

MINUTES OF CONVOCATION

Thursday, 28th September, 2017
8:30 a.m.

PRESENT:

The Treasurer (Paul B. Schabas), Anand, Armstrong, Banack, Beach (by telephone), Bickford, Braithwaite, Bredt, Burd, Callaghan (by telephone), Clément (by telephone), Cooper, Copeland (by telephone), Corbiere (by telephone), Corsetti, Criger, Donnelly, Earnshaw, Epstein, Evans, Falconer, Ferrier, Furlong, Galati, Go (by telephone), Goldblatt, Gottlieb, Groia, Haigh, Hartman, Horvat, Howell, Krishna, Leiper, Lem (by telephone), Lerner, Lippa, Manes (by telephone), McDowell, McGrath, Merali, Mercer, Murchie, Nishikawa, Papageorgiou, Pawlitzka, Porter, Potter (by telephone), Richardson, Richer, Rosenthal, Ross, Sharda, Sheff (by telephone), Sikand, Spurgeon, C. Strosberg, H. Strosberg, Swaye, Troister, Udell, Vespry, Walker (by telephone), Wardle and Wright.

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Secretary: James Varro

The Reporter was sworn.

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IN PUBLIC

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TREASURER'S REMARKS

The Treasurer welcomed everyone joining Convocation by webcast.

The Treasurer recognized that Convocation is meeting in Toronto, which is a Mohawk word that means "where there are trees standing in the water". The Treasurer also acknowledged that Convocation is meeting on the traditional territory of the Mississaugas of New Credit First Nation. He also acknowledged the Haudenosaunee and recognized the long history of all First Nations in Ontario and the Métis and Inuit peoples. He thanked the First Nations people who lived and live in these lands for sharing them with us in peace.

The Treasurer welcomed guests to the Lamont Learning Centre.

INDIGENOUS CEREMONY

The Treasurer welcomed Chief Myeengun Henry and Senator Constance Simmonds attending for the ceremony.

Chief Henry performed a smudging ceremony, and Senator Simmonds provided a teaching on the sacred bundle and presented a buffalo skull to the Law Society on behalf of the Métis Nation of Ontario. Chief Henry performed the ceremony to polish the eagle feathers and performed a pipe ceremony.

The Treasurer expressed his gratitude for the ceremony and for the participation of Chief Henry and Senator Simmonds. The Treasurer also thanked the Indigenous Advisory Group for their guidance.

TREASURER'S REMARKS

The Treasurer advised on the protocol for Convocation in the Lamont Learning Centre.

The Treasurer welcomed Kathleen Waters and Duncan Gosnell of LAWPRO to Convocation.

The Treasurer reported on his attendance at the Opening of the Courts on September 12, 2017.

The Treasurer congratulated Justice Harry S. LaForme on receiving an honorary Doctor of Laws degree at the call to the bar ceremony on September 27, 2017.

The Treasurer reported on the Law Society's Canada 150 Event on September 27, 2017. The Treasurer thanked bencher emeritus Constance Backhouse, Professor Jim Phillips and Professor Philip Girard who assisted with the development of the program, and Mary Shena for organizing the event.

The Treasurer advised that the Law Society's Review Panel on Indigenous Issues held a meeting in Sioux Lookout and noted its importance to the work of the Panel. The Treasurer thanked Chief Clifford Bull of the Lac Seul First Nation, Ogichidaa Francis Kavanaugh, Grand Chief Council Treaty#3, Derek Fox, Deputy Grand Chief, Nishnawbe Aski Nation and other participants for a meaningful and valuable meeting.

The Treasurer noted the first steps in implementing the recommendations of the report Working Together for Change: Strategies to Address Issues of Systemic Racism in the Legal Profession and the positive feedback received from the professions.

The Treasurer expressed condolences to the family of former bencher Justice Allen M. Linden, Q.C., who passed away on August 23, 2017.

The Treasurer congratulated Minh Luu on her 30 years of service at the Law Society.

The Treasurer noted upcoming events, including Access to Justice Week from October 23 to 27, 2017. The Treasurer advised that on October 24, 2017 a special event will mark the completion of the McMurtry Gardens of Justice. The Treasurer thanked appointed bencher Seymour Epstein and his wife Justice Gloria J. Epstein for their efforts in spearheading this project.

