5 and 6 of clause (2) (b),

“employer” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*, as amended from time to time;

“injured workers’ group” means a not-for-profit organization that is funded by the Workplace Safety and Insurance Board to provide specified legal services to workers;

“public servant” has the meaning given it in the *Public Service of Ontario Act, 2006*, as amended from time to time;

“survivor” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*, as amended from time to time;

“worker” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*, as amended from time to time.

**Interpretation of words used in paragraph 7 of clause (2) (b)**

(5) In this subsection and in paragraph 7 of clause (2) (b),

“dependant” means each of the following persons who was wholly or partly dependent upon the earnings of a member of a trade union at the time of the member’s death or who, but for the member’s incapacity due to an accident, would have been so dependent:

1. parent, stepparent or person who stood in the role of parent to the member,
2. sibling or half-sibling,
3. grandparent,
4. grandchild;

“workplace” means,

- (a) in the case of a former member of a trade union, a workplace of the former member when he or she was a member of the trade union, and
- (b) in the case of a spouse, child or dependant of a deceased member of a trade union, a workplace of the deceased member when he or she was a member of the trade union.

**4. Section 13 (including the marginal note) of the English version of the By-Law is revoked and the following substituted:**

**Proof of compliance with s. 12**

13. A licensee who holds a Class P1 licence shall provide evidence to the satisfaction of the Society that the licensee is in compliance with section 12,

- (a) immediately after the licensee is issued a Class P1 licence;
- (b) prior to the commencement of the provision of legal services;
- (c) prior to any change in the circumstances in which the licensee provides legal services, where the change in circumstances,
  - (i) would result in the licensee being required to maintain insurance against professional liability under subsection 12 (1),
  - (ii) would entitle the licensee to claim an exemption from the requirement to maintain insurance against professional liability under subsection 12 (2), or
  - (iii) would entitle the licensee to claim an exemption from the requirement to maintain insurance against professional liability under a different paragraph of subsection 12 (2) than the paragraph of subsection 12 (2) under which the licensee claimed an exemption from the requirement to maintain insurance against professional liability prior to the change in the circumstances of providing legal services;
- (d) where the licensee maintains insurance against professional liability, prior to the expiry of the licensee's policy of professional liability insurance;
- (e) on the anniversary date of the last time the licensee provided evidence to the satisfaction of the Society that the licensee was in compliance with section 12 under clause (a), (b), (c) or (d); and

- (f) immediately after being required by the Society to provide evidence to the satisfaction of the Society that the licensee is in compliance with section 12.

## FOR INFORMATION

### FIVE YEAR REVIEW OF PARALEGAL REGULATION

11. At Convocation in June, the Law Society delivered to the Attorney General the report required by section 63.1 of the *Law Society Act*, reviewing the implementation of paralegal regulation five years after the new provisions came into effect. The five year period ran from May 1<sup>st</sup> 2007 to April 30<sup>th</sup> 2012.
12. Now that the Law Society's review is complete, subsection 63.1 (3) of the Act requires a report by a person appointed by the Attorney General, as follows:

**Appointment by Attorney General**

(3) The Attorney General for Ontario shall appoint a person, other than a person who is authorized to practise law in Ontario or a person who authorized to provide legal services in Ontario, to review the manner in which persons who provide legal services in Ontario have been regulated under this Act during the review period and the effect that such regulation has had on those persons and on members of the public.

**Review and report by appointee**

(4) The person appointed under subsection (3) shall,

(a) review the manner in which persons who provide legal services in Ontario have been regulated under this Act during the review period and the effect that such regulation has had on those persons and on members of the public; and

(b) prepare a report of the review and give the report to the Attorney General for Ontario within six months after the end of the review period.

13. On August 3<sup>rd</sup>, the Attorney General appointed Mr David J. Morris of Kingston, Ontario to conduct the review, which must be completed by November 1<sup>st</sup>, 2012. Mr Morris has commenced consultations with interested parties, and met with members of the Paralegal Standing Committee immediately following the Committee meeting, to discuss matters related to the report.

## 2012 PARALEGAL ANNUAL REPORT

14. The 2012 Paralegal Annual Report (PAR) is shown at **TAB 8.2.1**, for Convocation's information.

### Changes for 2012

15. The appearance of the 2012 PAR has been revised to be less heavily formatted and to more closely resemble the electronic version on the Portal. The paper form is only provided to licensees upon written request and is used by less than 0.01% of licensees.
16. The following is a list of the content changes compared with last year:
  - a. Section A: The Client Identification question, formerly Question 1, has been moved to Section E and is now numbered Question 4. The questions that remain in Section A are all now non-mandatory, while the questions in Section E are mandatory.
  - b. Section B: 'In House Paralegal' has been added to the status list.
  - c. Section D: A note has been added advising licensees that `self-study` for the purpose of this section means self-directed reading or research using print materials, electronic or otherwise. The reference to non-print materials, specifically, video, CD ROM, audio and DVD, were removed from question 1(d).
  - d. Section E, Question 5: A *pro bono* legal services question has been added, mirroring the wording contained in the Lawyer's Annual Report (LAR);

### **PROPOSED FEES FOR LATE FILING AND LATE FEE PAYMENT**

17. The Committee discussed the proposal from the Audit & Finance Committee for the introduction of late fees.
18. The Paralegal Standing Committee approved the recommendation that,
  - a. A late fee be established for failure to pay annual fees on time;
  - b. A late fee be established for failure to file an annual report on time, and
  - c. the 'default period' be reduced from the current 120 days to 60 days, effective in 2013.

### **PROPOSED AMENDMENTS TO PROTECT PRIVILEGED INFORMATION**

19. The Committee approved the proposal from the Professional Regulation Division for an amendment to the *Law Society Act* to better protect privileged information, received by the Law Society in the course of audits, investigations and reviews under the Act, when received from a client.

### **RECEPTION FOR NEWLY LICENSED PARALEGALS**

20. The next reception for newly-licensed paralegals will be held on **Wednesday November 21<sup>st</sup>**, at Osgoode Hall. All members of Convocation are encouraged to attend.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Paralegal Annual Report

### Introduction Page

**YOUR 2012 PARALEGAL ANNUAL REPORT IS DUE MARCH 31, 2013**

**PLEASE FILE THIS REPORT ONLINE AT: <https://portal.lsuc.on.ca/wps/portal>**

This report is based on the calendar year ending December 31, 2012, and is due by March 31, 2013. Failure to complete and file the report within 120 days of the due date will result in a summary order suspending your licence until such time as this report is completed and filed.

**GUIDE: For definitions or assistance in completing this annual report, see the enclosed Guide.**

**FINANCIAL FILING DECLARATION:** Only the Designated Financial Filing Partner for each firm should submit the Financial Filing Declaration by e-filing it. One Financial Filing Declaration is expected from each firm. The Financial Filing Declaration is enclosed.

It is not necessary to submit the e-FFD at the same time as your Paralegal Annual Report.

