

**Minutes for the Meeting of the Benchers
April 30th and May 1st, 2009
Good Spirit Lake Resort, Canora, SK**

Present:

Karl Bazin, Q.C., Susan Barber, Q.C., Thomas Campbell, Brent Cotter, Q.C., Richard Danyliuk, Q.C., Victor Dietz, Q.C., Peter Hryhorchuk, Robert Kennedy, Q.C., Ronald Kruzeniski, Q.C., Eileen Libby, George Patterson, Peggy Schmeiser, James Taylor, Karen Topolinski, Evert Van Olst, Gregory Walen, Q.C., Janice Wall, Alma Wiebe, Q.C. and John Will

In attendance:

Tom Schonhoffer, Q.C., Donna Sigmeth and Melanie Hodges Neufeld (Tim Huber – Friday only, Pam Kovacs – Thursday afternoon only)

1. CALL TO ORDER

The meeting was called to order at 8:40 a.m. on April 30, 2009.

2. APOLOGIES FOR ABSENCE

Deb Schmidt, Bill Holliday and Paul Korpan, Q.C. sent their regrets. Alma Wiebe, Q.C., was unable to attend the Thursday morning session, but arrived by noon. Rick Danyliuk, Q.C., Susan Barber, Q.C. and Greg Walen, Q.C. did not attend Sentencing on Friday.

3. ACCEPTANCE OF AGENDA

Agenda accepted as circulated. Ron Kruzeniski, Q.C. asked to speak on the libraries. Janice Wall asked to give a report on the Executive Compensation Committee.

4. AGENDA ITEMS TO BE CONSIDERED IN CAMERA

No agenda items to be discussed in camera.

5. ADOPTION OF MINUTES

A motion to adopt the Minutes dated February 12 and 13, 2009, was presented by Sue Barber, Q.C., and seconded by Evert Van Olst, subject to the following amendments:

- Karen Topolinski was not present at the February 12, 2009 meeting.
- In section 8. vi., the second paragraph should be amended to read:

The draft presentations for the Federation of Law Societies were prepared for approval by the Benchers.

- In section 8.vi., words should be added to indicate that the Benchers considered sending a public representative to the Federation meeting.

The motion was carried unanimously.

There was a general discussion about the form and content of the Minutes, including the following:

- There was concern that too much discussion is recorded in the Minutes and that specific comments were sometimes attributed to specific individuals, particularly in the Minutes of March 6, 2009. The Minutes will be amended and brought back before the Benchers for approval at the June 11 and 12, 2009 meeting.
- The Minutes of March 6, 2009 should be amended to reflect that they are a continuation of the Closed Meeting of the Benchers dated February 12 and 13, 2009.
- There was discussion over the two levels of in-camera meetings: the first is non-public discussion with staff present and the second is discussion without staff present. It was agreed that the terminology utilized should be amended both on the Agenda and on the Minutes and be called “non-public” or “closed to the public.” A discussion without staff present will remain an “in-camera” discussion.

A motion to amend the Minutes for the in-camera Meeting of the Benchers dated February 12 and 13, 2009 to be renamed the Closed Meeting of the Benchers, and to amend section 7.i. to delete “In Camera Bencher Discussion” and instead read “Closed Bencher Discussion” presented by Brent Cotter, Q.C., and seconded by Janice Wall. The motion was carried unanimously.

6. MATTERS ARISING FROM THE MINUTES

Clarification was requested of the following motion in section 8. iv.:

A motion to amend the report to remove the right to “de novo” appeal to a quorum of the Benchers and to instead appeal to the Court of Appeal, provided the Hearing committee is comprised of Benchers and former non-lawyer Benchers presented by Sue Barber, Q.C., and seconded by Brent Cotter, Q.C.

As written, the motion appears to exclude members from sitting on Hearing Committees. The Discipline Restructure Report only recommended adding former non-lawyer Benchers. Discussion included the following:

- Including members has been working well and the Law Society has a large pool of volunteers.
- Training should be provided to the Hearing Committee pool to alleviate the fear of not having Benchers on the Committee and to provide consistency.
- Saskatchewan is the only jurisdiction that involves all Benchers at Sentencing.

A motion to request the Minister to change the legislation to add former Benchers was presented by Ron Kruzeniski, Q.C., and seconded by Brent Cotter, Q.C. Tom Campbell abstained due to the premise of “de novo” appeal. The motion was carried.

