MINUTES OF CONVOCATION

Friday, 26th June, 1992
9:30 a.m.

PRESENT:

The Treasurer (James M. Spence), Bastedo, Bragagnolo, Campbell, Cullity, Curtis, Elliott, Epstein, Farquharson, Feinstein, Finkelstein, Furlong, Graham, Hill, Howie, Howland, Jarvis, Kiteley, Lamek, Lamont, Lawrence, Legge, McKinnon, Manes, Mohideen, Murphy, Murray, D. O'Connor, Palmer, Pepper, Peters, Rock, Ruby, Somerville, Strosberg, Thom, Topp, Wardlaw, Weaver and Yachetti.

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IN PUBLIC

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ELECTION OF TREASURER

The Secretary reported that at the May Convocation one nomination for the position of Treasurer was received. Mr. Allan Rock was then elected Treasurer by acclamation for the coming year.

The Treasurer thanked Mr. Spence for his service as Treasurer and then spoke briefly.

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ELECTION OF BENCHER

It was moved by Robert Topp, seconded by Abraham Feinstein THAT S. Casey Hill be elected a Bencher to fill the vacancy in Convocation caused by the election of the Treasurer, in accordance with the provisions of section 21(2) of the Law Society Act.

Carried

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ADMISSIONS COMMITTEE

Mr. Lamont presented the Report of the Admissions Committee of its meeting on June 11th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The ADMISSIONS COMMITTEE begs leave to report:

Your Committee met on Thursday, the 11th of June, 1992 at 9:30 a.m., the following members were present: Mr. Brennan (Chair), Messrs. Lamek and Krishna, Ms. Graham.

A.
POLICY

No items.

B.
ADMINISTRATION

1. DIRECT TRANSFER - COMMON LAW - REGULATION 4(1)

The following candidate has met all the requirements to transfer under Regulation 4(1):

Kimberley Smith Maynard Manitoba

Approved

2. DIRECT TRANSFER - QUEBEC - REGULATION 4(2)

The following candidate has met all the requirements to transfer under Regulation 4(2):

Gerard Guay Quebec

Approved

3. PETITION FOR EXTENSION OF 18 MONTH TIME PERIOD TO ENTER THE TRANSFER EXAMINATION UNDER REGULATION 4(2)

Kenneth Peter Somers was granted permission to proceed under Regulation 4(2) on 13th of June, 1991. For business reasons Mr. Somers has been unable to sit the Common Law examination and respectfully requests a six month extension to enable him to sit the May 1993 examination.

The Committee recommends that Mr. Somers be granted an extension of 6 months as requested.

4. EXAMINATION RESULTS

Common Law Results

The results of the Common Law examinations held in May, 1992 were before the Committee. The following candidate passed:

Ronald Shacter

One candidate failed.

Noted

5. CALL TO THE BAR AND CERTIFICATE OF FITNESS

(i) BAR ADMISSION COURSE

(a) The following candidates expect to complete the 33rd Bar Admission Course in June, 1992, and wish to be called to the Bar and granted a Certificate of Fitness, at the Regular Convocation on June 26, 1992:

Robert Kevin Allen
Emmanuel Anton Mathiaparanam Ponrajah Balthasar
Michelle Lee Berg
Cheuk Christopher Chan
Ferant Hei-Kwong Chan
Maltaise Esmeralda Cini
Merilyn Monteverde Dasil
Darryl Roger Ferguson
Monica Marie Cecelia Heine
Jill Margaret Holmes
Richard Jeffords Jardine
Kokila Devi Anoop Khanna
Mary Patricia Kirwan
Kathleen Ida Mawson Kroeger
Kenneth Alexander Kuwayti
Kien Chong Sammy Lee
Neil William Douglas Milton
Paula Freda Schipper
Melinda Giselle Starrett
Rebecca Mo Wah Tai
Susan Marie Tindal
Milton Verskin
David Antony Wallbridge
Lai King Rose Wong
Frederick Brian Woyiwada

These applications are approved conditional on the candidates successfully completing the course, filing the necessary documents and paying the required fee prior to Regular Convocation on June 26th, 1992.

(b) The following candidate has successfully completed the 33rd Bar Admission Course, and wishes to be Called to the Bar at the Regular Convocation on June 26, 1992.

Denis Russell Makepeace

This application is be approved subject to the disposition of Special Convocation on June 25th, 1992. In addition, the student must file the necessary documents and pay the required fee prior to Regular Convocation on June 26th, 1992.

(ii) ADMISSION OF STUDENTS-AT-LAW

Under Bar Admission Course Regulation 22(7)
34th B.A.C. (Entering Articles 1991)

123. Andriessen, Inga Brigitta Lammechien	3 yrs. Victoria; LL.B. York/91;
124. Antymniuk, Judy Louisa	B.A. Manitoba/88; LL.B. Manitoba/91;
125. Atkinson, Thomas Allan	B.A. McMaster/87; LL.B. Windsor/91;
126. Axon, Sandra Jane	B.A. Guelph/82; LL.B. Ottawa/91;
127. Bacchus, Sandra Marina	B.A. Toronto/86; LL.B. Windsor/91;
128. Blazer, Michael Zvi	2 Yrs. York; LL.B. Toronto/91;
129. Bliss, Jonathan Adam	3 yrs. Arts, York; LL.B. York/91;
130. Boulby, Sarah Margaret	B.A. Queen's/86; M.A. Queen's/90; LL.B. Toronto/91;
131. Brodey, Sheryl Anne	2 yrs. Arts, Western; B.A. York/88; LL.B. British Columbia/91;
132. Bruneau, Laura Jane	B.A. Saint Francis Xavier/88; LL.B. Moncton/91;
133. Buchan, Roy Phillips	3 yrs. Carleton; LL.B York/91;
134. Bullis, Nancy Jane	B.A. Western/79; LL.B. Ottawa/91;
135. Chan Chun Kong, Marie France	3 yrs. Arts, Montreal; LL.L Ottawa/91; LL.B. Ottawa/90;
136. Chapin, Peter Joseph	B.A. Ottawa/71; LL.B. Toronto/91;
137. Chapman, Josesph Maxwell	B.P.H.E. Laurentian/86; B.Ed. Laurentian/88; LL.B. Ottawa/91;
138. Charron, Anne	CEGEP, B.C.L. McGill/83; LL.B. McGill/83;
139. Cheng, May Ming-Mei	B.A. Carleton/87; LL.B. Ottawa/91;

140. Cheng, Shu Tai	B.Sc. Toronto/88; LL.B. Ottawa/91;
141. Chernos, David Paul	4 yrs. Arts, Toronto; LL.B. Queen's/91;
142. Chik, Pui Hong	Joint Committee on Accreditation/91;
143. Ching, Kar Big Ruby	Joint Committee on Accreditation/91;
144. Chown, Roger Herbert	B.Sc. Queen's/85; LL.B. Windsor/91;
145. Christakos, Bradford James	B.A. Toronto/85; M. Phil. Oxford, UK/88; LL.B. Toronto/91;
146. Christensen, Todd Regan	M.B.A. Western/91; LL.B. Western/91;
147. Christmas, Bernd Stephen	Mature Student; LL.B. York/91;
148. Ciraco, Joey Frank Sam	B.A. Toronto/88; LL.B. York/91;
149. Clark, Ron William	B.A. Carleton/84; LL.B. York/87;
150. Clarke, Eileen Elizabeth	B.A. Toronto/79; LL.B. York/91;
151. Clarke, Julie Ann	B.A. Carleton/88; LL.B. Western/91;
152. Clarke, Peter Alan	B.A. Toronto/88; LL.B. Victoria/91;
153. Clews, James Joseph	2 yrs. Arts, York; LL.B. York/91;
154. Cliche, Joseph Wilfrid Eric François	2 yr. Arts, Laval; LL.B. Laval/90; LL.B. Western/91;
155. Cliffe, John Stanley	Mature Student; LL.B. York/91;
156. Cocomile, Jr., John Anthony	B.A. Western/87; LL.B. York/91;
157. Cohen, Cindy Lee	B.A. York/88; LL.B. York/91;
158. Cohen, Edith	B.A. McGill/87; LL.B. Ottawa/91;
159. Cole, Emily Cooper	B.A. McGill/83; LL.B. York/91;

160. Collenette, Penelope Dorothy	B.A. Carleton/87; LL.B. Ottawa/91;
161. Collins, Christopher Stewart	B.A. Western/91; LL.B. Western/91;
162. Collinson, Louise Julia Anne	B.A. Toronto/77; M.A. Toronto/79; LL.B. Toronto/91;
163. Conacher, Duff Wilson	1 yr. Arts, Western; 2 yrs. Arts, Queen's; LL.B. Toronto/91;
164. Conklin, David Daniel	4 yrs. Arts, Toronto; LL.B. Toronto/91;
165. Conn, David Iain	B.A. Toronto/87; LL.B. Queen's/91;
166. Constantineau, Joseph Denis Lucien	B.Soc.Sc. Ottawa/87; LL.B. Ottawa/91;
167. Conway, Suzanne Marie	B.A. McGill/87; LL.B. Victoria/91;
168. Cook, Mervet	Joint Committee on Accreditation/92;
169. Cooke, Alan Philip	B.Admin. Ottawa/88; LL.B. Toronto/91;
170. Cool, Roseanne Angela	B.A. Laurentian/88; LL.B. York/91;
171. Coombs, Shawn Michael	B.A. Western/88; LL.B. York/91;
172. Cooper, Marcia Heni	B.Comm. Queen's/88; LL.B. Toronto/91;
173. Corbiere, Gary Edward	2 yrs. Arts, York; LL.B. York/91;
174. Corcoran, Dianne Myra	2 yrs. Arts, Toronto; LL.B. Queen's/91;
175. Corcoran, Hazel Theresa	B.A. Alberta/83; M.A. California, USA/85; LL.B. Dalhousie/91;
176. Cordell, Dudley Nathan	B.A. McGill/87; LL.B. Windsor/91;
177. Coristine, Vicki Ann	3 yrs. Arts, Toronto; LL.B. Toronto/91;
178. Corston, Wanda Beatrice Frances	B.A. Western/85; LL.B. Windsor/91;

179. Costa, David	B.Mus. Toronto/87; LL.B. Windsor/91;
180. Coulthard, Diane Barbara	B.A. Queen's/87; LL.B. Windsor/91;
181. Covre, Rudi	B.A. York/88; LL.B. Windsor/91;
182. Cowan, Jeffrey David	B.A. Western/84; LL.B. British Columbia/91;
183. Craik, Alastair Neil	3 yrs. Arts, McGill; LL.B. Dalhousie/91;
184. Cridland, Simon Thomas Newton	B.Sc. Waterloo/87; LL.B. British Columbia/91;
185. Crocker, Sheila Maureen	B.A. Memorial/88; LL.B. New Brunswick/91;
186. Crook, Roderick John	B.A. McGill/86; M.A. Toronto/89; LL.B. Manitoba/91;
187. Culin, Bradley Craig	3 yrs. Arts, Guelph; LL.B. Queen's/91;
188. Cummins, Allison Yvonne	3 yr. Arts, Manitoba; LL.B. Manitoba/91;
189. Curtis, Lance Blair Henry	B.Sc. McGill/82; M.B.A. McMaster/84; LL.B. Ottawa/91;
190. Cusinato, Curtis Anthony	B.Comm. Ottawa/88; LL.B. Windsor/91;
191. Czerkawski, Mark Andrew	B.A. Wilfrid Laurier/86; LL.B. Windsor/91;
192. D'Alessandro, Giulio Guido Natalino	B.A. McMaster/81; M.A. McMaster/86; LL.B. Ottawa/91;
193. D'Angelo, Concetta	B.Soc.Sc. Ottawa/88; LL.B. Ottawa/91;
194. Daniels, Esther Brenda Leah	2 yrs. Arts, York; LL.B. York/91;
195. Daub, Sally Jean	B.A.Sc. Ottawa/87; LL.B. Dalhousie/91;
196. Davey, Marion Elizabeth	B.Sc. Toronto/85; LL.B. Toronto/91;
197. Davison, Laura Winifred	B.A. Toronto/87; LL.B. Queen's/91;

198. Day, Teresa Marguerite	B.Sc. Queen's/88; LL.B. Queen's/91;
199. de Lima, Petra Leah	B.A. Alberta/87; LL.B. Alberta/90;
200. de Vries, Justin William	B.A. Toronto/87; LL.B. Windsor/91;
201. DeGuire, Patricia	Mature Student; LL.B. York/91;
202. Delaney, Joy Ellen Klopp	Joint Committee on Accreditation/89;
203. Delgobbo, Mario Michele	B.A. McMaster/87; B.Ed. Brock/88; LL.B. Windsor/91;
204. Demeda, Mark Nickolis	B.A. Toronto/88; LL.B. Toronto/91;
205. Dempsey, Elena Maria	B.A. Western/86; LL.B. Western/91;
206. Denbok, Christine Helen Karen	B.A.Sc. Waterloo/82; LL.B. York/91;
207. Denomme, Denise Alice	B.A. Western/86; M.A. Western/88; LL.B. Western/91;
208. Deshaies, Marie Suzanne France	B.Comm. Ottawa/87; LL.B. Ottawa/90;
209. Devir, Anthony John	Joint Committee on Accreditation/91;
210. Dhaliwal, Kenneth Singh	B.A. York/88; LL.B. Western/91;

Approved

C.