### **FORM 1: REPORT TO THE LAW FOUNDATION:**

Questions on completing this form and questions concerning interest on mixed trust accounts should be directed to the Law Foundation at (416) 598-1550.

**You are required to file a Form 1 if client trust monies were held in a mixed trust account during the reporting year and you are responsible for the account or you are the Designated Financial Filing Partner.**

Once completed it should be mailed directly to the Law Foundation at the address found at the top of the form.

It is not necessary to submit the e-Form 1 at the same time as your Paralegal Annual Report. The Form 1 is due March 31, 2013.

**BY-LAWS:** The applicable by-laws are available in your Annual Report Package or on our website, for your reference.

If you require filing assistance contact By-Law Administration Services at (416) 947-3315 or at 1-800-668-7380 ext. 3315 or by e-mail at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



**Section A IDENTIFICATION (To be reviewed by all licensees)**

Populated from Law Society records as at December 2012

**Licensee Information:**

Law Society Number:  
Year Licensed

**Mailing Information\*:**

Name:  
Address:  
City Province:  
Postal Code:  
Paralegal E-mail:  
Phone:  
Status:

\*As at December 2012

Is the information above current? If not, update our records online by selecting the Change of Information tab after you have logged out and/or completed filing your annual report. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.

**Privacy Option**

On occasion, the Law Society may provide paralegals' names, business addresses and e-mail addresses to professional associations, organizations and institutions (e.g. Paralegal Society of Ontario, Ontario Colleges) without charge, to facilitate the maintenance of mailing lists, and enhance communications with the profession, including information about programs, initiatives, products and services.

You have the option of instructing the Law Society not to provide your name, business address and/or e-mail address to any professional association, organization or institution.

Click this box if you do not wish the Law Society to provide your name, business address and/or e-mail address to any professional association, organization or institution:

**1. Paralegal Standing Committee Election Privacy Option (non-mandatory response)**

During the next election for the members of the Paralegal Standing Committee, candidates may want to communicate with voters by e-mail. **Check the box if you give the Law Society permission to allow the use of your e-mail address for election campaigning purposes:**

**2. Provision of Legal Services in French (non-mandatory response)**

- a) Can you communicate with your clients and provide legal services to them in the French language?
- b) Can you communicate with your clients, provide legal services to them, and represent them in the French language?

Yes  No

Yes  No



**3. Other Languages (non-mandatory response)**

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Arabic     | <input type="checkbox"/> Bulgarian  |
| <input type="checkbox"/> Cantonese                  | <input type="checkbox"/> Croatian   | <input type="checkbox"/> Czech      |
| <input type="checkbox"/> Danish                     | <input type="checkbox"/> Dutch      | <input type="checkbox"/> English    |
| <input type="checkbox"/> Estonian                   | <input type="checkbox"/> Farsi      | <input type="checkbox"/> Finnish    |
| <input type="checkbox"/> French                     | <input type="checkbox"/> German     | <input type="checkbox"/> Greek      |
| <input type="checkbox"/> Gujarati                   | <input type="checkbox"/> Hebrew     | <input type="checkbox"/> Hindi      |
| <input type="checkbox"/> Hungarian                  | <input type="checkbox"/> Italian    | <input type="checkbox"/> Japanese   |
| <input type="checkbox"/> Korean                     | <input type="checkbox"/> Latvian    | <input type="checkbox"/> Lithuanian |
| <input type="checkbox"/> Macedonian                 | <input type="checkbox"/> Mandarin   | <input type="checkbox"/> Norwegian  |
| <input type="checkbox"/> Polish                     | <input type="checkbox"/> Portuguese | <input type="checkbox"/> Punjabi    |
| <input type="checkbox"/> Romanian                   | <input type="checkbox"/> Russian    | <input type="checkbox"/> Serbian    |
| <input type="checkbox"/> Slovak                     | <input type="checkbox"/> Slovene    | <input type="checkbox"/> Spanish    |
| <input type="checkbox"/> Swedish                    | <input type="checkbox"/> Ukrainian  | <input type="checkbox"/> Urdu       |
| <input type="checkbox"/> Yiddish                    |                                     |                                     |

Other - Please specify



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Paralegal Annual Report

### Section B YEAR END STATUS (To be completed by all licensees)

#### NOTES ABOUT THIS SECTION:

1. Choose only one status (your status on December 31, 2012) regardless of changes during the 2012 calendar year.
2. Your response to this question will not be used to change your status. To review or update your status, please refer to the Change of Information tab in the LSUC Portal.

| December 31, 2012 Status (Select only ONE)  |                          | Mandatory Sections | Complete if Applicable |
|---|--------------------------|--------------------|------------------------|
| A sole practitioner, providing legal services alone (with no other paralegals)                                | <input type="checkbox"/> | CDEFG              |                        |
| A sole practitioner, providing legal services with one or more paralegals as employees                        | <input type="checkbox"/> | CDEFG              |                        |
| A sole practitioner, providing legal services with one or more paralegals and/or lawyers in shared facilities | <input type="checkbox"/> | CDEFG              |                        |
| A partner with one or more paralegals only, in a paralegal firm providing legal services                      | <input type="checkbox"/> | CDEFG              |                        |
| A partner with a lawyer providing legal services for a paralegal firm or law firm                             | <input type="checkbox"/> | CDEFG              |                        |
| An employee/associate in a paralegal firm   | <input type="checkbox"/> | CDEFG              |                        |
| An employee in a law firm   | <input type="checkbox"/> | CDEFG              |                        |
| In House Paralegal, providing legal services exclusively for your employer                                    | <input type="checkbox"/> | CDEG               | F                      |
| Employed by Legal Aid Ontario or a community legal clinic   | <input type="checkbox"/> | CDEG               | F                      |
| Employed in government in Ontario   | <input type="checkbox"/> | CDEF               | F                      |
| Employed in education in Ontario  | <input type="checkbox"/> | DEG                | CF                     |
| Employed other, in Ontario  | <input type="checkbox"/> | DEG                | CF                     |
| A paralegal providing legal services outside of Ontario   | <input type="checkbox"/> | DEG                | CF                     |
| Employed other, outside of Ontario  | <input type="checkbox"/> | DEG                | CF                     |
| Not working or on parental leave or unemployed  | <input type="checkbox"/> | DEG                | CF                     |
| Suspended   | <input type="checkbox"/> | DEG                | CF                     |
| In a situation not covered above (specify your status in the area below)                                      | <input type="checkbox"/> | DEG                | CF                     |



**Section C AREAS OF LEGAL SERVICES (To be completed by all paralegals providing legal services in Ontario)**

**NOTES ABOUT THIS SECTION:**

1. Where exact information is not available to respond to the questions under this heading, provide your best approximation.
2. \* Refer to the e-Guide for definitions.