The Treasurer announced the Remembrance Day ceremony on November 8, 2017 which will include an honorary call to the bar of students who died in World War II.

The Treasurer announced the resignation of Robert Lapper, Chief Executive Officer, effective October 31, 2017, and thanked him for his commitment and service to the Law Society. The Treasurer welcomed Diana Miles as Acting Chief Executive Officer.

The Treasurer noted the motion on today's agenda to change the name of the Law Society of Upper Canada and the larger communications strategy, the first step of which is today's motion with its focus on the public interest.

MOTION – CONSENT AGENDA – Tab 1

It was moved by Mr. Burd, seconded by Ms. Horvat, that Convocation approve the consent agenda set out at Tab 1 of the Convocation Materials.

Carried

Tab 1.1 – DRAFT MINUTES OF CONVOCATION

The draft minutes of Convocation of June 29 and August 15, 2017 were confirmed.

Tab 1.2 – MOTIONS

THAT Raj Anand be reappointed to the Law Commission of Ontario Board of Governors for a term of three years effective October 15, 2017.

THAT Jack Braithwaite be reappointed as the Law Society's representative on the Canadian National Exhibition Association for a term of one year commencing October 26, 2017.

Carried

Tab 1.3 – EXECUTIVE DIRECTOR'S REPORT ON ADMINISTRATIVE CALLS TO THE BAR

THAT the Report of the Executive Director of Professional Development and Competence listing the names of the call to the bar candidates be adopted.

Carried

AUDIT & FINANCE COMMITTEE REPORT

Mr. Bredt presented the Report.

Re: Changes to Law Society Administrative Fees

It was moved by Mr. Bredt, seconded by Ms. Donnelly, that Convocation approve increases to the Reinstatement Fee, the Late Payment Fee, the Late Filing Fees for the Lawyer Annual Report/Paralegal Annual Report and Continuing Professional Development (CPD) and the service fee for returned cheques with effect from January 1, 2018.

Carried

Re: Law Society of Upper Canada Financial Statements for the Six Months ended June 30, 2017

Mr. Bredt presented the report for information.

LAWPRO REPORT

Ms. McGrath presented the Report.

Re: 2018 Insurance Program

It was moved by Ms. McGrath, seconded by Ms. Murchie, that Convocation approve the program of insurance offered by LAWPRO for 2018 as set out in the report at Tab 3 of the Convocation Materials.

Carried

For Information:

- LAWPRO Financial Statements for the Six Months ended June 30, 2017
- Law Society of Upper Canada Financial Statements for the Six Months ended June 30, 2017
- LibraryCo Inc. Financial Statements for the Six Months ended June 30, 2017
- Investment Compliance Reporting
- Other Committee Work

STRATEGIC COMMUNICATIONS STEERING GROUP REPORT

Mr. Falconer presented the Report.

Re: Renaming the Law Society of Upper Canada

It was moved by Mr. Falconer, seconded by Mr. Sikand, that Convocation approve that the Law Society of Upper Canada / Barreau du Haut-Canada change its name to the Law Society of Ontario / Barreau de l'Ontario effective January 1, 2018, and request that the Government of Ontario make the required amendments to the *Law Society Act*.

It was moved by Mr. McDowell, seconded by Mr. Anand, and accepted by the mover and seconder of the main motion that the motion be amended to read as follows:

That the words "Upper Canada" be discarded from the name Law Society of Upper Canada/Barreau du Haut-Canada, and that Convocation vote to adopt a new name which does not include "Upper Canada" at the next sitting of Convocation.