INFORMATION

In October, 1991, the Admissions Committee recommended to Convocation that a student who had successfully completed the 32nd Bar Admission Course be permitted to be called to the Ontario Bar upon signing a letter of undertaking to continue his application for permanent residency subject to various terms and conditions.

The student was subsequently called to the Bar on November 22nd, 1991. On June 2nd, 1992, the Admissions Department received notification from the member that his application for permanent residency in Canada had been approved on April 21st, 1992.

Noted

ALL OF WHICH is respectfully submitted

DATED this 26th day of June, 1992

"D. Lamont"
for Chair

THE REPORT WAS ADOPTED

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CALL TO THE BAR

The following candidates were presented to the Treasurer and Convocation and were called to the Bar, and the degree of Barrister-at-Law was conferred upon each of them by the Treasurer.

Robert Kevin Allen	33rd Bar Admission Course
Emmanuel Anton Mathiaparanan Ponrajah Balthasar	33rd Bar Admission Course
Michelle Lee Berg	33rd Bar Admission Course
Cheuk Christopher Chan	33rd Bar Admission Course
Ferant Hei-Kwong Chan	33rd Bar Admission Course
Merilyn Monteverde Dasil	33rd Bar Admission Course
Darryl Roger Ferguson	33rd Bar Admission Course
Monica Marie Cecelia Heine	33rd Bar Admission Course
Jill Margaret Holmes	33rd Bar Admission Course
Richard Jeffords Jardine	33rd Bar Admission Course
Kokila Devi Anoop Khanna	33rd Bar Admission Course
Yong Nan Kim	33rd Bar Admission Course
Mary Patricia Kirwan	33rd Bar Admission Course
Kathleen Ida Mawson Kroeger	33rd Bar Admission Course
Jong Bum Lee	33rd Bar Admission Course
Kien Chong Sammy Lee	33rd Bar Admission Course
Denis Russell Makepeace	33rd Bar Admission Course
Neil William Douglas Milton	33rd Bar Admission Course
Paula Freda Schipper	33rd Bar Admission Course
Melinda Giselle Starrett	33rd Bar Admission Course
Mo Wah Rebecca Tai	33rd Bar Admission Course
Susan Marie Tindal	33rd Bar Admission Course
Milton Verskin	33rd Bar Admission Course
David Antony Wallbridge	33rd Bar Admission Course
Lai King Rose Wong	33rd Bar Admission Course
Frederick Brian Woyiwada	33rd Bar Admission Course
Patricia Charlotte Lane	Transfer, Province of Alberta

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DISCIPLINE COMMITTEE

Re: ROBERT ARTHUR DONALDSON, Toronto

The Treasurer indicated he was withdrawing from Convocation. Mr. Howie, Chair of Finance and Administration took the Chair as Acting Treasurer.

Mr. Gavin MacKenzie appeared for the Society and Mr. Thomas Lockwood and Mr. G. Stuart appeared for the solicitor who was present.

Ms. Graham withdrew and did not participate. Also those Benchers whose partners had written letters of support for Mr. Donaldson withdrew as well as the committee members that heard the discipline matter.

Messrs. Finkelstein, O'Connor and Cullity withdrew.

The Secretary read the motion from the previous day, June 25th:

It was moved by Ronald Manes, seconded by Carole Curtis that those Benchers whose partners and associates wrote letters in support of Mr. Donaldson, be excluded from participating in the matter in Convocation.

It was moved by Colin McKinnon, seconded by Rino Bragagnolo that the Donaldson matter be adjourned to the next discipline Convocation.

It was moved by Harvey Strosberg, seconded by Paul Lamek that the matter of qualification be dealt with prior to any other issue.

Both counsel asked that the matter proceed as scheduled.

Counsel, the solicitor, the reporter and the public withdrew.

The McKinnon/Bragagnolo motion was deferred and Mr. Strosberg's motion was not put.

The Manes/Curtis motion carried on a vote of 11 to 9.

Mr. Strosberg rose to indicate he would be delivering written Reasons in dissent.

Convocation took a brief recess.

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Convocation resumed in camera.

.....

It was moved by Colin McKinnon, seconded by Clay Ruby that the Donaldson matter be adjourned to the next discipline Convocation.

Lost

Counsel, the solicitor, the reporter and the public were recalled and informed of Convocation's decision. The Secretary read the following names of those Benchers who were to be excluded from the proceedings as a result of the passage of the Manes/Curtis motion: Stuart Thom, Allan Rock, Frances Kiteley, James Spence, Colin Campbell, Stephen Goudge, Marc Somerville, Dennis O'Connor, David Scott, Maurice Cullity and Arthur Scace.

Ms. Peters presented the Report of the Discipline Committee to Convocation.

Convocation had before it the Report of the Discipline Committee dated 11 June, 1992, together with an Affidavit of Service sworn 19th June, 1992 by Louis Katholos that he had effected service on the solicitor personally, marked Exhibit 1. Copies of the Report having been forwarded to the Benchers prior to Convocation, the reading of it was waived.

The Report of the Discipline Committee is as follows:

THE LAW SOCIETY OF UPPER CANADA

The Discipline Committee

REPORT AND DECISION

Frances P. Kiteley, Chair
Daniel J. Murphy, Q.C.
Paul D. Copeland

In the matter of
The Law Society Act
and in the matter of

ROBERT ARTHUR DONALDSON
of the City
of Toronto
a barrister and solicitor

Gavin MacKenzie
for the Society

Thomas Lockwood and
Glen Stuart
for the solicitor
Heard: May 20 and 21, 1992

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA
IN CONVOCATION ASSEMBLED

The DISCIPLINE COMMITTEE begs leave to report:

THE LAW SOCIETY OF UPPER CANADA

Report and Decision

Frances P. Kiteley, Chair
Daniel J. Murphy, Q.C.
Paul D. Copeland

IN THE MATTER OF the Law Society Act;

AND IN THE MATTER OF Robert Arthur Donaldson,
of the City of Toronto, a Barrister and Solicitor.

REPORT

On September 9, 1991, complaint D122/91 was issued against Robert Arthur Donaldson, alleging he was guilty of professional misconduct.

The matter was heard in public on May 20 and May 21, 1992, before this Committee composed of F. Kiteley, Chair, D. Murphy and P. Copeland. Mr. Donaldson was in attendance and was represented by Thomas Lockwood and Glenn Stuart. Gavin MacKenzie appeared as counsel for the Law Society.

DECISION

COMPLAINT

The complaint was initially sworn by William S. Edward on September 9, 1991, as number D122/91. On consent, on the first day of the hearing, that complaint was withdrawn and complaint number D122b/91 was substituted. On the second day of the hearing, paragraphs 2(e) and (f) were modified by the addition of two words in each particular. The complaint against the Solicitor, in its final form, alleges the following:

"1. I am an Investigation Auditor employed by the Law Society of Upper Canada.

2. I have reasonable and probable grounds to believe and do believe that Robert Arthur Donaldson is guilty of professional misconduct.

To identify the professional misconduct alleged to have taken place, the following particulars are provided:

(a) Between 1986 and 1991, inclusive, without the prior knowledge or consent of clients and without the prior knowledge of his partners, he deliberately misapplied client general account credit balances.

(b) Between 1986 and 1991, inclusive, he knowingly or recklessly obtained personal financial benefits at the expense of clients and his partners without their knowledge or consent by means of the use of airline tickets which were paid for by the firm of which he was a partner or by clients of the firm.

(c) Between 1989 and 1990, he recklessly failed to account to his partners with respect to funds advanced to him for the purpose of business related travel.

(d) Between 1989 and 1991, inclusive, he improperly charged certain disbursements which were described, often inaccurately, as "delivery of documents" to clients for whom the disbursements were not actually incurred.

(e) Between April and July, 1991, inclusive, after allegations of possible professional misconduct by the Solicitor had been reported to the Law Society by or on behalf of the Solicitor and the firm of which he was a partner, the Solicitor engaged in conduct which could have tended to frustrate an investigation of the allegations in the following ways:

(i) He instructed his secretary to destroy correspondence which might have evidenced possible professional misconduct on his part;

(ii) He drafted correspondence which he asked a client or former client to sign which contained a statement which was materially false to the Solicitor's knowledge; and

(iii) He removed a list of general account credit balances typed by his secretary on his instructions.

(f) On or about April 6, 1991, he engaged in conduct which could have tended to frustrate an investigation into his conduct in that he asked the chief financial officer of the firm in which he was a partner to obtain for him two cheque requisitions from the firm's records."

The words added at the hearing have been underlined.

An Agreed Statement of Facts was received by the Committee. Paragraph 3 of the Agreed Statement of Facts indicates that the Solicitor did not contest the particulars set out in the complaint. The Solicitor also admitted that certain of the facts set out in the Agreed Statement of Facts constituted professional misconduct.

On the basis of the admissions by the Solicitor, a finding of professional misconduct as to particulars 2(a) to (f) was made. A copy of the Agreed Statement of Facts is attached to this Report as Schedule "A". Excerpts from the Agreed Statement of Facts are set out below in the Penalty portion of this Report.

RECOMMENDATION AS TO PENALTY

The Committee recommended that Robert Arthur Donaldson be suspended for a period of 18 months from April 26, 1991 to October 26, 1992. Of that period, nine months is on account of particulars 2(a) to (d) and 9 months is on account of particulars 2(e) and (f). Following the period of suspension and before resuming practice, the following conditions shall be fulfilled:

(a) the Solicitor shall submit to a psychiatric assessment by a psychiatrist acceptable to the Law Society. The Solicitor shall not be permitted to resume practice until that psychiatrist confirms in writing to the Law Society that he is capable of doing so;

(b) the Solicitor shall file a proposal as to the form in which he intends to return to practice. That form must be acceptable to the Law Society;

(c) in the event the Solicitor and the Law Society are unable to agree with respect to compliance with either or both of the two conditions, a committee of three Benchers shall be appointed by Convocation with authority to conduct a hearing and to report to Convocation as to the means by which any disagreement should be resolved.

REASONS FOR RECOMMENDATION

The evidence before the Committee consisted of the following:

1. An Agreed Statement of Facts.

2. A Brief of medical reports consisting of the following:

(a) Report of Dr. A.G. Swayze dated February 10, 1992;

(b) Report of Dr. Hyman Bloom dated September 16, 1991;

(c) Report of Dr. Basil C.L. Orchard dated January 3, 1992;

(d) Report of Dr. L. Edward Puodziukas dated January 30, 1992;

(e) Report of Dr. Virginia Robinson dated February 13, 1992;

(f) Report of Dr. Saul Levine dated April 21, 1992;

(g) Report of Dr. S.J. Hucker dated May 12, 1992.

All but the reports of Dr. Hucker were obtained on behalf of the Solicitor. The assessment by Dr. Hucker was arranged at the request of counsel for the Law Society.

3. Four volumes of letters from individuals (including members of Blake, Cassels & Graydon, other members of the profession, judges and clients).

4. Oral character evidence from the following:

Lawyers

Robert Prichard	President, University of Toronto
Donald Brown	Partner at Blake, Cassels & Graydon
Robert Armstrong	Partner at Tory, Tory, DesLauriers & Binnington
Barry McGee	Partner at Blake, Cassels & Graydon
Rosanne Rocchi	Partner at Miller, Thomson

Clients

Gerald Schwartz	President and Chief Executive Officer, Onex Corporation
Jacqueline Hushion	Executive Director, Canadian Book Publishers' Council
Jon Grant	Chairman & Chief Executive Officer, The Quaker Oats Company of Canada
John Hunkin	Deputy Chairman & Chief Executive Officer, Wood Gundy
Robert Bellamy	Vice Chairman, Burns, Fry

5. Oral evidence from the Solicitor.

6. An undertaking made by the Solicitor not to practice for medical reasons, which Undertaking is dated July 16, 1991, and took effect on that date.

Following issuance of the complaint, the hearing was scheduled for December 17, 1991. The endorsement made by the Chair at that time indicated that if counsel for the solicitor were unavailable on that date, the matter would be further adjourned to February 18, 1992. On December 17, 1991, the hearing was further adjourned on consent to February 18, 1992 to proceed. The Chair noted in the endorsement that the Solicitor had given an undertaking not to practise.

On February 18, 1992, a request for an adjournment was made on behalf of the Solicitor. The request for the adjournment was granted. The matter was adjourned for hearing to May 19, 1992, peremptory with respect to the Solicitor.

Counsel communicated to the Committee in advance of May 19th, a request to commence on May 20th to afford to counsel an opportunity to complete an Agreed Statement of Facts. That request was granted. The hearing commenced on Wednesday, May 20, 1992 at 11:30 a.m. Preliminary matters were addressed and opening comments were made by counsel. The Committee received the Amended Complaint and Agreed Statement of Facts. The Committee rose at 12:15 p.m. to review the Agreed Statement of Facts. The hearing resumed at 1:30 p.m., at which time a volume of medical reports filed on behalf of the Solicitor was received as Exhibit 3. The contents of the Exhibit are listed in paragraph 2 above.