**1. Indicate the approximate percentage of time you devoted in 2012 to each area of legal services listed below.**

|  |       |
|--|-------|
| Ontario Court of Justice Provincial Offences Act matters | _____ |
| Ontario Court of Justice – Summary Conviction offences   | _____ |
| Worker’s Compensation                                    | _____ |
| Small Claims Court matters                               | _____ |
| Property Tax Assessment                                  | _____ |
| Statutory Accident Benefits Schedule matters (SABS)      | _____ |
| Human Rights   | _____ |
| Landlord and Tenant                                      | _____ |
| Other Tribunals – Please specify in the area below       | _____ |
| <b>Total:</b>  | _____ |

Question 1 must total 100%.

**2. In what primary area do you provide legal services? Choose only one.**

|  |       |
|--|-------|
| Ontario Court of Justice Provincial Offences Act matters | _____ |
| Ontario Court of Justice – Summary Conviction offences   | _____ |
| Worker’s Compensation                                    | _____ |
| Small Claims Court matters                               | _____ |
| Property Tax Assessment                                  | _____ |
| Statutory Accident Benefits Schedule matters (SABS)      | _____ |
| Human Rights   | _____ |
| Landlord and Tenant                                      | _____ |
| Other Tribunals – Please specify in the area below       | _____ |

**3. Lawyer Supervision**

a) Do you work under the supervision\* of a lawyer? Yes  No

If "Yes" to a), answer 3b).

b) Indicate the percentage of time you spend in the following areas:

|               |       |
|---------------|-------|
| Advocacy*     | _____ |
| Non-advocacy* | _____ |
| Total         | _____ |

Question 1 must total 100%.



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

## 2012 Paralegal Annual Report



**Section D SELF-STUDY (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. Refer to the "Additional Information Menu" above and click on "e-Guide" for more information regarding self study.
2. The annual minimum expectation is 50 hours of self-study.
3. For the purposes of this section self-study means self-directed reading or research using print materials, electronic or otherwise.
4. CPD hours must be reported in the CPD section of the LSUC Portal by December 31 of each calendar year.

**1. Self-Study**

a) Did you undertake any self-study during 2012?

Yes  No

**If "Yes" to a),** answer b) to d).

**If "No" to a),** you may provide an explanation in the area at the end of this section.

b) Approximate total number of self-study hours spent on file specific reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on general reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Click all that apply:

Printed Material                       Internet                       Other

If required, use the area below to provide further information on your self study (Section D)



**Section E INDIVIDUAL PARALEGAL QUESTIONS (To be completed by all licensees regardless of status)**

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Paralegal Bookkeeping Guide.
2. \* Refer to the e-Guide for definitions.

**1. Cash Transactions - All paralegals must report on large cash transactions regardless of jurisdiction where legal services were provided.**

- a) Did you receive cash\* in an aggregate amount equivalent to \$7,500 CDN or more in respect of any one client file in 2012? Yes  No

**If "Yes" to a):**

- b) Was the cash solely for legal services fees and/or client disbursements\*? Yes  No

**If "No" to b),** provide full particulars below with respect to compliance with By-Law 9, Part III (Cash Transactions).

**2. Trust Funds - 2a), 2b), and 2c) must be answered.**

- a) In 2012, did you receive\* trust funds\* (money for deposit into your trust account) from or on behalf of a client, in connection with the provision of legal services? Yes  No
- b) In 2012, did you disburse\* (pay out) client trust funds\* (money paid out from your trust account) or did you have signing authority on a client trust account? Yes  No
- c) Do you require retainers\* from your clients? Yes  No

**3. Borrowing from Clients - 3a) must be answered and 3b) if applicable.**

Note: If your borrowing was/is from a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, answer "No" to a).

See subrules 3.06 (5) (a)(b) of the Paralegal Rules of Conduct.

- a) At any time in 2012, were you personally indebted to a client or person who at the time of borrowing was or had been your client or a client of a firm of which you were then providing legal services? Yes  No

**If "Yes" to a):**

- b) Was the client or person a related\* person as defined in the Income Tax Act (Canada)? Yes  No  N/A

**If "Yes" to a) or b),** provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.



## 2012 Paralegal Annual Report

### 4. Client Identification - All paralegals must answer questions 1a) and 1b)

- a) In 2012, when you were retained to provide professional services to clients, did you obtain or were you exempt from the requirement to obtain identification information for every (each) client and any third party, in accordance with By-Law 7.1, Part III? Yes  No  N/A

**If "No" to a), provide an explanation below with particulars.**

- b) In 2012, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain or were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with By-Law 7.1, Part III? Yes  No  N/A

**If "No" to b), provide an explanation below with particulars.**

### 5. Pro Bono Legal Services

(Pro bono legal services means the provision of legal services to persons of limited means or to charitable or not-for profit organizations without expectation of a fee from the client.)

- a) Did you provide pro bono legal services in Ontario in 2012? Yes  No

**If "Yes" to a), complete b).**

- b) How many hours did you devote to pro bono legal services in Ontario in 2012? \_\_\_\_\_



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2012 Paralegal Annual Report

### Section F FINANCIAL REPORTING

To be completed by:

- All paralegal sole practitioners;
- Paralegals who are partners/employees/associates of either a paralegal firm, or a law firm;
- All other paralegals who held or continued to hold client monies or property from a former legal services practice in Ontario as at December 31, 2012.

#### NOTES ABOUT THIS SECTION:

1. For further assistance in the completion of this section, refer to The Paralegal Bookkeeping Guide available on our Resource Centre website at [www.lsuc.on.ca](http://www.lsuc.on.ca).

2. \* Refer to the e-Guide for definitions.

1. Trust and General (Non-Trust) Accounts - 1 a) and 1b) must be answered.

a) As at December 31, 2012, did either you or your firm operate a trust account in Ontario?

Yes  No

If "Yes" to a), proceed to question 2;

b) As at December 31, 2012, did either you or your firm operate a general\* (non-trust) account in Ontario?

Yes  No

If "No" to a) and "Yes" to b), proceed to complete question 4 , and then proceed to Section G.

If "No" to both a) and b), proceed to Section G.

2. As at December 31, 2012, were you a sole practitioner, or were you the paralegal responsible for filing the trust account information on behalf of your paralegal firm in Ontario?

Yes  No

If "Yes" to 2, proceed to questions 4 through 11.

**NOTE about E-FFD:** If you are reporting financial information on behalf of other members of your firm, you must also submit a Financial Filing Declaration. Your report is not considered complete without the submission of the Financial Filing Declaration.

**NOTE about E-FORM 1:** If you have answered "Yes" to question 2, remember to complete and submit the e-FORM 1.

If "No" to 2, complete the "Designated Financial Filing Option" (question 3) below.

#### 3. Designated Financial Filing Option

This option is available to you if you are not responsible for filing trust account information. Indicate on lines a) and b) below, who will be reporting the firm financial information on your behalf. Then proceed to Section G.

