

Minutes for the Meeting of the Benchers

Held Friday, September 23, 2022, In-Person and via Zoom

Hotel Saskatchewan, Regina

Present:

James Korpan, K.C., John Morrall, Foluke Laosebikan, K.C., Andrea Argue, K.C., Jonathan Bodvarson, Sonia Eggerman, James Fyfe, Suzanne Jeanson, Lynda Kushnir Pekrul, William Lane, Jeff Lee, K.C., James Morrison, K.C., Tiffany Paulsen, K.C., Zachery Solomon, Adam Touet, Rochelle Wempe and Julie Ann Wriston

In attendance:

Tim Brown, K.C., Tim Huber, Kara-Dawn Jordan, K.C., Valerie Payne, Andrea Johnston, Christine Johnston, Jody Martin, Stephanie Kievits, CPA, CA, Pamela Harmon, CPA, CA, Pamela Kovacs, Kiran Mand, Paul Westgate and Chinye Talabi

Erin Kleisinger, K.C., Federation Council and Barbara Mysko, Chair of the Equity & Access Committee. Greg Walen, K.C., Hearing Administrator, joined the meeting from 9:00 – 9:30 am.

The meeting was called to order at 8:58 am.

1. Approval of the Agenda

1.1 Apologies for Absence

Apologies for absence were received from Dean Martin Phillipson and Nolan Kondratoff.

1.2 Confirmation of Agenda

Moved by Andrea Argue, K.C. seconded by Suzanne Jeanson, to approve the Agenda as written. The motion carried.

1.3 Bencher Conflict of Interest Disclosures

James Korpan, K.C. declared a conflict in relation to the Provincial Court Judicial Council of Saskatchewan appointment.

Jonathan Bodvarson, Lynda Kushnir-Pekrul, William Lane, Foluke Laosebikan, K.C., John Morrall, James Morrison, K.C., Tiffany Paulsen, K.C. and Rochelle Wempe declared conflicts in relation to the Hearing Committee Roster appointments.

1.4 Committee Reports and Documents Which Are Not Available to the Public

Documents and Reports related to the following items were not available to the public.

- i. Appointments
- ii. Statement on Commitment to Reconciliation
- iii. Informational Items – Operational reports, Committee Reports and reports from Representatives of outside organizations

2. Decision Items

2.1 Appointments

- i. Provincial Court Judicial Council of Saskatchewan

James Korpan, K.C. excused himself from this Agenda item and John Morrall took over as Chair for this portion of the meeting.

The Saskatchewan Provincial Court Judicial Council is a body created under *The Provincial Court Act, 1998*. Its two main purposes are to recommend candidates for appointment to the Provincial Court and hear complaints about the conduct of Provincial Court judges.

The appointment of James Korpan, K.C. will expire on December 31, 2022 and the Executive Committee recommended re-appointment of James Korpan, K.C. for continuity.

Moved by Lynda Kushnir Pekrul, seconded by Tiffany Paulsen, K.C. that James Korpan, K.C. be re-appointed for another year on the Saskatchewan Provincial Court Judicial Council from January 1, 2023 to December 31, 2023. The motion carried.

- ii. Hearing Committee Roster

Benchers applicants Jonathan Bodvarson, Lynda Kushnir Pekrul, William Lane, Foluke Laosebikan, K.C., John Morrall, James Morrison, K.C., Tiffany Paulsen, K.C. and Rochelle Wempe left the meeting for this Agenda item.

It is intended that the Hearing Committee Roster will be comprised of up to 30 members, with a relatively equal number of Benchers, members of the Law Society and members of the wider public.

Hearing Administrator, Greg Walen, K.C. reported that recruitment for members of the Law Society and members of the wider public is underway and 14 applications have been received to date. The closing date for applications is October 10th, and following consideration of the applicants, a recommendation for appointments to the Hearing Committee Roster will be brought before the Benchers.

In relation to Benchers candidates, 9 out of 14 eligible Benchers expressed interest. All nine were interviewed by Laurie Johnson, Director of Human Resources and Hearing Administrator, Greg Walen, K.C., and were considered against a matrix based on a consistent set of assessment criteria.

All nine applicants are being recommended for appointment. Although it is intended that candidates be appointed for a term of three years, these appointments are recommended to extend to the end of the candidates' current Benchers terms, such that Benchers member appointments align with Benchers terms.

Moved by Jeff Lee, K.C, seconded by Zachery Solomon, that the recommended Benchers be appointed to the Hearing Committee Roster, namely Jonathan Bodvarson, Nolan Kondratoff, Lynda Kushnir Pekar, William Lane, Foluke Laosebikan, K.C., John Morrall, James Morrison, K.C., Tiffany Paulsen, K.C. and Rochelle Wempe, effective September 23, 2022 until the expiry of their current Benchers terms. The motion carried.