Counsel for the Solicitor also filed as Exhibit 4, four volumes of letters of character reference. The hearing recessed at 2:30 to enable the Committee to digest the exhibits.

The hearing resumed at 10:00 a.m. on May 21, 1992. The ten witnesses listed above were called. In addition, other individuals attended, many of whom had written letters on behalf of the Solicitor. Although willing, they were not called. Those who were in attendance and were not called were identified as follows:

		Letter Written
Ron Atkey	Osler, Hoskin & Harcourt	Vol. 1, Tab 4
Alan Brown	Blakes, Cassels & Graydon	Vol. 2, Tab 4
Geoffrey Browne	Wood Gundy Inc.	N/A
George Bryson	Former President, Addison Wesley Publishers	N/A
Paul Cantor	President, Investment Banking C.I.B.C.	Vol. 3, Tab 14
Jim Denham	Wood Gundy Inc.	N/A
Stan Fisher	McMillan, Binch (Former Counsel)	N/A
Cliff Hatch	Private Investor	N/A
John Langs	Fraser, Beatty	Vol. 1, Tab 34
Byron Loeppky	Heenan Blaikie	Vol. 1, Tab 38
Peter Lowes	Beatrice Foods Inc.	N/A
Don McCarthy	President & C.E.O. Beatrice Foods Inc.	Vol. 3, Tab 43
Don McDougall	Past President, Labatt's	N/A
Jack Millar	Thornsteinsson's	Vol. 1, Tab 43
Cliff Narbey	Former C.E.O., Famous Players	Vol. 3, Tab 47

		Letter Written
John Newman	Chairman, Focus National Mortgage Corporation	Vol. 3, Tab 48
Winn Oughtred	Borden & Elliot	Vol. 1, Tab 48
Jeffrey Roach	Senior Vice President, C.I.B.C.	N/A
Stuart Robertson	Paterson, MacDougall	Vol. 1, Tab 55
Dale Robinette	McCarthy, Tetrault	N/A
Ian Ross	V.P., Crown Global Trade Canada Limited	N/A
Duff Scott	President, Multibanc NT Financial Corp.	Vol. 3, Tab 69

In addition, Dr. Allan Swayze and Marnie Donaldson were in attendance.

The Solicitor gave evidence. Mr. Lockwood introduced the Solicitor's evidence by indicating that he did not propose to ask questions; rather, his client asked permission to make a statement under oath. Permission was granted.

The Committee heard the Solicitor's evidence from 12:15 p.m. to 12:40 p.m. Mr. MacKenzie cross-examined the Solicitor until 12:55 p.m. Members of the panel posed questions until 1:15 p.m.

The hearing resumed at 2:15 p.m. and continued until approximately 4:45 p.m.

The hearing recessed for deliberation. The hearing resumed, at which time the recommendation of the panel and brief reasons were delivered.

BACKGROUND

The Solicitor is 54 years old. He completed his LL.B at the University of Toronto in 1964. He articled at Blake, Cassels & Graydon and returned as an associate following his call to the Bar in 1966. He became a partner in 1972 and remained as a partner until his resignation on July 31, 1991.

During his twenty-five years in practice, the solicitor had many achievements. Initially, he concentrated on developing his practice. His diligence and versatility materialized over the years in developing an expertise in the Foreign Investment Review Act, securities law and banking law. Early on, he became a leader and eventually the acknowledged head of what came to be called the Donaldson Group - a group variously including 15 - 20 lawyers in the corporate/commercial areas at Blake, Cassels & Graydon.

From the outset of his career, he became a teacher and mentor to the students and associates who joined the firm, and particularly to those in the Group. He wrote seminal articles and organized or participated in about 35 Continuing Legal Education programs.

By about 1985, the Solicitor had reached the position of leadership in his firm and in his areas of practice. He had, however, reached this point at no small personal cost.

In 1963, the Solicitor married. He had two children of that relationship. The marriage failed. The Solicitor did not accept the reasons for the marriage failure at the time, but has since come to accept that his workaholism contributed to its breakdown. In 1977, he separated and subsequently was divorced.

The Solicitor married Marnie in 1983. Marnie had two children who resided with them.

In 1988, Marnie Donaldson consulted Dr. A.G. Swayze for personal and marital issues. The Solicitor attended a few sessions with and without his wife. Dr. Swayze endeavoured to assist the solicitor in comprehending that his excessive devotion to work left no time for personal relationships and was threatening the marriage. The Solicitor terminated the professional relationship with Dr. Swayze in 1989 because, as he asserted at the time, he decided that his wife's problems were her own doing, not his.

On the last occasion when he saw Dr. Swayze in 1989, Dr. Swayze expressed a prescient perspective. He told the Solicitor:

> "... that he was in a boat in the Niagara River and that rainbow ahead was not a pot of gold. He was going to take himself, his wife, children, colleagues and anyone who depended upon him, over the Falls into destruction".

Beginning in 1983, the Solicitor had begun to experience various health problems:

Dr. Robinson:

November 1983	The Solicitor was admitted through the Emergency Department at the North York General Hospital as a result of experiencing chest pains.

Dr. Puodziukas:

1987	Chest pains; fatigue, dizziness, shoulder pain, skin rash.
1988	Various attempts at weight loss; chest pains.
1989	Continued weight loss attempts; headaches.
1990	Abdominal discomfort; tingling and numbness, hyperventilation.
1991	Chest pains.

The foregoing cryptic synopsis does not do justice to the 14 page summary prepared by Dr. L. Edward Puodziukas. In his report, Dr. Puodziukas detailed the 18 occasions in which he was consulted by the Solicitor between April 1987 and February 1991. He recounted in detail the referrals (and results) to a dermatologist and to a neurologist.

During this period, the Solicitor was told repeatedly that his physical symptoms were stress-related. He was told to reduce his professional activity. The Solicitor heard advice from various professionals but did not listen.

The Solicitor's response to mental and physical health stresses was not what one might expect (namely less preoccupation with work), but ironically, greater dedication to law and related activities.

By 1985/86, the Solicitor described himself as having reached the top of Blake, Cassels & Graydon. By this time, he had also reached his mid-40's. Until that point, he had concentrated primarily on developing his professional practice, establishing himself as an expert, and making extraordinary contributions as mentor and teacher, along with participation in firm management. In the latter half of the 1980's, he reached the point where he concluded it was appropriate for him to make a deliberate effort to give back to legal and other institutions for the valuable opportunities he had received in the course of his career. His professional activities alone were insufficient to meet his need to compensate for these opportunities.

The solicitor became involved - one might say with a vengeance - in "non-chargeable activities" including:

1. Trustee of the County of York Law Association - 1987 to 1989.

2. President of the U. of T. Law Alumni Association - 1988 to 1991.

3. Fundraiser for the Bora Laskin Library.

4. Fundraiser for the Progressive Conservatives.

5. Member of the Board of the Toronto Community Foundation.

The Solicitor's teaching, program organizing and mentoring activities did not decline, nor did his involvement in firm management. By the late 1980's, he regularly docketed 2,700 to 2,800 hours annually, of which 200 - 400 were non-chargeable. By the late 1980's, the Solicitor had achieved a national reputation in his area of law and was involved in significant acquisitions by corporations both in Toronto and elsewhere.

This level of activity, of course, caused a strain on his health and on his marriage. But for the events in April 1991, the continuing stresses on his marriage would have led to the end of that relationship.

Unfortunately, for a man with the astuteness he clearly has, he had no comprehension of the effect he was having on important personal relationships. Notwithstanding objective medical evidence that the stress was causing serious physical problems, the Solicitor had no appreciation that what he was doing was having negative repercussions on himself and others. He now admits to having no balance or perspective in his life. Sadly, he had no insight at the time.

What did the Solicitor gain from this course of conduct?

He received significant financial remuneration as a partner in his firm. But more importantly, he received peer approval. He needed, sought and consistently received professional adulation. Ironically, the more devoted he was to clients and other activities, the more positive reinforcement he received - and the harder he worked to obtain that positive reinforcement.

How was this behaviour manifested in his day-to-day life?

- the Solicitor was at work very early in the morning (in the range of 5:00 - 7:00 a.m.) and left very late at night

- he worked seven days a week

- he was able to spend more weekend time at home or his country property when the fax machine made his offices in those locations more accessible

- he was almost invariably available to clients and others, if not instantly, within hours, regardless of the day of the week or the time of the day

- he illustrated his travel commitments by explaining that in one given week, he travelled to and from Vancouver three times because he had a deal in each place; he took Valium and alcohol to facilitate sleep on the airplane so as not to lose valuable time resting upon arrival at each destination

- he rarely took holidays, and if he did, he was always preoccupied with work or work-related activities

- Dr. Swayze estimated that the Solicitor spent one hour per week with his wife.

In his evidence, the Solicitor described this and other behaviour as "bizarre". He said that his perception had been so warped that when people told him he was a workaholic, he thought that that was "great".

What was behind this behaviour?

There is no suggestion that money was a motivation. The Solicitor said that since April 1991 he had spent many sleepless nights trying to explain how he let his life deteriorate and how the events leading up to the complaint occurred. He has not worked since April 26, 1991. In the interval since then, he has had the opportunity - which he described as a blessing - to develop a much greater perception and insight. With difficulty, he has come to accept the analysis which was reflected in the reports of Drs. Swayze, Bloom, Orchard, Levine and Hucker.

The experts with whom the Solicitor consulted indicate in various ways that the Solicitor had low self-esteem and low self-confidence. Hence the need for continual "stroking". Reinforcement led to the need for greater and different reinforcement. As the Solicitor said, he had great difficulty accepting that hypothesis since he "exuded the opposite".

PARTICULARS OF THE COMPLAINTS

In April 1991, the Solicitor's former secretary reported her concerns about the Solicitor to persons in authority at Blakes'. As a result of that report, the following events occurred:

(a) Blakes' undertook a brief internal investigation;

(b) Blakes' retained a forensic accountant (Lindquist) to conduct a detailed investigation;

(c) Blakes' and the Solicitor agreed that the Solicitor would take a leave of absence (effective April 26, 1991) while the investigation was undertaken. During the leave of absence, the Solicitor agreed not to practice law but he would have an opportunity to respond to the investigation;

(d) Blakes' and the Solicitor jointly made a report to the Law Society;

(e) the Solicitor gave a voluntary undertaking to the Law Society on July 16, 1991 that, for medical reasons, he would not practise law until further notice following receipt of a report from Dr. Swayze which was expected by September 15, 1991;

(f) effective July 31, 1991, the Solicitor withdrew as a partner at Blakes';

(g) the Law Society was kept informed by Lindquist and Blakes' as to the results of the investigation;

(h) the complaint was issued on September 9, 1991;

(i) the hearing was scheduled to be heard on February 18, 1992. It was adjourned at the request of the Solicitor for medical reasons; and

(j) the hearing was scheduled for four days commencing May 19, 1992. It was conducted May 20 and May 21, 1992. Counsel for the Law Society indicated that he was satisfied that the complaint had been thoroughly investigated and that it was largely as a result of the voluminous and detailed report by Lindquist that the Agreed Statement of Facts had been negotiated.

In most reports of Discipline Panels, the Agreed Statement of Facts is replicated in the portion of the report relevant to the finding of professional misconduct. An anomalous procedure is followed in this report. The entire Agreed Statement of Facts is attached as Schedule "A". Portions are reproduced in the Penalty portion to reflect the Committee's conclusions as they relate to penalty. The emphasis throughout the Agreed Statement of Facts has been done by the Committee.

Particular 2(a)

> "Between 1986 and 1991, inclusive, without the prior knowledge or consent of clients and without the prior knowledge of his partners he deliberately misapplied client general account credit balances."

"9. The term "general account credit balances" refers to funds held by a firm in its general accounts, rather than trust accounts, under various descriptions including "billing carryover", "miscellaneous", "miscellaneous premium" and "premium exchange". The Solicitor understood that many of these general account credit balances constituted firm income. The Solicitor acknowledges that the clients were entitled to have these balances repaid to them if they arose by way of either the double payment of an account or a "premium exchange", being a gain on foreign exchange.

10. Lindquist found that general account credit balances were created by Blakes' accounting department in relation to various Blakes' clients in, *inter alia*, the following ways:

(i) On some occasions, American clients mistakenly paid in American dollars accounts rendered in Canadian dollars, so that a credit in the amount of the foreign exchange premium was created;

(ii) On some occasions, clients mistakenly paid accounts twice; and

(iii) On one occasion, a directors' fee received from a client, and endorsed by the Solicitor in favour of Blakes', was credited to the client's unrendered disbursement account rather than taken into Blakes' firm income.

11. Because of the nature of his practice, his significant client responsibility, and the number of clients for whom he was responsible for billing purposes, the Solicitor had an unusual number of clients which had general account credit balances.

12. In some other cases, however, credits were created as a result of the Solicitor's own actions. For example, on June 17, 1990, the Solicitor left the following instructions for his secretary:

> "Now, there are a few accounts at the back. Now, the first one is the one to [A. Company].... You will see on the account, I decided to up the fee. So just change it from $192,000 to $206,000 and change the bottom figure to $211,993.23 and you just mark a little mark with a ballpoint pen that [Robert] Taylor [Blakes' chief financial officer] sort of marks there. Don't bother sending it down to Taylor or anybody in accounting, just change it and send out that way."