ENTER DESIGNATED FINANCIAL FILING PARTNER'S NAME & LAW SOCIETY NUMBER

a) FINANCIAL FILING PARTNER'S NAME

b) Law Society Number (e.g. P12345 or 12345A)

The filing partner you have named is responsible to file the Financial Filing Declaration to report the firm financial information on your behalf. Your filing will not be considered complete without the submission of the Financial Filing Declaration by the person you have named.



**4. Firm Records**

Were financial records for all your firm's trust accounts (mixed\*, separate\*, and other interest generating investments\*) and/or general\* (non-trust) bank accounts maintained throughout 2012, on a current basis, in accordance with all applicable sections in By-Law 9? Yes  No

If "No" to 4, indicate below which areas were deficient and provide an explanation for each.

**COMPLETE THIS CHART ONLY IF YOU ANSWERED "NO" ABOVE.  
COMPLETE ONLY THOSE AREAS WHERE YOU WERE DEFICIENT**

| By-Law 9: Financial Transactions and Records   | By-Law 9 Sections 18 & 19 (Maintain) | By-Law 9 Section 22 (Current) | Explanation for Deficiency |
|--|--------------------------------------|-------------------------------|----------------------------|
| 1. Trust Receipts Journal Subsection 18(1)   | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 2. Trust Disbursements Journal Subsection 18(2)  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 3. Clients' Trust Ledger Subsection 18(3)  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 4. Trust Transfer Journal Subsection 18(4)   | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 5. General Receipts Journal Subsection 18(5)   | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 6. General Disbursements Journal Subsection 18(6)  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 7. Fees Book or Chronological Billing File Subsection 18(7)  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 8. Trust Bank Comparison** Subsection 18(8)  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 9. Valuable Property Record Subsection 18(9)   | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 10. Source documents including deposit slips, bank statements and cashed cheques Subsection 18(10) | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 11. Electronic Trust Transfer Requisitions and Confirmations Subsection 18(11) (Form 9A)           | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |
| 12. Duplicate Cash Receipts Book for all cash received Section 19                                  | <input type="checkbox"/>             | <input type="checkbox"/>      |                            |

\*\* Trust comparisons are to be completed within 25 days of the effective date of the monthly trust reconciliation.



2012 Paralegal Annual Report

**5. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2012**

Name and address of financial institution(s) where trust account(s) is (are) held and account number(s):

FINANCIAL INSTITUTION NAME: ADDRESS: TRANSIT/ACCOUNT NUMBER:

| Reconciliation<br>To refer to a sample reconciliation in the e-Guide click here.  | December 31, 2012 Balances |
|---|----------------------------|
| a) The total dollar value of mixed* trust bank accounts   | \$                         |
| b) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments* | + \$                       |
| c) TOTAL of a) and b)=  | =                          |
| d) Total outstanding deposits (if any)  | +                          |
| e) Total bank/posting errors (if any)   | +/-                        |
| f) Total outstanding cheques (if any)   | -                          |
| <b>g) Reconciled Bank Balance</b>   | =                          |
| <b>h) Total Client Trust Liabilities (Client Trust Listing)</b>   | -                          |
| <b>i) Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>                                 | =                          |

If there is a difference between the Reconciled Bank Balance (g) and the Total Client Trust Liabilities (h) provide a written explanation below.

**6. Answer all questions as at December 31, 2012.**

a) What is the total number of mixed\* trust bank accounts referred to in 5a)?

b) What is the total number of separate\* interest bearing trust accounts or income generating trust accounts/investments\* referred to in 5b)?

\_\_\_\_\_

\_\_\_\_\_

**7. Overdrawn Accounts**

a) During 2012, did your records at any month end disclose overdrawn clients' trust ledger account(s)?

Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2012?

Yes  No

**If "No" to b):**

c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2012 was:

\$ \_\_\_\_\_

d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2012 was:

\_\_\_\_\_



## 2012 Paralegal Annual Report

### 8. Outstanding Deposits

a) During 2012, did your records at any month end disclose outstanding trust account deposits, not deposited the following business day? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2012? Yes  No

**If "No" to b):**

c) The total dollar value of outstanding trust account deposits as at December 31, 2012 was: \$ \_\_\_\_\_

d) The total number of outstanding trust account deposits as at December 31, 2012 was: \_\_\_\_\_

### 9. Unchanged Client Trust Ledger Account Balances

a) Were there client trust ledger account balances that were unchanged \* (i.e. had no activity) for the entire year? Yes  No

**If "Yes" to a):**

b) The total dollar value of these account balances as at December 31, 2012 was: \$ \_\_\_\_\_

c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2012 was: \_\_\_\_\_

### 10. Unclaimed Client Trust Ledger Account Balances

a) Of the amounts identified in question 9, were any unclaimed\* for two years or more? (Refer to section 59.6 of the Law Society Act) Yes  No  N/A

**If "Yes" to a):**

b) The total dollar value of the unclaimed\* client trust ledger account balances was: \$ \_\_\_\_\_

c) The total number of unclaimed\* client trust ledger accounts was: \_\_\_\_\_

### 11. e-FFD

Will you be filing the above financial information on behalf of any other paralegals or lawyers? Yes  No

Sole practitioners providing legal services alone in Ontario do not need to file the e-FFD.

If required, use the area below to provide further information on your Financial Reporting (Section F).



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

## 2012 Paralegal Annual Report

### Section G CERTIFICATION AND SUBMISSION (To be completed by all licensees)

I am the paralegal filing this 2012 Paralegal Annual Report. I have reviewed the matters reported and the information contained herein is complete, true and accurate. I acknowledge that it is professional misconduct to make a false or misleading reporting to The Law Society of Upper Canada.

\_\_\_\_\_  
Signature

\_\_\_\_/\_\_\_\_/\_\_\_\_  
DD MM YYYY



## **Report to Convocation September 27, 2012**

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### **Equity and Aboriginal Issues Committee/ Comité sur l'équité et les affaires autochtones**

**Committee Members**  
**Howard Goldblatt, Chair**  
**Julian Falconer, Vice-Chair**  
**Susan Hare, Vice Chair**  
**Raj Anand**  
**Constance Backhouse**  
**Mary Louise Dickson**  
**Michelle Haigh**  
**Janet Minor**  
**Judith Potter**  
**Susan Richer**  
**Paul Schabas**  
**Baljit Sikand**  
**Beth Symes**

**Purposes of Report: Decision and Information**

**Prepared by the Equity Initiatives Department  
(Josée Bouchard – 416-947-3984)**

## TABLE OF CONTENTS

### **For Decision**

Human Rights Monitoring Group Intervention Request ..... **TAB 9.1**

### **For Information**

Human Rights Monitoring Group Interventions in July and September 2012  
and Success Stories ..... **TAB 9.2**

Ontario Network of Language Interpreter Services Project ..... **TAB 9.3**

Public Education Equality and Rule of Law Series Calendar 2012-2013 ..... **TAB 9.4**

## **COMMITTEE PROCESS**

1. The Equity and Aboriginal Issues Committee/Comité sur l'équité et les affaires autochtones (Equity Committee) met on September 13, 2012. Committee members Howard Goldblatt, Chair, Julian Falconer, Vice-Chair, Susan Hare, Vice-Chair, Raj Anand, Constance Backhouse, Judith Potter, Susan Richer and Beth Symes participated. Staff members Brenda Albuquerque-Boutilier, Josée Bouchard and Ekua Quansah attended.