It is understood that the Motion in question was intended to approve the recommendations of the Discipline Restructure Report and was not intended to exclude members from the legislation.

7. AGENDA ITEMS FOR DISCUSSION AND DECISION

1. Audited Financial Statements

Audited financial statements for the period ended December 31, 2008 were presented to the Benchers for approval at the Annual General Meeting.

A motion to accept the financial statements was presented by George Patterson, and seconded by Tom Campbell. The motion was carried unanimously.

2. Appointments

i. Law Foundation

A list outlining current Law Society Appointments to the Law Foundation was provided to the Benchers for consideration. A motion to appoint Pat Quaroni as Vice-Chair was presented by Karen Topolinski, and seconded by Greg Walen, Q.C. Vic Dietz, Q.C. abstained. The motion was carried.

3. Accommodation Policy

A *draft* model Accommodation Policy was provided to the Benchers for consideration by Karen Topolinski. It was noted that reference to the Law Society should be removed in the model policy. Eileen Libby thanked Karen Topolinski for her work on the Accommodation Policy.

A motion to adopt the Accommodation Policy as model policy for use of the members was presented by Karen Topolinski, and seconded by Sue Barber, Q.C. The motion was carried unanimously.

4. Rule Amendments

i. CPLED Fees

There had been no increase in fees since CPLED started four years ago and the costs continued to escalate. SKLESI consulted the Executive about approving an increase from \$1,600 to \$2,200.

A motion to approve the amendment to Rule 820 (4) to increase CPLED fees for the 2009 course in the amount of \$2,200 on first reading was presented by Ron Kruzeniski, Q.C., and seconded by Evert Van Olst. The motion was carried unanimously.

A motion to approve the amendment to Rule 820(4) to increase CPLED fees for the 2009 course in the amount of \$2,200 on second reading was presented by Tom Campbell, and seconded by Sue Barber, Q.C. The motion was carried unanimously.

ii. Client Identification and Verification Rules

The *amended* Client Identification Rules were given second reading. A motion to adopt the Rules as amended was presented by Rick Danyliuk, Q.C., and seconded by Sue Barber, Q.C. The motion was carried unanimously.

5. Admissions & Education

a. Application for a Waiver

Jeffrey Kerr of Lloydminster applied to article in Saskatchewan and requested a waiver of Rules 159, 160 and 171 which would allow him to article in Saskatchewan and attend the CPLED course in Alberta. The application was approved in principle by A & E.

A waiver of these Rules must be passed by two thirds of the Benchers. A motion to accept the waiver was presented by Ron Kruzeniski, Q.C., and seconded by Karen Topolinski. Sixteen were in favour, one was opposed. The motion was carried.

b. Admission as a Lawyer

Trenea Knight applied for a waiver of Rule 181.1 (b)(ii) to allow her to take the oath in a different form as follows:

*... I will uphold the Rule of Law, **the interests of the Crown, the Indigenous Peoples of Canada, the citizens of Canada and the Province of Saskatchewan.***

The application was approved in principle by the Admissions & Education Committee because the proposed oath does not detract from the existing oath and does not contain an objectionable content. The committee was also of view that if the proposed oath contained something contrary to public interest or was intentionally controversial, the committee would not approve.

Ms. Knight also requested waiver of the waiver fee, which was not recommended by the Admissions & Education Committee.

The concern was that the existing oath is generic and that such requests invite very subjective evaluation.

A waiver of these Rules must be passed by two thirds of the Benchers. A motion to accept the waiver was presented by Ron Kruzeniski, Q.C., and seconded by Sue Barber, Q.C. Five were in favour, nine were opposed and one abstained. The motion was not carried.

c. Policy Rules for Mandatory Professional Development

Policy and Rules for Mandatory Professional Development were provided to the Benchers and presented by Greg Walen, Q.C. The document included in the materials was mistakenly not the final version, but set out the principles, subject to minor amendments.

A motion to adopt Rules 250 - 253, and 871 on first reading was presented by Evert Van Olst, and seconded by Greg Walen, Q.C. The motion was carried unanimously.

A motion to adopt Rules 250 - 253, and 871 on second reading was presented by Greg Walen, Q.C., and seconded by Rick Danyliuk, Q.C. The motion was carried unanimously.