The Solicitor made this change in order to increase the premium billing, which had already been approved by Blakes' accounting department, as a result of a conversation with the General Counsel of A. Company prior to sending out the account. The Solicitor did not return the account to accounting as it was a quarter-ending account, and there was pressure on him to send it to the client immediately; he did not intend to create a credit. When payment in the amount of $206,000 was received from A. Company, the accounting department created a general account credit balance in the amount of $14,000, being the amount in which the sum received exceeded the sum payable according to Blakes' accounting records. A foreign exchange gain was also realized on the payment of this account. The Solicitor returned the amount of this exchange gain to the client on

the next quarterly account. The Solicitor mistakenly returned the amount of the additional $14,000 premium to A. Company, which was described in error as "premium exchange" (in confusion with the actual exchange gain), in a subsequent quarterly account. The Solicitor did not misapply any funds.

13. On other occasions, credits were created, in consultation with the accounting department, in client accounts to cover expected lawyer time and disbursements which were either incurred but not posted or not incurred at the date of billing. For example, when the Solicitor rendered a final account which was to be paid at or shortly after the closing of a significant transaction, a credit was created in the client's account in an amount expected to be sufficient to cover at least unrecorded time and expected disbursements including, for instance, travel, telephone, photocopy, secretarial overtime or the expense of a post-closing dinner. Such charges for time and disbursements when later posted to the client account were then written off on the Solicitor's instructions against the credit, and in some cases a credit balance remained. The Solicitor acknowledges that in adopting this billing practice he breached the requirements of commentary 4 to rule 9 of the rules of professional conduct in that he did not clearly and separately identify amounts charged as fees and amounts charged as disbursements, and he did not disclose all disbursements.

14. The credits which were created as described above varied considerably in size. The Solicitor had responsibility for a number of American clients who paid their accounts in American dollars. Most accounts were small. In two cases the credits which resulted when clients mistakenly paid accounts in American dollars exceeded $10,000. On another occasion, a credit in an amount in excess of $10,000 resulted when a client, for whom the Solicitor was responsible, mistakenly paid an account twice.

15. Where a credit was created by a client error in payment or a foreign exchange premium, the credit belonged to the client. The amount of the credit should have been returned to the client either immediately or by means of a credit on the client's next periodic account. The Solicitor, however, in many cases misapplied the funds largely for business promotion purposes not necessarily related to the client whose credit was used. The use of the credits for business promotion purposes was not authorized by Blakes'.

16. The Solicitor's secretary showed credits as deductions from fees on clients' next quarterly or monthly accounts. Because the general account credit balances were variously described, for example, "billing carryover", "miscellaneous", "miscellaneous premium" and "premium exchange", the Solicitor was not always aware of the source of these credits. The Solicitor instructed her to discontinue this practice because he had not had an opportunity to review the source of the credits with the accounting department. The Solicitor never instructed his secretary to resume the proper practice of showing credits as deductions from fees on clients' next monthly or quarterly accounts.

17. In approximately 1986, the Solicitor became aware that certain client general accounts had credit balances. It was the Solicitor's understanding that many of these credit balances were to be treated as firm income. The Solicitor asked his secretary to provide him with a list of client accounts which had credit balances, and eventually she did so. The Solicitor and his secretary both kept copies of the list. From time to time expenses arising primarily from client and business development were improperly charged to these client credits.

18. For example, when the Solicitor's secretary arranged to reimburse the Solicitor for payment of the business expenses on the Solicitor's monthly American Express and VISA bills (which she had paid under power of attorney with the Solicitor's personal cheque), he instructed her, in relation to certain expenses, to "use a credit" to reimburse him. In some cases the Solicitor specified a particular client credit to be used for this purpose; often the credit specified was completely unrelated to the expense incurred. In other cases the Solicitor simply wrote "use a credit" beside a particular charge, leaving it to his secretary to select a client credit at random to pay the expense. The Solicitor would usually not obtain reimbursement for his business expenses until three or four months after the credit card bills were paid by his secretary.

19. The following are examples of the Solicitor's improper use of client credits.

20. On February 4, 1990, the Solicitor travelled to Paris, France, where he stayed for five days in connection with a proposed acquisition by a firm client, T. Company. Two days before his departure, he obtained from Blakes' a cash travel advance in the amount of $4,909.20. To the Solicitor's knowledge, his secretary, on his behalf, instructed Blakes' accounting department to charge the travel advance to a credit in the account of a different client, G. Company. This credit was indicated in Blakes' accounting records as a "billing carryover", although it originally arose as a gain on foreign exchange. The Solicitor did no work for G. Company while he was in Paris. The Solicitor incurred significant business related expenses, including costs of accommodation and client entertainment, while in Paris for which he was not reimbursed. The Solicitor states that he believes that these expenses were in excess of the amount of the travel advance. The Solicitor acknowledges that the use of this credit in this manner was improper. The Solicitor acknowledges that the credit in G. Company's account should have been returned to it rather than used as a travel advance for a business trip to Paris for which G. Company realized no benefit.

21. On September 21, 1990, the Solicitor travelled to London, England, to attend a Canadian Bar Association annual meeting. While in London, the Solicitor also visited Blakes' London office and met with potential and existing clients for business development purposes. In the four days preceding the trip, the Solicitor obtained two separate cash advances. When his secretary asked him to which account one of these advances should be charged, he told her to "use a credit." On September 17, 1990, a credit of $800 in the account of a client, G.A. Company, described as "miscellaneous", was used for this purpose; the credit had been in the client's account since 1987. The Solicitor's secretary, on his behalf, charged the balance of this cash advance to another client, C. Company, which had had a credit in its account since 1985. Neither G.A. Company nor C. Company were reimbursed for these cash advances, nor were they informed that their funds had been used by the

Solicitor for this purpose. Charges which had been improperly made against two other client accounts were written off by the Solicitor as firm expenses when they were brought to his attention upon his return as being expenses improperly charged to a client credit.

22. The Solicitor acknowledges that he used credits in client accounts to "bury" business development expenses, such as client entertainment, which were sometimes completely unrelated to the client whose funds were being used, rather than obtain business development committee approval for those business development expenses. The Solicitor acknowledges that this practice was wrong. The Solicitor often entertained clients and potential clients. Except as specifically stated hereinafter and except to the extent that it can be said that a lawyer benefits personally from the entertainment of clients and potential clients, the Solicitor obtained no direct personal benefit from any of these activities."

COMMENT BY THE COMMITTEE

From the foregoing and the evidence and submissions, the Committee drew the following conclusions:

(a) the credits were not created deliberately with a view to their ultimate misapplication;

(b) once the Solicitor became aware that credits existed, he deliberately created a list for future reference;

(c) the Solicitor misapplied credits;

(d) the Solicitor received no personal gain from the misapplication of credits;

(e) the conduct of the solicitor in not correctly recording disbursements and fees and in misapplying credits was wrong;

(f) the cavalier attitude expressed in the instructions to his secretary to "use a credit" cannot be condoned; and

(g) all clients whose "credits" were improperly misapplied have been "generously" reimbursed with interest by Blakes'.

Particular 2(b)

"Between 1986 and 1991, inclusive, he knowingly or recklessly obtained personal financial benefits at the expense of his clients and partners without their knowledge or consent by means of the use of airline tickets which were paid for by the firm of which he was a partner or by clients of the firm."

23. In the Solicitor's practice, he was frequently required to travel. In the past five or six years, he accumulated in excess of 700,000 airline travel miles which had not been used at the date of his departure from Blakes'. He often arranged, either directly himself or through his secretary, for airline tickets to be ordered for client, firm-related or business promotion purposes.

24. Due to the Solicitor's client demands and heavy workload, scheduled flights were often cancelled or rescheduled at different times and sometimes with different routings. Not all of the tickets ordered were in fact used for the particular purpose for which they were intended. Because the Solicitor often travelled to the same destination for the same client (e.g. Vancouver, New York, Ottawa and London, England), the Solicitor's secretary, on his instructions, kept a file folder containing several unused tickets at her desk. Some of the tickets were purchased on an "open" basis because the Solicitor, while he definitely anticipated travel to a specific destination for a particular client, would not know a specific date.

25. In some cases, clients were charged for tickets, though the tickets were not used. It was not apparent to the clients that they were being charged for air travel because the cost of the tickets was included in the fee portion of the client's account, as part of a premium in excess of time billed at usual hourly rates.

26. On two occasions, the Solicitor received refunds for unused tickets. The refunds were deposited into his personal bank account.

27. On some occasions, the Solicitor used tickets previously purchased for and charged to a client for subsequent travel for the same client, as the tickets were not in fact used when they were purchased. On one such occasion, the Solicitor's secretary pointed out to the Solicitor that the client had already paid for the ticket. The Solicitor responded by asking rhetorically, "Who is going to know?"

28. On March 27, 1990, the Solicitor travelled to Vancouver on business. He returned on March 29, 1990. Blakes' received an invoice in the amount of $1,376. The Solicitor charged $1,193.73 of this to a client, C. Company, and charged the balance of $182.27 to another client, M. Company.

29. The Solicitor did not in fact do any work for C. Company or M. Company while he was in Vancouver from March 27 to March 29, although he travelled to Vancouver to do work for those clients on numerous other occasions. The purpose of this March 27 trip was to attend a board meeting for a third client, G. Company. On March 30, 1990, the Solicitor wrote to G. Company to request reimbursement for his expenses for attending the board meeting. This was in accordance with the usual arrangements with G. Company. His list of expenses included the ticket for $1,376 which had also been charged to C. Company and M. Company. G. Company's reimbursement cheque was deposited in the Solicitor's personal account upon receipt.

30. On September 21, 1990, the Solicitor travelled with his wife to attend a Canadian Bar Association annual meeting in London, England. Two economy class tickets were ordered on the Solicitor's behalf. They were charged by the Solicitor's secretary on the Solicitor's American Express card. The tickets cost $1,892, together with tax of $38.

31. On his expense report, the Solicitor claimed reimbursement for one business class ticket from Blakes', though he and his wife flew economy class. The Solicitor did not know the exact cost of two economy tickets as he usually flew business class and did not check what this cost would be. He was reimbursed by Blakes' for $3,435, the cost of one business class ticket.

32. In April 1987, five open economy return tickets from Toronto to Tampa were purchased on behalf of the Solicitor, three in the Solicitor's name and two in the name of another partner at Blakes', at a total cost of $2,959.60. The Solicitor charged the tickets to the account of V. Company, a client for whom the Solicitor was responsible. The client, V. Company, received no benefit as a result of the purchase of the tickets. The tickets were in fact never used at any time.

33. On June 26, 1987, the Solicitor issued an account to V. Company in the amount of $177,900 for fees and $126.52 for disbursements, for a total of $178,026.52. Of this amount, $168,200 was charged as a fee for the sale by V. Company of a business. The fee included a premium billing. The client paid the total amount of $178,026.52. Disbursements in respect of the matter totalling $3,677.86 - including the cost of the five economy class return tickets to Florida - were not shown on the account sent to the client. For internal purposes, the premium on the fee was reduced by the amount of the disbursements. The fact that the fee charged to the client included the cost of airline tickets to Florida was not disclosed to the client. As indicated in paragraph 32, the tickets were in fact never used at any time.

> Note by Committee: the contents of paragraphs 32 and 33 are relevant to paragraphs 69 to 73 below.

34. On each of May 27 and 28, 1987, an open business class air ticket, Toronto/Sydney/Brisbane/Sydney/Toronto was purchased in the Solicitor's name and on his behalf. The cost of each such ticket was $5,541. The Solicitor charged the combined total of $11,082 to the account of a client, M. Company.

35. The Solicitor had sent an account to M. Company a few months earlier, on February 6, 1987. That account was in the amount of $34,000 for fees and $3,908.93 for disbursements, but the account was reallocated internally as fees of $23,814.42 and disbursements of $14,094.51. This reallocation had the effect of creating a disbursement credit in the client's general account of $10,000.

36. On November 11, 1987, the Solicitor issued a further account to M. Company in the amount of $12,450 for fees and $1,661.76 for disbursements. On the same day, the Solicitor issued a separate internal disbursement only account in the amount of $10,000 for travel. This disbursement only account was charged against the disbursement credit in M. Company's general account.

37. The Solicitor originally intended to travel to Brisbane in June or July, 1987, to meet with senior executives and board members of M. Company in his capacity as a director and President of M. Company's Canadian subsidiary. That proposed trip was cancelled because, among other reasons, the Solicitor was unable to obtain a visa. The tickets were retained for a future trip. The trip was rescheduled for 1988 after the Solicitor had obtained a visa, but that trip was also cancelled. The trip was cancelled a third time after it was rescheduled in 1989.

38. By May, 1989, the tickets were two years old and could not be used. The Solicitor instructed his secretary to apply for a refund for the tickets. On May 24, 1989, the travel agency from whom the tickets were purchased issued a credit note to Blakes' in the amount of $11,082. On or about May 24, 1989, the credit note was deposited

into the Blakes' general account. On or about October 27, 1989, an equal amount was paid by Blakes' into the Solicitor's personal bank account. While the Solicitor says that the payment was made in error, the Solicitor acknowledges that he was reckless in not preventing or correcting the error.