## **FOR DECISION**

### **HUMAN RIGHTS MONITORING GROUP INTERVENTION REQUEST**

#### **HARASSMENT OF HUMAN RIGHTS LAWYER MOHAMED ISSA AL TAJER**

#### **MOTION**

2. **That Convocation approve the proposed intervention in the case of the harassment of human rights lawyer Mohamed Issa Al Tajer (draft letter presented at Appendix A).**

#### **MANDATE OF THE HUMAN RIGHTS MONITORING GROUP**

3. The mandate of the Human Rights Monitoring Group is,
  - a. to review information that comes to its attention about human rights violations that target members of the profession and the judiciary, here and abroad, as a result of the discharge of their legitimate professional duties;
  - b. to determine if the matter is one that requires a response from the Law Society; and
  - c. to prepare a response for review and approval by Convocation.
4. The mandate further states that where Convocation's meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in Convocation's place and take such steps as he or she deems appropriate. In such instances, the Human Rights Monitoring Group shall report on the matters at the next meeting of Convocation.
5. On September 20, 2007, Convocation approved the following recommendations, which expanded the Monitoring Group's mandate:

- a. That the Monitoring Group explore the possibility of developing a network of organizations, and work collaboratively with them, to address human rights violations against judges and lawyers.
- b. That the Monitoring Group be authorized to collaborate with the Law Society of Zimbabwe (the "LSZ") to assist it in strengthening its self-regulation capabilities and the independence of the profession.

### **MONITORING GROUP AND EQUITY COMMITTEE PROCESS**

6. The Monitoring Group approved the request to Convocation in this case on September 17, 2012 and presented it to the Equity Committee for information.

### **SOURCES OF INFORMATION**

7. The background information for this report was taken from the following sources:
  - a. Amnesty International;<sup>1</sup>
  - b. Bahrain Centre for Human Rights;<sup>2</sup>
  - c. Huffington Post;<sup>3</sup>
  - d. Human Rights First;<sup>4</sup>
  - e. International Freedom of Expression Exchange Network;<sup>5</sup>

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<sup>1</sup> Amnesty International is an independent and democratically-run organization. The movement's mission and policies, and its long-term directions, are all set by Amnesty members. Amnesty representatives from around the world gather every two years to set policy at the International Council Meeting (ICM). The Council also elects an International Executive Committee which ensures that the ICM's decisions are carried out.

<sup>2</sup> The Bahrain Center for Human Rights (BCHR) is a nonprofit, nongovernmental organization, registered with the Bahraini Ministry of Labor and Social Services since July 2002. Despite an order by the authorities in November 2004 to close it, the BCHR is still functioning after gaining a wide internal and external support for its struggle to promote human rights in Bahrain.

<sup>3</sup> Huffington Post is a liberal/progressive American news website and content aggregating blog. It features various news sources and columnists. The site offers coverage of politics, media, business, entertainment, living, style, the green movement, world news, and comedy, and has news, blogs, and original content.

<sup>4</sup> Human Rights First is a non-profit organization based in New York City and Washington, D.C. The organization focuses on protecting the rights of refugees, supporting human rights defenders around the world, and pressing for the U.S. government's full participation in the international human rights system.

- f. Lawyers' Rights Watch Canada;<sup>6</sup>
- g. The Observatory for the Protection of Human Rights Defenders;<sup>7</sup>
- h. Trust.org (Thomson Reuters Foundation).<sup>8</sup>

## **BACKGROUND**

8. On April 15, 2011, a group of more than 20 masked and armed plain-clothes men, belonging to security forces, entered the house where Mr. Mohamed Issa Al Tajer was present with his wife and young children. After thoroughly searching his house and office and taking computers and mobile phones, the men arrested Mr. Al Tajer and took him to an unknown destination.
9. Reports suggested that the Bahraini authorities were attempting to put pressure on those who provided legal and medical assistance to protesters. Further, the information received suggested that about 600 people, including human rights defenders, political leaders, trade unionists, doctors and paramedics and clerics had been arrested since February 2011.
10. For five weeks following his arrest on April 15, 2011, no one heard from Mr. Al Tajer. On June 16, 2011, he was brought before a military court, charged with incitement of

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<sup>5</sup> IFEX was created in 1992 in Montréal, Canada when a dozen leading free expression organizations came together to create a coordinated mechanism to rapidly expose free expression violations around the world. Today, IFEX numbers 90 independent organizations worldwide and is internationally recognized as a highly credible and effective global network. IFEX circulates information to raise awareness, works to build regional capacity and a vibrant free expression community, and facilitates campaigns and advocacy.

<sup>6</sup> Lawyers' Rights Watch Canada is a committee of Canadian lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. It promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world.

<sup>7</sup> The Observatory for the Protection of Human Rights Defenders is a joint program of the International Federation for Human Rights (FIDH) and the World Organization Against Torture (OMCT). It is an action program based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

<sup>8</sup> Established in 1982, Thomson Reuters Foundation, the charitable arm of the world's leading provider of news and information, is committed to empowering people in need around the world with trusted information and free legal assistance. A registered charity in the United States and United Kingdom, the Foundation works to promote the rule of law, save lives in disasters and improve standards of journalism. Trust.org is the Foundation's main portal.

hatred against the regime, releasing of false news and taking part in a demonstration. Mr. Al Tajer's family and his lawyer were not informed of the hearing. Mr. Al Tajer pleaded not guilty. On June 16, 2011, he appeared before the court once more. The verdict for the trial was to be issued on July 5, 2011, but on June 26, 2011, authorities announced that cases would be transferred from the military courts to civilian courts. Mr. Al Tajer's trial was suspended and transferred.