2.2 Regulation

i. Code of Professional Conduct

Redlined amendments to the *Code of Professional Conduct* regarding the "Direct Supervision Requirement" were brought before the Benchers at April Convocation. Since that time, the Model Code Sub-Committee, SLIA and the Discipline Policy Committee have reviewed the *draft* amendments and feedback was incorporated for final consideration by the Future of Legal Services Committee.

The Future of Legal Services Committee reviewed the *draft* at its September meeting and is recommending amendments for approval. A memo dated September 12, 2022 from Administration setting out the proposed amendments, as well as a draft article and outline for a continuing professional development workshop, was included in the package.

Moved by Adam Touet, seconded by Foluke Laosebikan, K.C, that amendments to the *Code of Professional Conduct* regarding Direct Supervision Requirements be approved, as written. The motion carried.

A motion to grant second reading on the same day was presented by Suzanne Jeanson, seconded by Will Lane. The motion carried.

On second reading, the motion was presented by Lynda Kushnir Pekar, seconded by Rochelle Wempe, that amendments to the *Code of Professional Conduct* regarding Direct Supervision Requirements be approved, as written. The motion carried.

2.3 Statement on Commitment to Reconciliation

One of the four short-term priorities set by the Truth and Reconciliation Advisory Group is for the Law Society to make a formal commitment to reconciliation and develop a framework to put that commitment into action.

A formal *draft* Statement was developed under the oversight of the Equity & Access Committee in consultation with the Truth & Reconciliation Advisory Group and was then brought before the Benchers at June Convocation for discussion and feedback. The Statement was approved in principle, subject to exchange on a few clarifying items identified.

Potential language adjustments were noted in several parts and Administration followed up with respect to the items identified and prepared options for consideration. The Statement was then brought back to the Truth and Reconciliation Advisory Group and the Equity & Access Committee for further review and advice.

A memo from Administration with the *draft* Statement, as well as an overview of the drafting process, feedback, and next steps, was included in the package.

Discussion:

- It was noted that we should avoid stylistic edits at this point, given the amount of review that has gone into the statement, as edits that seem stylistic may actually be substantive.
- It was suggested that rather than using the language “express regret” we utilize “apologize,” as the former seems less sincere and has been criticized in other forums. There was general support for this amendment.
- Academic debate regarding the rule of law of was referenced and a preference noted to remove the reference.
- An explanation was given with respect to a suggested edit to language referencing the Law Society as part of the legal system. The suggested edit was to ensure that the citations support the Statement.
- It was suggested to include hyperlinks to relevant items mentioned in the statement such as the *United Nations Declaration on the Rights of Indigenous Peoples*. There was general support for this addition.
- Concern was expressed that including the 38 recommendations coming out of the Reconciliation Mapping Exercise in Annex I to the Statement makes it too long. The recommendations themselves are very important and should be given their own space. There was also some concern about how some of the recommendations may be understood. It was noted that a focus on the spirit and intent of the recommendations is important and that we will work with the Office of the Treaty Commissioner to develop indicators.
- It was also noted that it is important that we do not lose sight of the recommendations, and that we are tracking and reporting on progress in a manner that is accessible to the public. A publicly accessible action plan was considered to be an appropriate means of achieving this. This could involve a dedicated web presence. The action plan will be made available for review following further exchange with the Office of the Treaty Commissioner.

- It was noted that communication of the statement is important. It was suggested that prior to releasing the Statement, the Law Society should reach out to the Federation of Sovereign Indigenous Nations as well as the Métis Nation - Saskatchewan to invite discussion, including whether there is interest in involvement with the release. There was general agreement with this suggestion.

Moved by Lynda Kushnir Pekrul, seconded by Sonia Eggerman, that the Law Society Statement on Commitment to Reconciliation as written be adopted, subject to replacing “express regret” with “apologize” in the first bullet, including relevant hyperlinks and referencing, but removing the 38 recommendations received from the Office of the Treaty Commissioner from Annex I while additional work is done with the Office of the Treaty Commissioner to develop indicators and a more accessible public format. 15 in favour, 0 opposed, 2 abstentions. The motion carried.

3. Discussion Items

3.1 Society Governance

i. Standing Reports

a. President’s Report

James Korpan, K.C. reported the following:

- Attended at a College of Law Ceremony
- Executive Committee met to prepare for Convocation

b. Executive Director’s Report

The Executive Director’s report was posted to the Benchers Portal on September 9th.

c. Federation Council Report

Erin Kleisinger, K.C. advised that Council has not met since the last Convocation and provided an update on the following:

- The last Federation Council meeting was in June and the next meeting will occur in October along with the Federation Conference in Saskatoon.
- The Conference will focus on a competency based approach to education and the Sherbrooke study will be discussed.
- She has been nominated by the Western Law Societies to transition to the Federation Executive.

ii. Financial Reporting

a. Financial Statements

Financial statements for the month ended August 31, 2022 were provided for review.

If we ignore the unrealized losses related to investments for the moment, we are tracking very close to budget in terms of overall deficit.