39. On December 22, 1989, four economy airline tickets were purchased on the Solicitor's instructions at a cost of $1,893.60. These tickets were for the Solicitor and his wife and two children (the Solicitor's stepdaughter and a friend) to travel from Toronto to Vancouver on March 8, 1990, to return March 18, 1990.

40. The Solicitor planned to combine board meetings for two related corporate clients, G. Company and H. Company, with a ski holiday.

41. On the Solicitor's instructions, all four of the return airline tickets were charged to G. Company. The Solicitor was entitled to fly business class to board meetings of G. Company and H. Company and to obtain reimbursement from G. Company for the cost of his business class ticket, which would have cost about $1,500. The Solicitor was also entitled to have his wife accompany him once a year to Vancouver for a directors' meeting and to obtain reimbursement from G. Company. The Solicitor's wife did not usually accompany him to these meetings.

42. The Solicitor also requested reimbursement from his stepdaughter's friend's parents for the cost of her ticket. The Solicitor believes but does not specifically recall that he obtained such reimbursement.

43. In January or February, 1990, the board meetings were postponed until March 28, 1990. The Solicitor used the tickets for the planned ski holiday nevertheless. He and his wife and the two children landed in Vancouver on March 8 as planned. On March 9, the Solicitor met with two executives of G. Company for several hours and left Vancouver late on March 9. He returned to Toronto on March 18, 1990, as planned.

44. On April 21, 1988, two open first class return tickets from Toronto to London, England, were issued in the Solicitor's name and on his instructions at a cost of $9,314. The Solicitor arranged for this amount to be charged to a client, Ma. Co., at that time as he anticipated making two trips to London within a short period on behalf of Ma. Co..

45. The tickets were not used by the Solicitor at or shortly after the time at which they were purchased but, rather, were kept by his secretary in the file folder in which she kept unused tickets.

46. Upon reviewing a computer printout or "pre-bill" generated by Blakes' accounting department to assist billing partners in preparing accounts for the three-month period ending June 30, 1988, the Solicitor realized that the $9,314 expense could not be charged to Ma. Co. as a disbursement because the tickets had not been used. He instructed Blakes' accounting department to allocate $5,921.74 of this expense against a premium on the firm's March 31, 1988 account to Ma. Co., and to allocate the balance of $3,392.26 to the account of another client, W. Co. (for whom he was travelling frequently to

London at that time), which account was issued on August 15, 1988. The fact that the cost of the tickets was being charged to them was not disclosed to either client, as the amount charged to each client was not separately shown as a disbursement but was taken from a portion of the premium billing on the fee account.

47. One-half of one of the two return tickets was evidently used quite possibly on W. Co. business. The unused half of the same ticket has been located and returned to Blakes' who have applied for and received a refund.

48. On November 15, 1989, the other ticket was returned by the Solicitor's secretary, on the Solicitor's instructions, with a request for a refund. On June 25, 1990, the refund, in the amount of $4,657, was deposited into Blakes' general account. On the next day, June 26, 1990, a cheque in the amount of $4,657 payable to the Solicitor was requisitioned on his behalf. The cheque was issued and was deposited by his secretary in the Solicitor's personal bank account the next day. The Solicitor acknowledges that this refund should not have been placed in his personal bank account. While the Solicitor says that the payment was made in error, the Solicitor acknowledges that he was reckless in not preventing or correcting the error.

49. On or about June 1, 1990, the Solicitor instructed his secretary to order a business class ticket, Toronto/Paris/London/Toronto, leaving Toronto, June 11, returning to Toronto, June 18. He told his secretary that she should pick any other dates if the dates were unavailable. The ticket was to be charged to a client, Ma. Company, on the Solicitor's instructions. He also told his secretary that he was not planning a trip definitely at that time but wanted the ticket "to keep on hand" as he planned to travel this routing on business for that client at some time in the near future. The ticket was not used and was returned to Blakes' who obtained a refund from the airline.

50. The Solicitor at no time gave instructions to obtain a refund for any other ticket in the travel file folder, notwithstanding that there were always several tickets in the file.

COMMENT BY THE COMMITTEE

From the foregoing, and the evidence and submissions, the Committee drew the following conclusions:

(a) the solicitor travelled extensively;

(b) tickets were ordered and, from time to time, not used;

(c) unused tickets were kept in a file;

(d) the proliferation of tickets and recklessness of the Solicitor in attributing the cost of a particular ticket to a specific client created a situation in which the possibility of error was high;

(e) on occasion, clients were charged for tickets which were not used for purposes of that client;

(f) on several occasions, the Solicitor received payment for tickets for which he had not personally paid in the first instance:

paragraph 31	$ 3,435.
paragraph 38	$11,082.
paragraph 42	unknown
paragraph 48	$ 4,657.
	$19,174.

(g) the Solicitor personally benefitted to the extent of approximately $19,000.;

(h) the extent to which the Solicitor personally benefitted must be put into the context of expenses which he incurred but for which he received no reimbursement (see paragraph 53 estimated at $125,000.);

(i) the conduct of the Solicitor in knowingly or recklessly not correctly recording disbursements, in incorrectly charging disbursements to clients, and in obtaining personal benefit was wrong; and

(j) all clients who were wrongly charged for such expenses have been "generously" reimbursed with interest by Blakes'.

Particular 2(c)

"In 1989 and 1990, he recklessly failed to account to his partners with respect to funds advanced to him for the purpose of business-related travel."

51. Between November 6 and 19, 1989, the Solicitor travelled to Australia and Japan for both client and firm business and for business development purposes. Before he left on the trip, the Solicitor obtained from Blakes' a total of $14,723.79 worth of cash and travellers' cheques as travel advances for the trip. The Solicitor also carried substantial amounts of personal cash on the trip. The travel advances were charged to two clients at whose request the Solicitor was taking the trip. The travel advances were not itemized on the clients' accounts but were written off against premiums paid previously by the clients.

52. The Solicitor left a substantial amount of money in Australia when on his trip. This amount may have contained Blakes' funds intermingled with his personal funds. The money was returned to the Solicitor and deposited into his personal bank account. No attempt was made by the Solicitor to determine what portion, if any, of these monies belonged to Blakes' and to account to Blakes' for that portion, if any.

53. During the period from 1986 to 1991, the Solicitor incurred many business-related expenses for which he never claimed reimbursement from Blakes'. On occasion, this would involve an isolated expense such as a replacement airline ticket or a meal with clients. The Solicitor also incurred significant expenses resulting from payments made personally by him into RRSP's for his secretaries (above the remuneration paid by Blakes'), miscellaneous cash

incentive payments to his secretaries, the retainer at his own cost of a public relations consultant to improve marketing for Blakes' and the Solicitor, numerous firm social functions at the Solicitor's own cost, and contributions to political and charitable organizations at the request of clients or in furtherance of Blakes' client development. The Solicitor believes that these amounts, over a six year period, exceeded $125,000.

COMMENT BY THE COMMITTEE

From the foregoing and the evidence and submissions, the Committee drew the following conclusions:

(a) the failure of the Solicitor to correctly record disbursements was wrong;

(b) the intermingling of personal and firm funds was wrong;

(c) the failure to account to the firm for funds advanced and the failure to return appropriate funds to the firm was wrong;

(d) paragraph 53 simply states that the Solicitor "believes he expended $125,000. without reimbursement from the firm. Counsel were asked for a breakdown. The Committee was advised that approximately $12,000. constituted contributions to his secretary's RRSP. Since this was above the remuneration which the firm would provide to a secretary, it is not reasonable to include it in this category. The panel was also advised that the Solicitor included in that calculation $29,000. which he had paid for the services of a public relations consultant. Although the evidence was vague, the impression was left that this expenditure was more for personal public relations advice and for that reason, may not have been recoverable in any event. Deducting those questionable amounts, approximately $84,000. is left. The Committee was given no further particulars. Given the delay in the Solicitor's reconciliation of expense reports and his acknowledged extensive business entertainment, it is reasonable to accept that sum as unrecovered expenses; and

(e) Blakes' and the Solicitor have resolved their differences with respect to the intermingling of funds.

Particular 2(d)

"Between 1989 and 1991, inclusive, he improperly charged certain disbursements which were described, often inaccurately, as "delivery of documents" to clients for whom the disbursements were not actually incurred".

Delivery of Documents

54. The Solicitor charged a number of disbursements to clients which were described as "delivery of documents." For the most part, these charges were to reimburse the Solicitor for limousine charges incurred and paid for by the Solicitor's secretary on his behalf from his personal account respecting disbursements made on behalf of clients or the firm. The Solicitor maintained accounts with two limousine companies and used the services of other limousine companies occasionally.

55. The Solicitor often used limousines to deliver confidential documents relating to acquisitions and financings, for example, to private residences of partners, clients and other professionals or bankers during evenings and weekends. Clients specifically authorized the use of limousines for this purpose.

56. Limousines were also used by the Solicitor to travel to and from the airport. The Solicitor also used limousines in connection with business entertaining, for example, to pick up clients to go to dinners, the symphony, or baseball games with the Solicitor. On occasion, the Solicitor also used limousines to transport his secretary and himself to the office early in the morning, i.e. 5:30 a.m., and late in the evening, ie. after midnight.

57. The Solicitor received regular monthly accounts from the two limousine companies which he used regularly. The Solicitor's secretary paid these accounts by the Solicitor's personal cheque. Total charges were in the amount of approximately $10,000 a year.

58. Due to his work schedule, business charges were not allocated by the Solicitor to specific clients at the time the accounts were received by his secretary. The Solicitor's secretary, on the Solicitor's instructions, generally allocated limousine charges when preparing quarterly accounts. The Solicitor was then reimbursed.

59. In some cases, the client who should have been charged for the use of a limousine at a particular time could not be determined based upon records kept by and on behalf of the Solicitor. Thus, in some cases, the Solicitor paid for charges which should have been paid by a client or the firm, and in other instances, clients were charged for particular trips which were not taken on their behalf.

60. The Solicitor also admits that he instructed his secretary to describe certain limousine expenses as "delivery of documents" though a limousine was in fact used for one of the other purposes discussed above, such as client entertainment.

61. Nevertheless, the Solicitor's use of limousines was, for the most part, for legitimate client charges, client entertainment, or firm expenses.

62. Reimbursement cheques were deposited in the Solicitor's personal bank accounts by his secretary, often without his seeing them.

COMMENT BY THE COMMITTEE

From the foregoing, and the evidence and submissions, the Committee drew the following conclusions:

(a) the circumstances in which such disbursements were improperly described or charged arose because of the frequent use of limousines for a variety of purposes and the failure to reconcile in a timely fashion;

(b) the improper charging of disbursements was wrong;

(c) for the most part, while charges may have been improperly recorded, they were nonetheless for legitimate purposes; and

(d) the extent to which the solicitor personally benefitted is unknown; but in view of paragraph 61 above, would be minimal.

EVENTS BETWEEN APRIL AND JULY, 1991

63. Between April and July, 1991, the Solicitor engaged in conduct which tended to frustrate an investigation of the allegations against him. Since April, 1991, the Solicitor has been examined by, inter alia, the following psychiatrists: Dr. A.G. Swayze; Dr. H. Bloom; Dr. B. Orchard; Dr. S. Levine; Dr. S. Hucker. Dr. Hucker was a psychiatrist retained by the Society for the purposes of this proceeding.

64. The psychiatrists had, inter alia, the following comments to make with respect to the mental condition of the Solicitor during this period:

(i) Dr. A.G. Swayze reports,

> "It is my medical opinion that Mr. Donaldson has been experiencing two distinct depressions. The more recent and latter depression was precipitated by the allegations and has been severe in its intensity and rather short in its duration, namely nine months." (page 3)
>
> . . .
>
> "Mr. Donaldson went into a severe depression when the problems arose which led to the public disclosure of the allegations as already described and his behaviour reflected that medical fact. In my medical opinion, Mr. Donaldson was not in any position both immediately pre and most certainly post surfacing the allegations to be doing anything whatsoever. His judgment was flawed. He was simply not capable of exercising any judgment whatsoever. His life was under siege." (page 13)

(ii) Dr. B. Orchard reports,

> "After the complaints were made against him, he was desperate and thought in terms of suicide and even made preparations. His wife's efforts prevented this. He was experiencing depression with inability to sleep and inability to get up in the mornings, as well as extreme feelings of guilt, shame and worry." (page 5)

(iii) Dr. S. Hucker reports,

> "Between April and July 1991 Mr. Donaldson was suffering from a more obvious psychiatric disorder, namely a major depressive episode, and this could be subsumed under the term 'disease of the mind'. While I do not think that this would have rendered him incapable of 'understanding the nature and quality of his acts' or 'understanding the difference between right and wrong' it is possible that his judgment was compromised by his depressed and distraught emotional state." (page 2)

COMMENT BY COMMITTEE

In paragraph 63, the Agreed Statement of Facts indicates that the conduct of the Solicitor (particularized below) "tended to frustrate an investigation of the allegations against him". As indicated on page 2 of this report, the complaint was amended on the second day to allege that the particularized conduct "could have" tended to frustrate the investigation. Counsel did not seek an amendment to paragraph 63, but it should be similarly amended.