11. Mr. Al Tajer spent 114 days in detention before he was finally released on bail on August 6, 2011. He was forced to sign documents saying that he would appear before courts and be available for interrogation at any time. He was also required to declare that he would not carry out any activities against the country. The next hearing date was to be June 26, 2012.
12. During Mr. Al Tajer's detention, he was subjected to acts of torture and ill-treatment. At this point, none of the individuals responsible have been prosecuted. Additionally, Mr. Al Tajer's confidential lawyer-client information, family pictures and videos were confiscated and not returned to him.
13. According to reports, Mr. Al Tajer's telephone communications and movements are closely monitored by the National Security Intelligence, his clients have been put under pressure, and he is regularly accused of inciting sectarianism and of treason in online social forums.
14. In January 2011, Mr. Al Tajer received a blackmail threat, warning that the blackmailers had installed a camera in his beach house and, if he did not cease his human rights work, a tape of Mr. Al Tajer being intimate with his wife would be released to the public. Mr. Al Tajer did not give in to the blackmail threats and continued his work. Mr. Al Tajer believes this threat came from intelligence agents of the Bahrain government.
15. On May 30, 2012, Mr. Al Tajer participated in the United Nations Universal Periodic Review ("UPR") of Bahrain in Geneva. After the UPR process, Mr. Al Tajer received threatening text messages telling him not to participate in a conference focused on discussing the UPR meetings, which was to take place on May 30, 2012. Mr. Al Tajer

participated in the conference and, on the following day, the video of Mr. Al Tajer and his wife was release on a pro-government website know for conducting defamation campaigns on activists and people who are part of the opposition. This attack on Mr. Al Tajer comes after a series of attacks in the local media against those who took part in the delegation to the United Nations Human Rights Council for Bahrain's UPR process. During the last day of the UPR meetings, the President of the UN Human Rights Council, Laura Dupuy Lassere, made a statement calling on Bahrain to not make reprisals against opposition activists attending the UPR.

### **FACTORS CONSIDERED**

16. The Monitoring Group considered the following factors when making a decision about this case.

#### *Sources*

17. There are no concerns about the quality of sources used for this report

#### *Mandate*

18. The intimidation and harassment of lawyers as a result of their human rights work falls within the mandate of the Monitoring Group. The Law Society has intervened in this matter before. In May 2011, the Law Society sent an intervention letter regarding lawyers in Bahrain, requesting an end to arbitrary detention and harassment of Bahraini human rights lawyers. The letter cited Mohamed Issa Al Tajer specifically.

## Appendix A

### Proposed Letter of Intervention

[xx] September 2012

HM Shaikh Hamad Bin Issa Al Khalifa  
Office of HM the King  
P.O. Box 555  
Rifa'a Palace  
Kingdom of Bahrain

Copy

HE Shaikh Khalid Bin Ahmed Bin Mohamed Al Khalifa  
Minister of Foreign Affairs  
P.O. Box 547  
Government Road  
Manama, Kingdom of Bahrain

HE Shaikh Khalid Bin Ali Al Khalifa  
Minister of Justice and Islamic Affairs  
Diplomatic Area, P.O.Box 450  
Manama, Bahrain

Permanent Mission of Bahrain to the United Nations in Geneva  
1 chemin Jacques-Attenville  
1218 Grand-Sacconex, Genève  
Switzerland

Dear [X],

#### **Re: Lawyers in Bahrain**

I write on behalf of the Law Society of Upper Canada further to our letter of May 11, 2011, to voice our distress and continued concern over the harassment of human rights lawyers in Bahrain, including Mohamed Issa Al Tajer. The Law Society of Upper Canada is the governing body for more than 44,000 lawyers and 4,000 paralegals in the Province of Ontario, Canada and the Treasurer is the head of the Law Society. Our mandate is to govern the legal profession in the public interest. Fundamental to our system of democracy in Canada is the maintenance of an independent bar. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

In this regard the governing board of the Law Society of Upper Canada, on the recommendation of its Human Rights Monitoring Group, has requested that I write to express our continued deep

concern over the harassment of human rights lawyers in Bahrain, particularly Mohamed Issa Al Tajer.

In our letter of May 27, 2011, the Law Society expressed concern about the widespread arrest and detention of lawyers in Bahrain. According to reliable reports the Law Society received, these arrests were arbitrary and aimed at preventing lawyers from providing legal assistance to protesters.

The Law Society presently writes to voice its continued deep concern regarding reports that Mr. Al Tajer was arbitrarily detained from April 14, 2011, to August 6, 2011, and during his detention he was subject to acts of torture and ill-treatment. Additionally, the Law Society understands that Mr. Al Tajer is closely monitored by National Security Intelligence and his clients have been put under pressure. Recent reports received by the Law Society state that Mr. Al Tajer has been receiving blackmail threats since January 2011. In May 2012, Mr. Al Tajer attended the United Nations Human Rights Council Universal Periodic Review (“UPR”) of Bahrain. Following his participation in the UPR process, a video of Mr. Al Tajer being intimate with his wife was released to the public. The Law Society of Upper Canada believes that Mr. Al Tajer is being targeted because of his legitimate human rights work.

We are concerned about situations where lawyers who work to defend rights are themselves targeted for exercising their freedoms and rights under the law. Article 16 of the *United Nations Basic Principles on the Role of Lawyers* states “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel and to consult with their clients freely; and shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”.

Also, the *UN Declaration on Human Rights Defenders*, protects the right of an individual to promote the protection and realization of human rights freedoms; guarantees the right of individuals to communicate with non-governmental and intergovernmental organizations for the purpose of promoting and protecting human rights and freedoms; and requires States to take all necessary measures to ensure the protection of everyone against violence, threats, retaliation, adverse discrimination, or any other arbitrary action as a consequence of the legitimate exercise of their rights.

The Law Society of Upper Canada again urges the government of Bahrain to,

- a. guarantee in all circumstances the physical, psychological and professional integrity of all human rights lawyers, including Mohamed Issa Al Tajer, in Bahrain;
- b. put an end to acts of harassment, against all human rights lawyers in Bahrain;
- c. conform in all circumstances with the provisions of the *United Nations Basic Principles on the Role of Lawyers*, *Declaration on Human Rights Defenders* and the *International Covenant on Civil and Political Rights*;

- d. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Bahrain; and
- e. uphold the rule of law as defined by public international law.

Yours very truly,

Thomas G. Conway  
Treasurer

## FOR INFORMATION

### HUMAN RIGHTS MONITORING GROUP INTERVENTIONS IN JULY AND SEPTEMBER 2012 AND SUCCESS STORIES

19. This report presents a summary of the Human Rights Monitoring Group cases in which the Law Society intervened in July and the beginning of September 2012. The Monitoring Group recommended, and the Treasurer approved, the following urgent interventions:
  - a. Saw Kyaw Kyaw Min – Burma/Myanmar;
  - b. lawyer Asma Jahangir – Pakistan;
  - c. lawyers in Sudan;
  - d. lawyers Mohamed Al-Mansoori, Mohamed Al-Roken and Salem Al-Shehhi – United Arab Emirates (UAE).
20. The Treasurer's approval of the urgent requests is consistent with the Monitoring Group's mandate that "where Convocation's meeting schedule makes such a review and approval impractical, the Treasurer may review such responses in Convocation's place and take such steps as he or she deems appropriate. In such instances, the Monitoring Group shall report on the matters at the next meeting of Convocation."
21. The letters of intervention and public statements have been posted online at <http://www.lsuc.on.ca/with.aspx?id=622>

### SUCCESS OF INTERVENTIONS

22. The Monitoring Group notes positive developments in the Law Society's recent intervention in Myanmar. Eleven lawyers in Myanmar have had their licence to practise law reinstated after the Law Society and other advocates for the rule of law and the independence of the legal profession intervened on behalf of 32 lawyers disbarred for political reasons.