Investments rebounded in July, but then markets declined once again in August. While they remain above where they were in June, the market value is roughly 9% below the original cost of the investments.

The transition to a new asset mix is expected to occur before year end.

b. Investment Reports

The August 31, 2022 TDAM investments Summary was provided for review.

The Quarterly Investment Report for the period April 1 to June 30, 2022 was also included for review.

iii. 2022 Workplan

An updated workplan was provided for review.

4. Strategic Initiative Updates

4.1 Strategic Initiatives

i. Expanded Approach to Competency (Goal 1)

a. Firm Regulation

i. Practice Management Assessment Tool

The Law Society is in the last quarter of the first year of the 3-year roll out. Including the soft launch participants, a total of 132 firms have completed or are currently engaged with the Assessment Tool process.

At its meeting on September 13, 2022, the Firm Regulation Committee reviewed the trends and outcomes flowing from the implementation of the Assessment Tool one year ago. A significant majority of firms who have completed the Assessment Tool to date have specifically identified one or more areas of priority to work on and areas of

excellence to highlight across all 5 Practice Management Principles. These results demonstrate active and positive engagement with the self-assessment process. We also continue to receive positive feedback regarding the process overall and suggestions for improvement through the anonymous survey.

The focus in Year 1 has been on sole practitioner and small firms. We have identified several areas of priority that are shared by both sole practitioners and small firms. The average lowest scoring Practices and Objectives, along with the identified Areas of Priority, are evaluated by Administration to identify:

- themes to guide development of resources where needed (for individual firms or all firms as needed);
- areas of support required; and
- gaps to strengthen the Assessment Tool over the course of implementation.

The individual reports are also reviewed to identify specific requests for resources or supports, as well as noting any feedback items. Administration is following up with individual Designated Representatives, as needed, on a regular basis.

Administration has engaged in an internal review of the Firm Culture component of the Assessment Tool and supporting resources in advance of Committee consideration at its next meeting and in anticipation of the joint meeting between Firm Regulation and Equity and Access pending scheduling this fall.

ii. Increased Access to Legal Services (Goal 5) and Future of Legal Services Initiative

a. Limited Licensing Pilot

Further to the September meeting of the Future of Legal Services Committee, there are 18 approved participants in the Pilot with 2 additional applications anticipated and 1 denied. Of these approvals, risk assessments include 1 low risk, 12 medium-low risk and 5 medium-high risk. Based on reporting information received to the beginning of August, the Pilot has served 1,062 clients across 47 different locations within Saskatchewan and outside of our two major urban centres, Regina and Saskatoon. Additional insights include:

- 19 areas of law have been identified which can be broadly grouped into four areas of practice: (i) administrative tribunal and provincial court matters (+ related enforcement of orders); (ii) general corporate, contract and title transfer services; (iii) future planning services – basic wills, powers of attorney and health care directives; and (iv) family services.

- \$0 - \$300 is the summary of fee ranges identified with some billing also on a contingency basis.
- 4 days to 4 months is the summary of service times with some participants utilizing contingency or annual service agreements.

Five consumer reviews have been received regarding one participant, all of which have been positive. Finally, two meetings of the Code of Conduct Working Group have been held with follow-up and exchange with expert, Brent Cotter, K.C., to advance next steps. Consultation with educational institutions and SLIA/CLIA remains ongoing.

b. Exemptions

Administration is advancing consultation and follow-up in relation to four categories of exemption to align with the policy framework for exemptions and to ensure coherence with respect to limited licensing. Proposed amendments will be brought forward in due course, with one early amendment in the Code of Conduct identified in relation to university law students as part of the direct supervision amendment brought forward for motion.

5. Informational Items

An information package was included in the materials.

6. New Business

There was no new business

7. Consent Agenda

The Consent Agenda includes items which are not considered controversial and will collectively be enacted by one motion at Convocation.

7.1 Approval of the Bencher Minutes

Moved by Lynda Kushnir Pekar, seconded by Julie Ann Wriston, that the Minutes of the Bencher meeting held June 24, 2022 be approved, as written. The motion carried.

Moved by Julie Ann Wriston, seconded by Foluke Laosebikan, K.C. that the *In-Camera* Minutes of the Bencher meeting held June 24, 2022 be approved, as written. The motion carried.

8. Meeting Finalization

8.1 Review Actions to be Taken

8.2 Meeting Evaluation

The link to the meeting survey was posted to the Benchers Portal during Convocation and the Benchers were given a few minutes to complete the survey.

8.3 Next Meeting

The Budget Meeting and President's Reception has been scheduled for Friday, October 28, 2022 in Regina.

8.4 Motion to Adjourn

Foluke Laosebikan, K.C. moved that the meeting be adjourned. Rochelle Wempe seconded.

The public meeting adjourned and the *Closed* Agenda portion of the meeting commenced.

TIMOTHY J. BROWN, K.C.
Executive Director