The excerpts from the reports of the psychiatrists contained in paragraph 64 of the Agreed Statement of Facts are cryptic. They hardly scratch the surface of the complexity of a man who was held in high esteem provincially, nationally and internationally, and yet had such low personal self-esteem. A comprehensive review of the medical and psychiatric history as reflected in Exhibit 3 enabled the Committee to understand the reactive depression experienced by the Solicitor after disclosure in April 1991.

An excerpt from pages 3 to 6 of Dr. Swayze's report is attached to these reasons as Schedule "B". The Committee was also mindful of the Niagara Falls analogy made by Dr. Swayze when the Solicitor terminated treatment in 1989.

This is not a situation where an otherwise healthy solicitor engages in wrongful conduct which he later tries to rationalize on the basis of the "reactive depression" often seen as a result of the disclosure of the wrongful conduct. The evidence of the psychiatrists was advanced primarily to explain the behaviour of the Solicitor which followed the disclosure of allegations against the Solicitor.

As indicated above, effective April 26, 1991, the Solicitor took a leave of absence from the firm. His solicitor, Stan Fisher, assisted him in making arrangements with the firm. The Solicitor was given an office in Mr. Fisher's firm. He was not permitted to remove documents from his office at Blakes'. His partner, Barry McGee, was given the responsibility of cleaning up his office.

The Solicitor was permitted to have the services of a previous secretary to assist him in answering the allegations. In his evidence describing the devastation he felt, he indicated that he thought "Stan Fisher and my wife were my only friends". He said that he was required to come up with answers "fast" but had no documents and little ability to do so.

The conclusions reached by the Committee with respect to all of the post-disclosure allegations follows at the end of paragraph 81.

Particular 2(e)

> "Between April and July, 1991, inclusive, after allegations of possible professional misconduct by the Solicitor had been reported to the Law Society by or on behalf of the Solicitor and the firm of which he was a partner, the Solicitor engaged in conduct which could have tended to frustrate an investigation of the allegations in the following ways:
>
> (i) He instructed his secretary to destroy correspondence which might have evidenced possible professional misconduct on his part."

65. The secretary who, in April, 1991, reported her concerns about the Solicitor's billing practices to the executive committee of Blakes' worked with the Solicitor from April, 1990, to February, 1991. In February, 1991, Beverley Rodenkirchen, who had previously worked as the Solicitor's secretary between 1972 and 1975 and again from September, 1985, to June, 1990, resumed working as the Solicitor's secretary.

66. As mentioned above, the Solicitor agreed to take a temporary leave of absence in late April, 1991, at which time the Law Society was notified by the Solicitor of the allegations which had been made about the Solicitor's billing practices and Lindquist was retained by Blakes' to conduct an investigation.

67. The Solicitor asked Blakes' whether the firm would have any objection to Ms. Rodenkirchen assisting him in compiling information to respond to the allegations. Blakes' had no objection, and Ms. Rodenkirchen continued to work with the Solicitor. For the most part, the Solicitor was working out of the offices of his then counsel, S.G. Fisher, Q.C., during this period and was in the process of obtaining information for Mr. Fisher so that the Solicitor could receive informed legal advice.

68. Ms. Rodenkirchen states that during a meeting in Mr. Fisher's offices, when Mr. Fisher was not present, the Solicitor told her to destroy any correspondence which she could find in relation to certain funds which he had left in Australia and which formed the subject matter of one of the allegations. While the Solicitor states that he does not recall the conversation, he has no reason to question the recollection of Ms. Rodenkirchen. No such correspondence was ever found or destroyed.

Particular 2(e)

(ii) "He drafted correspondence which he asked a client or former client to sign which contained a statement which was materially false to the Solicitor's knowledge."

69. During his leave of absence, the Solicitor dictated a number of letters in draft form which were designed to be retyped on clients' letterhead to be signed by clients. Ms. Rodenkirchen recalls typing about six such letters.

70. One of these letters was for the signature of Donald Stewart, the former principal of V. Company, a man who was in his mid-80's at the time. The letter prepared by the Solicitor for Mr. Stewart's signature contained favourable comment about the Solicitor's character based upon a longstanding personal and business relationship. Mr. Stewart has acknowledged that these comments were accurate. However, the letter also contained statements to the effect that Mr. Stewart was aware of the Solicitor's intention to travel to Florida to discuss future business matters with Mr. Stewart and had approved of V. Company being charged with the expense of five return airline tickets to Florida, as referred to in paragraphs 32 and 33.

71. The Solicitor took the letter to Mr. Stewart's home and asked him to read and sign it. Mr. Stewart acknowledged earlier discussions regarding the possibility of the Solicitor travelling to Mr. Stewart's Florida home and signed the letter. The Solicitor then asked Mr. Stewart's wife, as she was also a shareholder of V. Company at the relevant time, if she wished to read and sign the letter also. She read and signed the letter with no comment.

72. The next morning, the Solicitor told Ms. Rodenkirchen that Mr. and Mrs. Stewart had signed the letter. He then received a phone call from Mr. Stewart. Mr. Stewart told the Solicitor that he and his wife were troubled about the letter because it contained statements which were not true. Mr. Stewart said that they should not have signed the letter and insisted that it not be used. The Solicitor's mood changed dramatically as a result of the telephone call. He said to Ms. Rodenkirchen, "What the hell, I've got the letter", and put it in his V. Company file.

73. The Solicitor spoke to Mr. Stewart the following day. At that time, the Solicitor agreed that the letter had overstated the matter and that he would destroy it. The Solicitor ripped the letter up and never in fact ever made any attempt to use it. The Solicitor acknowledges, however, that he prepared the letter for Mr. Stewart's signature knowing that it contained some statements which were not accurate and intending to use it to assist him in responding to the allegation that he had improperly charged airline tickets to V. Company.

Particular 2(e)

(iii) "He removed a list of general account credit balances typed by his secretary on his instructions."

74. In the course of the meetings in Mr. Fisher's offices during the Solicitor's leave of absence, the Solicitor told Ms. Rodenkirchen that he was trying to paint a picture of someone who was very busy and out of control. At one point during this period, Ms. Rodenkirchen recalls the Solicitor telling her that he had found a list, which he had not realized he had kept, stapled to the back of one of his daytimers and had removed it. Ms. Rodenkirchen believes that this list was a list of general account credit balances. The list of general account credit balances remained available in the records of Blakes'.

Particular 2(f)

"On or about April 6, 1991, he engaged in conduct which could have tended to frustrate an investigation into his conduct in that he asked the chief financial officer of the firm in which he was a partner to obtain for him two cheque requisitions from the firm's records."

75. On Friday, April 5, 1991, Robert Taylor, Blakes' chief financial officer, received a telephone message from the Solicitor asking him to meet the Solicitor in Blakes' offices the following day, Saturday, April 6, to discuss four matters which had been raised with him at a meeting of the executive committee earlier that day. Mr. Taylor agreed to meet with the Solicitor at about noon the following day. The Solicitor identified the four matters of concern, which included the use of credit balances in the accounts of two clients, H. Company and I. Company.

76. Mr. Taylor consulted with Blakes' managing partner who instructed him to co-operate with the Solicitor and to provide him with copies of any relevant materials to assist him in explaining any potential problems in relation to the accounts in question.

77. At about noon on Saturday, April 6, 1991, the Solicitor and Ms. Rodenkirchen arrived. Mr. Taylor could not locate the cheque requisitions relating to H. Company and I. Company which would explain how the credits came to be used, and he informed the Solicitor that they would have to wait until Monday when Mr. Taylor would ask Blakes' senior accounting clerk to locate the cheque requisitions. Taylor believes that the Solicitor responded that he did not want to involve the accounting clerk and that if Mr. Taylor would show him where the cheque requisitions were filed he would see that they were removed. A memorandum drafted at the time by a partner at Blakes' to whom Taylor reported states that the Solicitor told Taylor that he would "look after" the requisitions if Taylor showed him where they were.

78. On the next day, Mr. Taylor called the Solicitor at his country home. The Solicitor said he would like to meet with Mr. Taylor that evening. The Solicitor said he would not stay up in the country because he did not think it was wise for him to be alone for long. He also told Mr. Taylor that he had a bottle of pills with him on the seat of his car.

79. The next morning, Monday, April 9, 1991, Mr. Taylor asked Blakes' senior accounting clerk to pull out the cheque requisitions in question. Mr. Taylor met with Blakes' managing partner and another member of the executive committee that afternoon. Mr. Taylor was again instructed to provide copies of the relevant material to the Solicitor. He was also instructed that in no circumstances should any attempt be made to alter or eliminate any of the firm's records relating to the concerns about the Solicitor's billing practices.

80. The following morning, Mr. Taylor gave the Solicitor copies of the cheque requisitions in question and other relevant material. The cheque requisitions indicated that on September 18 and 19, 1990, the Solicitor had obtained the funds in question as travel advances. Blakes' records indicate that the Solicitor instructed that these advances be written off when they were brought to his attention in January, 1991.

81. Mr. Taylor also told the Solicitor that he had given copies of the documents to Blakes' managing partner late the previous day. The Solicitor appeared a little shaken, but he said that Mr. Taylor had done what the Solicitor had not been able to bring himself to do.

COMMENT BY THE COMMITTEE

From the foregoing and from the evidence and submissions, the Committee drew the following conclusions:

(a) the conduct of the solicitor following disclosure was wrong;

(b) the solicitor's conduct in involving a client and member of the public was particularly reprehensible;

(c) the Committee queried the comment attributed to the Solicitor in paragraph 74 that he was "trying to paint a picture of someone who was very busy and out of control". The Committee expressed the concern that this characterization might be advanced to rationalize the Solicitor's pre-disclosure conduct. On the basis of the evidence, the Committee is satisfied that the Solicitor was extraordinarily busy in his practice and while not "out of control" prior to disclosure, was clearly not the best

manager. More importantly, the Committee is of the view that in the period of several months following disclosure, the Solicitor was out of control and was unable to exercise sound judgment;

(d) the Solicitor was eventually compelled to accept this lack of control. For medical reasons, he signed an undertaking not to practise on July 16, 1991; and

(e) none of the steps taken by the Solicitor did frustrate the investigation.

CONSIDERATIONS IN RECOMMENDATION AS TO PENALTY

During the hearing, Mr. MacKenzie submitted that the appropriate penalty should be a suspension of twelve to eighteen months. Mr. MacKenzie agreed that some credit could be given to the Solicitor for the thirteen months during which he had not practised prior to the hearing. He urged, however, that a significant portion of the penalty of suspension be prospective in order to deter other solicitors. In addition, he urged the inclusion of two conditions, one relating to the Solicitor's mental health, and the other relating to the form in which he might return to practice following his suspension.

On behalf of the Solicitor, Mr. Lockwood agreed that a suspension was appropriate, but that a period of fourteen months would be sufficient for all purposes. Furthermore, he urged the Committee to give the Solicitor credit for all of the period of time during which he had not been in practice since April 26, 1991. Mr. Lockwood did not accept that the two conditions advocated by Mr. MacKenzie were necessary, but he did not oppose them. Subject to the conditions, Mr. Lockwood asked that a suspension of fourteen months retroactive be imposed; in effect, the solicitor would be immediately permitted to practise.

At the conclusion of the hearing on May 21, 1992, the Committee released its recommendations and brief reasons were provided. The following is the recommendation made by the Committee:

1. That a period of suspension for eighteen months be imposed from April 26, 1991 to October 26, 1992.

2. That following the period of suspension, the Solicitor should be required to submit to an assessment by a psychiatrist acceptable to the Law Society and that he should not be permitted to resume practice until that psychiatrist confirmed in writing that he was capable of so doing.

3. That following the period of suspension, the Solicitor should be required to file a proposal as to the form in which he intended to return to practice and that that form must be acceptable to the Law Society.

4. In the event that the Solicitor and the Law Society were unable to agree with respect to compliance with either or both of the two conditions, that a committee of three Benchers should be appointed by Convocation in order to conduct a hearing and report to Convocation as to the means by which the disagreement should be resolved.

5. That the period of suspension be allocated as nine months on account of particulars 2(a) to (d) and nine months on account of particulars 2(e) and (f).

The Committee is mindful that there are three objectives of the discipline process:

(1) To protect the public from future harm.

(2) To maintain high ethical standards among members of the profession.

(3) To maintain public confidence in the profession.

The Committee was cognizant of the desire that recommendations of Committees and decisions of Convocation should have some level of consistency in order that the profession and the public have confidence that transgressions are treated not only seriously, but fairly. The Committee was, however, mindful that each complaint must be decided on the facts and that while helpful, other decisions of Convocation are only guidelines.

Convocation has recently dealt with two other cases of considerable notoriety. The Committee considered these two cases in arriving at its recommendations.

In the Cooper case, the Solicitor was charged with misappropriation of $233,485. from his firm. The Solicitor admitted the allegations against him. In effect, he acknowledged a planned and deliberate attempt to misappropriate substantial amounts of money over a prolonged period of time. The only appropriate penalty was imposed, namely disbarment. The facts bear no resemblance to those before the Committee.