23. In April 2012, the Law Society wrote a letter to the President of Burma/Myanmar voicing concern that lawyers in the country had been targeted with criminal sanctions and had their licences revoked in retribution for their political activities.
24. In the letter, the Law Society acknowledged recent positive changes that had taken place in Burma/Myanmar and requested further information on the criminal offences that led to the disbarment. The Law Society indicated that it was considering issuing a public statement in support of the rule of law and the independence of the legal profession in Burma/Myanmar.
25. In an email in June, one of the lawyers whose licence has been reinstated thanked the Law Society for its actions and acknowledged that global support had played a part in the Myanmar Supreme Court's decision to reinstate the lawyers' licences.
26. The lawyer sent a later email that provides a glimpse of the great difficulties he has endured, and his pleasure on his return to the profession: "Today I've filed my attorney power to my first civil case after 10 yrs imprisonment and 11 yrs of disbarred hellish times. I am to deliver one criminal revision admission argument and one final hearing of another criminal revision in Naypyidaw supreme court...thanks."
27. It is understood that the remaining disbarred lawyers are now free to apply to have their licences reinstated.
28. The Law Society published an article in its Gazette. The article is available at <http://www.lawsocietygazette.ca/news/law-societys-efforts-bolster-rule-of-law-in-myanmar/>
29. In addition, the Law Times produced a video entitled Burma Lawyers Reinstated and featuring bencher Paul Copeland. The video is available at <http://www.lawtimesnews.com/videos/burma>

#### **SAW KYAW KYAW MIN – BURMA/MYANMAR**

30. Lawyer Saw Kyaw Kyaw Min was one of the 32 lawyers in Burma/Myanmar applying to have his license reinstated. Following the news of the reinstatement of 11 lawyers to

the practise of law, the Law Society was all the more concerned by reports that since returning to Burma/Myanmar in order to participate in the historic changes taking place, and on the same day as names were removed from Myanmar's Blacklist, Saw Kyaw Kyaw Min was arrested and imprisoned for acts undertaken in the course of defending individual peaceful political protesters in 2008. The Law Society sent a letter of intervention and released a public statement in September 2012.

### **LAWYER ASMA JAHANJIR**

31. The Law Society sent a letter of intervention in July 2012 to authorities in Pakistan to express its deep concern about the death plot against Ms. Jahangir. Reliable reports indicated that Ms. Jahangir, a prominent human rights lawyer, had received information that elements in Pakistan's military and intelligence agencies had plotted to kill her.
32. Ms. Jahangir is an advocate of the Supreme Court of Pakistan and the President of the Supreme Court Bar Association of Pakistan. Ms. Jahangir is credited with establishing the independent Human Rights Commission of Pakistan and AGHS Legal Aid, the first free legal aid centre in Pakistan. In addition, she was the UN Special Rapporteur on Extrajudicial, Arbitrary and Summary Executions from 1998 to 2004 and the UN Special Rapporteur on Freedom of Religion or Belief from 2004 to 2010. Ms. Jahangir has been involved in a campaign against human rights abuses in Pakistan's Balochistan province. She also acted as the defence lawyer for Husain Haqqani, Pakistan's ambassador to the United States, who was forced to resign by the Pakistani military. The Law Society of Upper Canada believes that Ms. Jahangir is being targeted because of her legitimate human rights work.

### **LAWYERS IN SUDAN**

33. At the beginning of September 2012, the Law Society intervened in the case of the arrest of Sudanese lawyers. The Law Society was informed that a number of lawyers were arrested and detained in Sudan. On June 16, 2012, a demonstration took place in the dorms of Khartoum University which sparked a larger movement protesting economic austerity measures and demanding a regime change. Since mid-June, protests have been

taking place on almost a daily basis. A number of lawyers have been involved in the movement.

34. Since the start of the protests, Sudanese security forces have detained approximately 2,000 people. On July 1, 2012, four members of the Darfur Bar Association, including the head of the association, were arrested at a press conference where they were briefing journalists on a case of a human rights activist who had been detained for over one year. On July 16, 2012, in Khartoum, 300 Sudanese lawyers protested to call for the President's security forces to stop using force against peaceful protesters. A delegation of lawyers submitted a memo to the President at his palace asking him to stop the use of force and to release all arrested individuals. A similar protest took place in Nyala outside of the house of the governor of South Darfur, however three lawyers were arrested. The lawyers were released and then re-arrested on July 19, 2012.
35. Although it is not clear if all of the names of the lawyers who have been detained are known, those who have been identified are as follows: Tarig El Sheikh, Ramzi Yahia, Ahmed Mohamed Abdallah, Abdil Abdalla Nasser Al Din, Abdallah Abu Hassan, Mohammed Abdella Al-Douma (head of the Darfur Bar Association), Rehab El-Fadel Sharif, Rashida Ansari, and Jibril Hamid Hassabou. Detainees have mainly been held in National Intelligence and Security Services detention centres known for ill-treatment and torture. Several detainees have reported harsh treatment, including beatings and sleep deprivation. Those who have been detained have not been charged.
36. Organizations that defend human rights advocates believe that the arrests of Sudanese human rights defenders are meant to sanction their human rights activities and the legitimate exercise of their right to freedom of expression.

**LAWYERS MOHAMED AL-MANSOORI, MOHAMED AL-ROKEN AND SALEM AL-SHEHHI – UNITED ARAB EMIRATES.**

37. At the beginning of September 2012, the Law Society intervened in the case of lawyers in the United Arab Emirates. The Law Society was informed that a number of lawyers and other human rights defenders have been arrested and detained in the United Arab

Emirates (UAE). On July 15, 2012, Attorney General Salem Saeed Kubashi announced that a group of people would be investigated for plotting “crimes against state security”, “opposing the UAE constitution and ruling system”, and having ties to “foreign organizations and agendas”. Since that date, several human rights defenders have been arrested by Amn al-Dawla (state security), including lawyers Dr. Mohamed al-Mansoori, Dr. Mohamed ‘Abdullah al-Roken and Salem al-Shehhi.