Carried

ROLL-CALL VOTE

| | | | |
|-------------|---------|--------------|---------|
| Anand | For | Leiper | For |
| Armstrong | Against | Lem | Against |
| Beach | Against | Lerner | Against |
| Bickford | For | Lippa | For |
| Braithwaite | For | McDowell | For |
| Burd | For | McGrath | For |
| Clément | For | Merali | For |
| Cooper | For | Mercer | For |
| Corbiere | For | Murchie | For |
| Corsetti | For | Nishikawa | For |
| Criger | For | Papageorgiou | For |
| Donnelly | For | Richardson | For |
| Earnshaw | For | Richer | Against |
| Epstein | Against | Rosenthal | For |
| Evans | Against | Sharda | For |
| Falconer | For | Sheff | For |
| Ferrier | For | Sikand | For |
| Galati | Against | Spurgeon | Against |
| Goldblatt | For | C. Strosberg | For |
| Groia | For | H. Strosberg | For |
| Haigh | For | Troister | For |
| Hartman | For | Vespry | Against |
| Horvat | For | Walker | For |
| Howell | For | Wardle | For |
| Krishna | Against | | |

Vote: 38 For; 11 Against

PROFESSIONAL REGULATION COMMITTEE REPORT

Mr. McDowell presented the Report.

Re: Proposed Amendments to the Rules of Professional Conduct Regarding Competence and the Provision of Legal Opinions

It was moved by Mr. McDowell, seconded by Mr. Lerner, that Convocation approve the amendments to paragraphs [8] and [9] of the Commentary to Rule of Professional Conduct 3.1-2 (Competence) as set out at Tab 5.1.1 (English) and French (Tab 5.1.2).

Carried

Re: Proposed Amendments to the Rules of Professional Conduct Arising from the Model Code of the Federation of Law Societies of Canada – Dishonesty, Fraud by Client or Other

It was moved by Mr. McDowell, seconded by Mr. Lerner, that Convocation approve amendments to Rule 3.2-7 (Dishonesty, Fraud etc. by Client or Others) as set out at Tab 5.2.1 (English) and Tab 5.2.2 (French).

Carried

Re: Report of the Alternative Business Structures Working Group

Mr. Mercer presented the Report.

It was moved by Mr. Mercer, seconded by Mr. McDowell, that Convocation approve that licensees may deliver legal services through civil society organizations, such as charities and not for profit organizations, to clients of such organizations in order to facilitate access to justice, provided that:

- a. civil society organizations that are funded by Legal Aid Ontario, including clinics as defined under the *Legal Aid Services Act*, 1998, are to be expressly excluded from Law Society regulation of the legal services described in paragraph 18;
- b. existing permitted provision of legal services, legal information and support services are not to be affected by Law Society regulation of the legal services described in paragraph 18;
- c. legal services as described in paragraph 18 are to be provided at no cost to the client by way of fee for service, membership fee or otherwise; and
- d. civil society organizations that are subject to Law Society regulation of the legal services described in paragraph 18 may not refer clients to lawyers or paralegals in exchange for donations, payments or other consideration; and

That Convocation approve the development of specific regulation of legal services through civil society organizations as described above for Convocation's consideration and approval.

Carried

Re: Sixth Report of the Advertising and Fee Arrangements Issues Working Group

It was moved by Mr. Mercer, seconded by Mr. Troister, that Convocation approve amendments to the Rules of Professional Conduct regarding price advertising for legal services with respect to residential real estate transactions as set out at Tabs 5.4.1 and 5.4.2 (English and French).

Carried

Mr. Udell abstained.

For Information:

- 2017 Lawyer Annual Report

PARALEGAL STANDING COMMITTEE REPORT

Ms. Haigh presented the Report.

Re: Proposed Amendments to the Paralegal Rules of Conduct – Dishonesty, Fraud by Client or Others

It was moved by Ms. Haigh, seconded by Ms. Criger, that Convocation approve the amendments to Rule 3.02(4) of the Paralegal Rules of Conduct set out at Tab 6.1.1 (English) and Tab 6.1.2 (French).

Carried

Re: Proposed Amendments to the Paralegal Rules of Conduct – Language Rights

It was moved by Ms. Haigh, seconded by Ms. Criger, that Convocation approve the amendments to Rule 3.02 of the Paralegal Rules of Conduct set out at Tab 6.2.1 (English) and Tab 6.2.2 (French).

Carried

For Information:

- Amendments to the Paralegal Guidelines
- 2017 Paralegal Annual Report

REPORTS FOR INFORMATION ONLY

TRIBUNAL COMMITTEE REPORT

- Tribunal 2017 First and Second Quarter Statistics

REPORT FROM THE ACTION GROUP ON ACCESS TO JUSTICE (TAG)

CONVOCATION ROSE AT 1:20 P.M.