In Rovet, the Solicitor was charged with three complaints: making false representations to a tribunal, assisting a client to prepare false documents, and charging personal expenses without the knowledge or consent of his partners.

The recommendations of the Committee (suspension of the Solicitor for a period of six months retroactive to the point when he voluntarily withdrew from practice) sparked considerable debate in Convocation. The appropriate penalty and the retroactivity portion of the suspension were clouded by the possibility that the Solicitor had, in fact, practised law notwithstanding his undertaking not to do so.

When the matter came before Convocation initially, a motion of disbarment was made. As a result, an adjournment was granted.

On resumption, a variety of penalties was considered. Further information was provided to Convocation on the issue of whether the Solicitor had been practising and whether the steps which he took in the intervening period were excluded from the undertaking not to practice.

Convocation ultimately imposed a period of suspension of one year from the date of Convocation. Convocation declined to make the suspension retroactive, but if one included the period during which the Solicitor did not practise, the total time was approximately 18 months.

The debate in Convocation as to the appropriate penalty was particularly contentious. Dissenting reasons were prepared separately by two Benchers.

The Committee is of the view that the conduct by Ernest Rovet should be distinguished from the conduct of Robert Arthur Donaldson - and hence the penalty should be different. Mr. Rovet's conduct included the deliberate formulation and implementation of a plan to mislead a tribunal and the deliberate inappropriate charging of what were clearly personal expenses. Some may believe that the penalty should have been greater. Others may believe that the original recommendation of the Committee was appropriate. Be that as it may, Mr. Rovet was penalized by a 12 month prospective suspension. No conditions were imposed on his return to practice.

As is indicated in this Report, the appropriate penalty for Robert Arthur Donaldson should be a total of 18 months' suspension, 4 months of which (after Convocation) would be prospective, together with conditions imposed on return to practice, as set out above.

The conduct of Robert Arthur Donaldson is serious, but relative to the conduct of Ernest Rovet, less serious. The distinction should be made in the portions of the period of suspension which are retroactive and prospective.

At the time the recommendation was made public, the Committee gave brief reasons. Those and others are as follows:

1. The Solicitor's conduct cannot be condoned.

2. The Solicitor received little personal benefit. What benefit he did receive as a result of inappropriate reimbursement of airline tickets, was based upon recklessness and not preventing or correcting the error. The reimbursement, however, was not part of a deliberate scheme on his part.

3. To the extent that clients were affected, particularly by the Solicitor's use of credits in general, the Committee was advised that Blake, Cassels & Graydon had "generously reimbursed" all clients, including interest. No outstanding claims remain between the Solicitor and the firm in this regard.

4. The conduct of the solicitor after his misconduct was discovered was incompetent or bungled in that none of his actions had any actual effect on the investigation. However, had any of them been successful, they could have had a serious effect on the thoroughness of the investigation and its results. With respect to the client who signed the letter drafted by the Solicitor, the Solicitor actually involved the client (and a member of the public) in his activities.

5. But for the extensive medical evidence particularly relating to the period between April and July 1991, the post-discovery activities by the Solicitor would have led to a much higher penalty.

6. The Solicitor exhibited early and continued remorse. His heart-felt and heart-rendering apology was made to the firm, the clients, his wife, and the Law Society.

7. The Solicitor has had an unblemished and sterling career. As was noted during the course of the hearing, the evidence of career contribution was the best and most persuasive that any of the members of the Committee had ever observed. The evidence consisted of both fellow professionals and clients.

8. The Law Society must be mindful of the public interest. In that connection, the evidence of the Solicitor's former clients was particularly compelling. The evidence of the five witnesses who were former clients is as follows:

   (a) Gerald Schwartz - President and Chief Executive Officer, Onex Corporation.

His letter from Exhibit 4, Volume 3, Tab 55 is attached in Schedule "C". Onex is an enterprise consisting of 6 divisions, operating in the U.S. and Canada, $3 billion operating costs, 24,000 employees. Mr. Schwartz had had numerous business transactions with the Solicitor. He described the Solicitor as having a "unique blend of business understanding and complete command of the law". The Solicitor gave "more than just legal advice". The witness had no reason to "doubt the honesty or integrity" of the Solicitor "up to today". He would have no hesitation in retaining him again.

(b) Jacqueline Hushion - Executive Director of the Canadian Book Publishers' Council Trade Association.

Her letter from Exhibit 4, Volume 3, Tab 33 is attached in Schedule "C". She had high praise for the Solicitor's leadership to the Association and its 50 corporate clients. She said that the Solicitor "gave the same energy and dedication and respect" to all members of the Association, big or small. She described him as a "teacher and a partner". She believed that with his leadership, he had "empowered" the Association and its members. She described him as exhibiting "caring and understanding never equalled from any other lawyer". She too had no hesitation about retaining the Solicitor again. She indicated that she had spoken to most corporate members and they too would retain him again.

(c) Jon Grant - President and Chief Executive Officer of the Quaker Oats Company of Canada.

His letter from Exhibit 4, Volume 3, Tab 27 is attached in Schedule "C". He indicated that he had known the Solicitor from the years when he lived in Burlington. He expressed the view that in the past, he may have been too quick to give up on some issues, but that with the Solicitor's input, he had come to "learn more about law and financial matters" which strengthened him in his own business affairs. He described how the Solicitor "brought vitality to the account". In his corporate structure, it was not his decision alone which counsel could/should be retained; but he would recommend that he be retained. He said he had "no reason to doubt (the Solicitor's) honesty and integrity".

(d) John Hunkin - Deputy Chairman and Chief Executive Officer of Wood Gundy.

His letter from Exhibit 4, Volume 3, Tab 32 is attached in Schedule "C". He described the Solicitor as "the finest legal counsel in the technical sense and in commercial astuteness". He believed that he "had never had better legal counsel". He would hire the Solicitor "today".

(e) Robert Bellamy - Vice Chairman, Burns, Fry.

His letter from Exhibit 4, Volume 3, Tab 3 is attached in Schedule "C". He had "grown up in the securities business: with the Solicitor. He had no reason to doubt the Solicitor's honesty or integrity. He indicated that if the Solicitor were permitted to practise, "the firm would hire him tomorrow".

The five letters referred to in testimony are a sampling of those contained in Volume 3 of Exhibit 4 which included a total of sixty-nine letters from business associates and former clients. All expressed similar sentiments.

9. The Committee is mindful of the interests of the public. The public consists of two segments: those who are former and future clients; and those by whom the Solicitor will never be retained, but who rely on the Law Society to ensure that members of the profession exhibit both honesty and integrity. The Committee is of the view that both segments of the public will be served by the recommended penalty.

10. The evidence of the Solicitor was compelling. His evidence (including his statement, cross-examination by Mr. MacKenzie and questions by the Committee) lasted for an hour. It was interrupted by loss of composure and sobbing. He apologized to his firm, his clients, his wife and the Law Society. His remorse was genuine. He explained, without condoning his errors.

He described the devastating effects on him since the disclosure - his dismay and bewilderment, his unhappiness at the manner in which he ran his life, his (now realized) low self-esteem and low self-confidence which drove him to work harder to gain more esteem and confidence on a professional level. He said that by the mid-1980's, he "couldn't stop, didn't want to stop and if (he) wanted to stop, (he) didn't know how to stop". He accepted full responsibility for his misconduct.

How has the process affected him? He has been emotionally devastated. The medical reports and Agreed Statement of Facts refer to his contemplated suicide. His evidence was that he was "forced" to resign from Blakes'.

The Solicitor explained how the letters which form Exhibit 4 had been obtained. The solicitor described how for a period of months until the fall of 1991, he had difficulty getting in the car to go downtown. He felt he was "barred from Bay Street". Dr. Swayze encouraged him as part of his rehabilitation to contact former colleagues and clients (many of whom had called him but with whom he was unable to speak). Dr. Swayze urged him to confront the allegations by speaking with those who had been affected by his conduct.

He was finally able to contact some of those people. The Committee is of the view that when he did, he made no attempt to hide, manipulate or condone the allegations. Some he asked for letters. Others volunteered. He said he made no calls out of Ontario. Of the 200 letters, more than 20 are from authors whose addresses are outside Ontario. Exhibit 4 consists of letters from lawyers at Blakes' (more than 50), other lawyers (more than 70), business associates and clients (approximately 70), politicians and personal friends (10).

The Solicitor asked for the privilege of being able to continue to practise. He recognized that he would probably continue to rely on the counsel of Dr. Swayze for "the rest of (his) professional career".

On the positive side, the Solicitor believes that the past 14 months have afforded him an opportunity he never had before: through counselling, introspection and the loyalty of his wife, he has gained the insight which was lacking for so many years. With this new insight, which the Committee believes is neither convenient nor transitory, the Solicitor believes he will practise without further transgressions.

11. It is extremely unlikely that there will be a recurrence of this or an occurrence of any other form of professional misconduct. The object of specific deterrence is achieved.

12. The seriousness of the penalty will serve as general deterrence to other members of the profession who might be inclined to follow a similar path. A suspension of a lengthy period of time is sufficient as a form of deterrence to other members of the Law Society. The ultimate penalty of disbarment is inappropriate and unnecessary. Likewise, the much lesser penalty of reprimand in Committee or in Convocation is insufficient given the seriousness of the misconduct.

13. As indicated above, the Committee considered the extent to which the period of suspension should be retroactive and prospective. Initially, the Solicitor's withdrawal from practice was effectively forced upon him by his firm. His withdrawal from partnership was ostensibly voluntary but, in his evidence, was forced. His undertaking not to practise dated July 16, 1991 was based on his realization that he could not practise. He believes that he is now capable of practising.

    Mr. MacKenzie suggested to the Committee that because the Solicitor's withdrawal from practice was for medical reasons, the Committee should not give that withdrawal as much weight as if the undertaking to refrain from practice was given solely as a result of the Society's investigation of the Solicitor. In the Committee's view, to accede to Mr. MacKenzie's suggestion would not encourage solicitors to be candid with the Society as to the reason(s) for withdrawing from practice pending a discipline hearing.

    The Committee does not accept as a general proposition that suspensions should always been retroactive. The reasons for withdrawal from practice are often unique. The Committee does however accept that where a solicitor withdraws from practice, undertakes not to practise, voluntarily reports to the Law Society, co-operates with the Law Society, and facilitates the prosecution of the charges by an Agreed Statement of Facts (particularly when the facts are complicated and would otherwise require extensive proof and a prolonged hearing), that those factors should be considered in assessing the extent to which retroactivity is imposed. All of those factors apply in this case.

    On the other hand, the Committee is of the view that a component of a suspension must be prospective. A solicitor ought not to be permitted to "wipe the slate clean" and return to practice the following day. A suspension until October 26, 1992 (totalling eighteen months) would leave the Solicitor in non-professional activity for a period of five months after the hearing, and if Convocation considers this report in June, a period of four months thereafter. Furthermore, the conditions of resumption of practice may only be met after the period of suspension.

14. As was noted by a different Committee in its report, the Committee (and Convocation) should be mindful to ensure that a transgressor is punished for the offence committed, not for the notoriety that the case has received.

15. The members of the Committee concluded that they were justified in having confidence that the Solicitor will be able to continue to make a contribution to other professionals, clients and other aspects of his community, as he has in the past. The Solicitor has asked that he be trusted to do so without future transgressions. The Committee recommends that he be trusted.

The Solicitor was called to the Bar in 1966.

"F. Kiteley"
Chair

June 11, 1992

There were no submissions by either counsel and the Report was adopted.

It was moved by Patricia Peters, seconded by Harvey Strosberg that the Recommendation as to Penalty contained in the Report that is, that the solicitor be suspended for a period of 18 months commencing from April 26, 1991 to October 26, 1992 with conditions, be adopted.

Submissions were made by both counsel on the issue of penalty.

CONVOCATION ADJOURNED FOR LUNCHEON AT 12:30 P.M.

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CONVOCATION RECONVENED AT 1:45 P.M.

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PRESENT:

Acting Treasurer (Kenneth Howie), Brennan, Curtis, Elliott, Epstein, Feinstein, Lamek, Hill, Lawrence, Legge, McKinnon, Manes, Mohideen, Murray, Palmer, Peters, Ruby, Strosberg, Wardlaw, Weaver and Yachetti.

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Mr. Lockwood continued with his submissions on the issue of penalty. Copies of a letter from Mr. Keith E. Boast, Q.C. dated June 25, 1992 were distributed to the Benchers.

Questions were taken from the Bench.

Convocation adjourned for a short recess and resumed with the Treasurer Allan Rock in the Chair.

LEGISLATION AND RULES COMMITTEE

Ms. Elliott presented the Report of the Legislation and Rules Committee of its meeting on May 14th, 1992.