A motion to approve the Policy as it exists, with amendments to be approved by the Admissions & Education Committee presented by Greg Walen, Q.C., and seconded by Brent Cotter, Q.C. The motion was carried unanimously.

d. Library Review Task Force

Ronald Kruzeniski, Q.C. reported on the ongoing work of the Library Review Task Force. A memo outlining preliminary survey results based on 172 responses was distributed. Recommendations will likely be provided to the Benchers at June Convocation.

6. Special Fund Claim

A Memo from Donna Sigmeth recommended payment of a special fund claim against Herb Robertson.

Questions and concerns included:

- Whether the Law Society has a policy on awarding interest. Nominal interest was awarded previously because the claim involved an investment.
- Whether the claim was less than the actual loss.

A motion to pay the sum of \$14,000, to the Estate of Nicholas Kosteniuk was presented by George Patterson, and seconded by James Taylor. Three were opposed. The motion carried.

7. New Lawyer Bencher

A *draft* Resolution for a new lawyer Bencher was provided to the Benchers for consideration.

The following amendments were approved:

- The word “not” should be deleted from the third sentence of the fifth paragraph and the sentence should then read “...passed by more than two-thirds of the members present...”
- The definition of “new lawyer” should read “means a lawyer who has been admitted to the practice of law for less than 10 years when elected.”

8. Limited Scope Representation

A memorandum from Pamela Kovacs was provided to the Benchers for consideration and direction.

As the Law Society does not have the resources to review this matter at this time, Brent Cotter, Q.C. volunteered the Ethics Committee to review the ethical and professional standards issues.

Meeting adjourned at 11:59 a.m. on April 30, 2009.



Meeting reconvened at 1 p.m. on April 30, 2009.

9. REPORTS

i. President's Report

Karl Bazin, Q.C. reviewed his written report.

Peggy Schmeiser advised that the role of public representatives may be on the Agenda at the Federation meeting in Winnipeg and that she has been approached for input by Alberta. Peggy wants guidance from the Benchers with respect to her engagement in these matters and the Law Society's participation.

There was some confusion about this matter as follows:

- Whether it is approved by the Federation Executive or council as an agenda item
- Whether it is approved by a program subcommittee for the meeting
- Whether it will be a proposal by an informal group to the program subcommittee
- Whether the LSS needed to take an active role

The Benchers agreed that more information was required.

ii. Executive Director's Report

Tom Schonhoffer, Q.C. reviewed his written report.

OTHER ITEMS FOR DISCUSSION

Brent Cotter, Q.C., who serves on the National Accreditation Committee and the Common Law Degree Committee, asked for direction from the Benchers with respect to credit for distance education from foreign jurisdictions. For example, students in Canada can take law classes from foreign universities via the internet. The present view of the NCA is that students should be entitled to this credit.

The Benchers are not in favour of purely correspondence style distance education from foreign jurisdictions. The Benchers are concerned that people could be admitted at a lower standard than those who attended Canadian Law Colleges.

10. IN CAMERA SESSION – MEETING OF THE BENCHERS

The staff was excluded at 2:10 p.m.

11. ITEMS FOR INFORMATION

The following items were submitted for information:

- i. Minutes of the Admissions & Education Committee held via conference call on February 9, 2009.**

- ii. **Minutes of the Executive Committee meeting held January 21, 2009 via conference call.**
- iii. **Minutes of the Ethics Committee held October 30, 2008.**
- iv. **Minutes of the Joint Discipline Executive/Discipline Restructure/Reform Committee held December 3, 2008.**
- v. **Minutes of the Professional Standards Committee Meeting held December 4, 2008.**
- vi. **Letter from David McKeague, Q.C.**
- vii. **Law Foundation's Annual Report for the year ended June 30, 2008.**

Meeting adjourned at 3:30 p.m. on April 30, 2009.



Meeting reconvened at 10:00 a.m. on May 1, 2009.

8. SENTENCING – RONALD PRICE-JONES

Peter Hryhorchuk acted as Chair and invited Tim Huber to make submissions for the Law Society and James Taylor to make submissions for Mr. Price-Jones.

A transcript of the proceedings was prepared by Shaina Zuck, CSR, of Royal Reporting, Regina.

12. DATE AND PLACE OF THE NEXT MEETING

The next Convocation is scheduled for June 11th and 12th in Regina. The AGM is scheduled for the evening of June 11th.

Thomas J. Schonhoffer, Q.C.
Executive Director

TJS/el