38. A significant number of those who have been targeted are members of the Reform and Social Guidance Association, also known as al-Islah. The association al-Islah is a non-violent political association advocating for a greater adherence to Islamic precepts. The persecution of members of al-Islah began in December 2011, when members were arrested, detained and/or stripped of their citizenship. Most people in the UAE suspected of political offenses are arrested and held incommunicado at unknown locations for about a week. They are then allowed to make a brief and limited phone call to their families. After release or while on trial, some speak of being tortured or otherwise ill-treated.
39. Dr. Mohamed ‘Abdullah al-Roken was one of the defence lawyers in the case of five UAE residents who were arrested in April 2011 (“the UAE 5”). The UAE 5 were imprisoned for 7 months and tried for posting articles on an online forum that were critical of the UAE government and called for political reform. For many years authorities have prevented him from lecturing at the University of Al Ain because of his outspoken views on the UAE. On July 17, 2012, Dr. al-Roken was driving to the police station in Dubai to tell them that his son and brother-in law had been missing when he was arrested by authorities. His son and brother-in law have also been detained.
40. Dr. Mohamed al-Mansoori is a former member and the former head of the UAE Jurists’ Association. He is also the deputy chairman for al-Islah. Authorities have harassed him for many years. He was dismissed from his position as legal advisor to the government of Ras Al Khaimah in January 2012 after he gave a TV interview in which he criticized restrictions on freedom of speech in the country. He has been barred from traveling since October 2007 and authorities have refused to renew his passport since March 2008. On

July 16, 2012, Dr. al-Mansoori left the house to run an errand when he was approached by plainclothes officers and taken into custody. Twenty-five to twenty-eight came to the house and conducted an extensive search. The officers took laptops, an iPad and papers.

41. Lawyer Salem al-Shehhi was arrested on July 18, 2012, when he went to the State Security Prosecutor's office to ask about his clients, Dr. al-Mansoori and al-Roken.
42. The whereabouts of all three lawyers and most of the detainees are unknown. There is no information regarding the legal basis for their detentions. Because of the arrests, lawyers are hesitant to take on the cases of the detainees. Leading Kuwaiti and Qatari lawyers travelled to the UAE to represent those who have been held and were denied access to their prospective clients.
43. A report on August 13, 2012 stated that Dr. al-Mansoori and Dr. Al-Roken have been on hunger strike since August 12, 2012, in order to protest their illegal detention.
44. Organizations that defend human rights advocates believe the lawyers who have been detained are prisoners of conscience and have been detained because of their human rights work.

## **FOR INFORMATION**

### **ONTARIO NETWORK OF LANGUAGE INTERPRETER SERVICES PROJECT**

45. In August 2012, the Barbra Schlifer Commemorative Clinic asked the Law Society to work in partnership with the Ontario Network of Language Interpreter Services (ONLIS) on the project described below. The partnership would involve providing advice on the development of the marketing and communications plan for the project, assisting with outreach to lawyers in Ontario and providing the use of space at the Law Society for events such as the launch of the project. ONLIS did not request financial contributions from the Law Society for this project.
46. The Law Society, through Treasurer Conway and CEO Robert Lapper, approved the partnership. ONLIS is applying for funding to undertake the project. The Equity and Aboriginal Issues Committee and the Access to Justice Committee support the project.
47. The ONLIS is a network of non-profit agencies providing language interpreter services in Ontario. The agencies provide free interpreter services to professionals and other service providers working with non-English speaking clients who are victims of domestic violence.
48. The project aims to provide information to legal/other service providers on how language interpreters enhance communication with clients; the role of professional language interpreters; how to access language interpreters and how to work effectively with language interpreters.
49. The Barbra Schlifer Commemorative Clinic leads the project with members that include Across Languages, London; Immigrant Women Services Ottawa; Information Niagara,

St. Catharines; Kitchener-Waterloo Multicultural Centre, Kitchener; Multilingual Community Interpreter Services, Toronto; Multicultural Council of Windsor-Essex County, Windsor; Thunder Bay Multicultural Association in Thunder Bay. ONLIS member agencies have Language Interpreters who speak over 180 languages, including Aboriginal languages.

50. The ONLIS network is proposing to provide online training to the following:
  - a. Service Providers - online training for service providers on how to work with interpreters.
  - b. Language Interpreters - the creation of modules that will address gaps in current competency-based core training regarding other areas of law including family, immigration, child welfare, administrative and criminal beyond domestic violence.
  
51. ONLIS requested the partnership of the Law Society to provide the following:
  - a. advice on the development of the marketing and communication plan;
  - b. outreach to lawyers and paralegals in Ontario;
  - c. use of space from time to time at the Law Society, for example for the launch of the project.

**PUBLIC EDUCATION EQUALITY AND RULE OF LAW SERIES  
CALENDAR  
2012 - 2013**

**FRANCO-ONTARIAN DAY/LE JOUR DES FRANCO-ONTARIENS ET DES FRANCO-ONTARIENNES** – September 26, 2012

Barristers' Lounge (5:30 p.m. – 7:30 p.m.)

Topic: The History and Contributions of Francophone Women

Featuring: Micheline Dumont – Author, feminist historian

**CELEBRATING 25 YEARS OF THE METRO TORONTO CHINESE & SOUTHEAST ASIAN LEGAL CLINIC** – October 15, 2012

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Reception, Convocation Hall – (6:00 p.m. to 8:00 p.m.)

Topic: Championing Equality – Progress or Peril?

Hosted by Michael Enright of the CBC

Speakers: The Hon. Roy McMurtry (keynote), prominent human rights lawyers David Lepofsky and Susan Eng, Professor Grace Edward Galabuzi, Ryerson University, and special remarks by Ontario Attorney General, The Honourable John Gerretsen and Law Society Treasurer Thomas Conway

**CANADIAN ASSOCIATION OF BLACK LAWYERS ANNUAL CONFERENCE** – October 26, 2012

Donald Lamont Learning Centre (9:00 a.m. – 5:00 p.m.)

**LOUIS RIEL DAY** – November 16, 2012

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**BLACK HISTORY MONTH** – February 7, 2013

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**INTERNATIONAL WOMEN'S DAY** – March 6, 2013

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**INTERNATIONAL FRANCOPHONE DAY/LA JOURNÉE DE LA FRANCOPHONIE –**

March 21, 2013

Upper Barristers' Lounge (6:00 p.m. – 8:00 p.m.)

**HOLOCAUST REMEMBRANCE DAY - April 8, 2013**

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**LAW WEEK CELEBRATION – THE GREAT DEBATE – April 16, 2013**

Convocation Hall (5:00 p.m. – 7:00 p.m.)

Reception, Upper Barrister's Lounge (7:00 p.m. – 8:00 p.m.)

Organized in partnership with the Ontario Justice Education Network

**ALTERNATIVE CAREERS FOR WOMEN IN LAW – May 2013**

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Upper Barrister's Lounge (6:00 p.m. – 7:30 p.m.)

**ASIAN AND SOUTH ASIAN HERITAGE MONTH - May 16, 2013**

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**ACCESS AWARENESS FORUM – LEGAL PANEL ON DISABILITY ISSUES - June 6, 2013**

Donald Lamont Learning Centre (4:00 p.m. – 8:00 p.m.)

**NATIONAL ABORIGINAL HISTORY MONTH - June 18 or 20, 2013**

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**PRIDE WEEK - June 25, 2013**

Donald Lamont Learning Centre (4:00 p.m. – 6:00 p.m.)

Convocation Hall (6:00 p.m. – 8:00 p.m.)

**RULE OF LAW EVENT – Date to be determined**

Donald Lamont Learning Centre (4:30 p.m. – 6:00 p.m.)

Convocation Hall (6:30 p.m. – 8:30 p.m.)