TO THE BENCHERS OF THE LAW SOCIETY OF UPPER CANADA

IN CONVOCATION ASSEMBLED

The LEGISLATION AND RULES COMMITTEE begs leave to report:

Your Committee met on Thursday, the 14th of May, 1992, at 2:30 p.m. the following members being present:

M. Cullity (Chair), R. Cass, S. Lerner, and D. Murphy; P. Bell and J. Yakimovich also attended.

A.
POLICY

No items

B.
ADMINISTRATION

1. AMENDMENTS TO REGULATION 573 RE PARAGRAPHS 15A & 15B TO PROVIDE FOR FORMS 2,3,4, AND 5

Convocation on March 27th, 1992, adopted that part of the Lawyers Fund for Client Compensation Committee's Report that proposed amending Regulation 573 by adding 15A and 15B paragraphs after subsection 15(2) to provide for books and records and a new Form 4 "Investment Authority for Mortgages or other Charges" and a new Form 5 "Report on Investment of Mortgages or other Charges on Real Property" for members who invest clients' money in mortgages on real property. Convocation on April 24th referred this matter back for further study at the request of the Chair. After discussing the changes made since the April 9th, 1992, meeting the Committee approved paragraphs 15A and 15B of the Regulation 573 that provide for amendments to the Forms 2 and 3 and new Forms 4 and 5.

IT IS RECOMMENDED that amendments be made to Regulation 573 by adding the following paragraphs after subsection 15(2):-

15A.- (1) Every member who holds in trust mortgages or other charges on real property either directly or indirectly through a related person or corporation, shall maintain books, records and accounts in addition to the requirements of section 15, and as a minimum additional requirement shall maintain,

(a) a mortgage asset ledger showing separately for each mortgage or charge,
  (i) all funds received and disbursed on account of the mortgage or charge,
  (ii) the balance of the principal amount outstanding for each mortgage or charge,
  (iii) an abbreviated legal description or the municipal address of the real property, and
  (iv) the particulars of registration of the mortgage or charge;

(b) a mortgage liability ledger showing separately for each person on whose behalf a mortgage or charge is held in trust,
  (i) all funds received and disbursed on account of each mortgage or charge,
  (ii) the balance of the principal amount invested in each mortgage or charge,
  (iii) an abbreviated legal description or the municipal address of the real property, and
  (iv) the particulars of registration of the mortgage or charge; and

(c) a record showing a comparison made monthly of the total of the principal balances outstanding on the mortgages or charges held in trust and the total of all principal balances held on behalf of the investors as they appear from the books and records together with the reasons for any differences between the totals and supported by,
  (i) a detailed listing made monthly identifying each mortgage or charge and showing for each the balance of the principal amount outstanding, and

(ii) a detailed listing made monthly identifying each investor and showing the balance of the principal invested in each mortgage or charge.

(2) The books, records and accounts required to comply with subsection (1),

(a) shall be entered currently at all times, and the comparison required by clause (1) (c) shall be made monthly within fifteen days from the effective date of each comparison; and

(b) shall be entered in ink or a duplication thereof, or by machine, and shall be preserved for at least a ten-year period subsequent to the fiscal year of the member in which the records were prepared.

15B.- (1) Every member who receives money from a client or other person for investment by way of a loan secured, or to be secured, by a mortgage or other charge on real property, including those to be held in trust either directly or indirectly through a related person or corporation, shall maintain records in addition to the requirements of sections 14 and 15, and as a minimum additional requirement shall maintain a file for each mortgage or other charge which shall include,

(a) an investment authority in a form prescribed by the rules, signed by each person from whom money has been received for investment before the advance of that money to or on behalf of the borrower;

(b) a copy of a report on investment in a form prescribed by the rules, the original of which shall be delivered forthwith to each person for whom money has been invested;

(c) a copy of a declaration of trust where the mortgage or other charge is held in the name of a person other than the investor, an original of which shall be delivered forthwith to each person for whom money has been invested; and

(d) a copy of the registered mortgage or other charge.

(2) For the purposes of subsection (1),

(a) a member shall be deemed to have received money from a client or other person by way of a loan to be secured by a mortgage or other charge on real property where the member directs the client or other person to pay the money to be invested or loaned to an account other than a trust account in the name of the member;

(b) any change to a mortgage or other charge, any change in the rank on title of the mortgage or other charge, or any exchange or substitution of the mortgage or charge for another security shall be deemed to be a new investment by way of a loan to be secured by a mortgage or other charge;

(c) the aforementioned prescribed forms are not applicable to those clients who are chartered banks, registered trust companies, other similar financial institutions, or their subsidiaries that lend money on the security of real estate or to those clients or persons who are lending money on the security of real estate to persons who are not at arms length within the meaning of the Income Tax Act Canada);

(d) the file maintained pursuant to subsection 1 shall be made available, without restriction, for inspection by a Public Accountant licensed in Ontario in the course of that person's engagement pursuant to section 16 and any privilege attached to any documentation in the file shall be protected by the Public Accountant by virtue of this clause; and

(e) in the course of conducting such engagement for the purposes of this section, the Public Accountant shall be entitled to confirm independently particulars of any transaction.

2. AMENDMENT TO THE RULES UNDER THE LAW SOCIETY ACT UNDER SECTION 62(1)(26) PRESCRIBING THE FORMS PROVIDED FOR IN SECTION 15A AND 15B OF REGULATION 573

Convocation on March 27th, 1992, adopted that part of the Lawyers Fund for Client Compensation Committee's Report of March 12, 1992, that proposed changes to existing Forms 2 and 3 and proposed new Form 4 "Investment Authority for Mortgages or Other Charges" and Form 5 "Report on Investment of Mortgages or Other Charges on Real Property". At the request of the Chair this matter was referred back by Convocation for further study by the Committee.

IT IS RECOMMENDED that the wording of the existing Forms 2 and 3 be revised as indicated in the attached Forms 2 and 3 and that the proposed new Forms 4 and 5 be prescribed in the Rules as set out in the attached Forms 4 and 5.

(Pgs. B1 - B11)

3. FRENCH VERSION OF ONTARIO REGULATION 59/86

It was reported that the French version of Ontario Regulation 59/86 made under the Legal Aid Act was before the Committee. Both the Legal Aid Committee and the Clinic Funding Committee are to consider this Regulation at their next meetings.

IT IS RECOMMENDED that the French version of Ontario Regulation 59/86 prepared by the Office of the Registrar of Regulations be presented to Convocation for approval. A copy of the Regulation is attached.

(Pgs. B12 - B100)

4. DEPARTMENT BUDGET

The Secretary of the Committee reported to the Committee on this matter.

C.
INFORMATION

1. COMMUNICATIONS MEMBER AND PUBLIC SURVEYS

The Chair of the Communications Committee has asked each Standing and Special Committee of Convocation to consider the Report as it relates to their work. The Committee instructed staff to advise the Chair of the Communications Committee that the Legislation & Rules Committee has no suggestions concerning the surveys.

ALL OF WHICH is respectfully submitted

DATED this 29th day of May, 1992

"S. Elliott"
for Chair

Attached to the original Report in Convocation file, copies of:

B-Item 2 - Copies of revised Forms 2 and 3 and proposed new Forms 4 and 5.
(Marked B1 - B11)

B-Item 3 - Copy of the French version of Ontario Regulation 59/86.
(Marked B12 - B100)

THE REPORT WAS ADOPTED
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STANDING COMMITTEES 1992-93

It was moved by Paul Lamek, seconded by Roger Yachetti that the appointments of the Committee memberships be approved subject to change by any Bencher of preferences that were not reflected.

Carried

STANDING COMMITTEES - 1992-93

Research and Planning	-	T. Bastedo (Chair) R. Manes (Vice-Chair) L. Brennan (Vice-Chair) M. Cullity S. Elliott A. Feinstein F. Mohideen C. McKinnon J. Lax A. Lawrence M. Somerville C. Curtis P. Lamek
Equity in Legal Education	-	S. Goudge (Chair) D. Scott (Vice-Chair) J. Spence P. Copeland D. Bellamy S. O'Connor H. Strosberg
Libraries & Reporting	-	D. Murphy (Chair) R. Topp (Vice-Chair) M. Weaver B. Pepper A. Feinstein P. Peters M. Hickey R. Bragagnolo G. Farquharson M. Cullity
Admissions	-	R. Carter (Chair) F. Mohideen (Vice-Chair) S. Goudge L. Brennan K. Howie P. Lamek D. Lamont S. Lerner C. Curtis

Communications	-	D. Bellamy (Chair) T. Bastedo (Vice-Chair) R. Yachetti (Vice-Chair) S. Elliott J. Palmer R. Murray A. Lawrence R. Kemp-Welch V. Krishna S. Thom F. Kiteley
LEGAL EDUCATION	-	P. Lamek (Chair) D. Lamont (Vice-Chair) M. Cullity (Vice-Chair) L. Legge R. Murray T. Bastedo C. McKinnon R. Yachetti P. Epstein S. Goudge A. Scace L. Brennan V. Krishna M. Somerville
UNAUTHORIZED PRACTICE	-	D. O'Connor (Chair) P. Peters (Vice-Chair) M. Weaver G. Farquharson P. Copeland R. Cass M. Hickey N. Finkelstein N. Graham
Legislation & Rules	-	M. Cullity (Chair) J. Palmer (Vice-Chair) R. Cass A. Lawrence S. Lerner S. Thom
French Language Services	-	P. Peters (Chair) R. Topp (Vice-Chair) J. Palmer (Vice-Chair) M. Hickey P. Copeland R. Kemp-Welch
Women in the Legal Profession	-	S. Elliott (Chair) F. Mohideen (Vice-Chair) J. Spence T. Bastedo E. Goodman M. Cullity S. Goudge J. Lax

Professional Standards	-	C. McKinnon (Chair) R. Murray (Vice-Chair) M. Weaver (Vice-Chair) L. Legge D. O'Connor P. Furlong R. Manes J. Wardlaw D. Murphy F. Mohideen N. Graham
County & District Liaison	-	R. Bragagnolo (Chair) C. Curtis (Vice-Chair) A. Feinstein C. Campbell P. Epstein A. Cooper
Lawyers Fund	-	C. Ruby (Chair) V. Krishna (Vice-Chair) N. Finkelstein (Vice-Chair) K. Howie L. Brennan S. Lerner S. Thom H. Strosberg
Discipline Policy Section	-	H. Strosberg (Chair) D. O'Connor (Vice-Chair) D. Scott (Vice-Chair) E. Levy C. Ruby J. Lax P. Peters R. Topp D. Bellamy N. Finkelstein J. Palmer R. Yachetti S. Thom N. Graham
Insurance	-	C. Campbell (Chair) R. Bragagnolo (Vice-Chair) M. Hickey (Vice-Chair) S. Elliott A. Feinstein P. Epstein A. Scace K. Howie R. Cass J. Wardlaw M. Somerville
Investments	-	J. Wardlaw (Chair) A. Feinstein (Vice-Chair) R. Bragagnolo P. Furlong

Legal Aid	-	F. Kiteley (Chair) P. Copeland (Vice-Chair) R. Carter (Vice-Chair) L. Brennan C. Curtis
Finance & Adminstration	-	K. Howie (Chair) J. Wardlaw (Vice-Chair) A. Feinstein (Vice-Chair) T. Bastedo M. Weaver B. Pepper R. Bragagnolo R. Manes D. Bellamy S. Lerner D. Lamont P. Furlong R. Murray D. Murphy
Professional Conduct	-	M. Somerville (Chair) E. Levy M. Hickey S. Elliott D. Scott C. Ruby V. Krishna C. McKinnon D. O'Connor J. Spence C. Campbell N. Finkelstein R. Topp H. Strosberg
Certification	-	R. Yachetti (Chair) R. Manes (Vice-Chair) D. Scott P. Furlong E. Levy A. Cooper
Clinic Funding	-	P. Epstein (Chair) J. Lax (Vice-Chair)

Mr. Rock withdrew from Convocation and Mr. Howie resumed as Acting Treasurer with the continuation of the Donaldson matter.

Mr. MacKenzie replied to submissions made by Mr. Lockwood.

Counsel, the solicitor, the reporter and public withdrew while Convocation deliberated.

It was moved by Philip Epstein, seconded by Harvey Strosberg that the solicitor be suspended for 2 years commencing September 9, 1991 plus conditions.

It was moved by Roger Yachetti, seconded by Laura Legge that the solicitor be suspended for 3 years commencing September 9, 1991 plus conditions.

Withdrawn

Counsel, the solicitor, the reporter and the public were recalled and informed of the motion for an increased penalty.

The solicitor requested an adjournment to consider the matter.

Convocation resumed and Mr. Lockwood requested an adjournment of the matter.

It was moved by Julaine Palmer but failed for want of a seconder that Convocation not be seised.

Convocation adjourned so that the solicitor could reconsider his position.

Convocation reconvened and was informed by Mr. Lockwood that his client wished to proceed.

There were further submissions by both counsel.

Counsel, the solicitor, the reporter and the public withdrew.

The Epstein/Strosberg motion that the solicitor be suspended for 2 years commencing September 9, 1991 was carried.

It was moved by Colin McKinnon, seconded by James Wardlaw that the solicitor be suspended for 18 months commencing September 9, 1991.

Not Put

It was moved by Patricia Peters, seconded by Harvey Strosberg that Convocation adopt the Recommendation as to Penalty contained in the Report.

Not Put

Counsel, the solicitor, the reporter and the public were recalled and informed of the decision of Convocation. The Acting Treasurer gave brief oral Reasons and indicated that written Reasons would follow.

CONVOCATION ADJOURNED AT 6:15 P.M.

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Confirmed in Convocation this day of , 1992.

Treasurer