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CONVOCATION

IN PUBLIC SESSION

THURSDAY, MAY 25, 2017 - 10:30 a.m.

OSGOODE HALL, TORONTO

1 CONVOCAATION ATTENDANCE

2 Treasurer - Paul Schabas

3	Vern Krishna	Gisèle Chrétien
4	Suzanne Clément	Seymour Epstein
5	Jan Richardson	Gerald Sheff
6	Catherine Strosberg	Larry Banack (ph.)
7	Patrick Furlong	Gary Lloyd Gottlieb
8	Ron Manes (ph.)	Ross Murray
9	Judith Potter (ph.)	Clayton Ruby
10	Gerald A. Swaye	Bradley H. Wright
11	Peter Beach	Fred Bickford
12	Jack Braithwaite	Christopher D. Bredt
13	Robert Burd	Paul Cooper
14	Cathy Corsetti	Janis Criger
15	Teresa Donnelly	Ross F. Earnshaw
16	Robert Evans	Julian Falconer (ph.)
17	Rocco Galati	Howard Goldblatt (ph.)
18	Joseph Groia	Michelle Haigh
19	Carol Hartman (ph.)	Jacqueline Horvat
20	Brian Lawrie	Janet Leiper
21	Jeffrey Lem (ph.)	Michael Lerner
22	Marian Lippa	Virginia MacLean (ph.)
23	William McDowell	Susan T. McGrath
24	Isfahan Merali	Malcolm Mercer
25	Barbara Murchie	Sandra Nishikawa

1	Gina Papageorgiou	Susan Richer
2	Jonathan Rosenthal	Andrew Spurgeon
3	Sidney Troister	Jerry Udell
4	M. Anne Vespry	Tanya Walker
5	Peter Wardle	Laurie H. Pawlitza
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1 --- Upon commencing at 10:30 a.m.

2 -- TREASURER'S REMARKS:

3 TREASURER SCHABAS: Good morning,
4 everybody. Again, for some of you, welcome to
5 Convocation and welcome to anyone who is joining us by
6 the public webcast today.

7 Bonjour, bienvenue au Conseil en
8 personne et par la webémission publique.

9 I want to start with our territorial
10 acknowledgment, that we're together in Toronto, which
11 is a Mohawk word which means, "Where there are trees
12 standing in the water," and to acknowledge that we are
13 on the traditional territories of the Mississaugas of
14 the New Credit and the First Nation and the
15 Haudenosaunee people.

16 And I just urge everyone to pause and
17 reflect on that when I say that, to think about our
18 obligations and our relationships with our Indigenous
19 peoples with whom we share our land.

20 I want to welcome everyone to
21 Convocation in the Lamont Learning Centre again.
22 First, for any members of the professions, the public
23 and the press who are attending, we ask that you not
24 take photographs. You may unobtrusively audio record
25 for the purpose of confirming the accuracy of remarks,

1 and I note that there will be a transcript and an
2 archived webcast of the meeting, both of which will be
3 made public and available through our website in the
4 coming days. Again, this is a business meeting, so the
5 public are here to observe, but not to participate.

6 The instructions for those of you who
7 are on the telephone are as usual. We will be placing
8 you in what we call lecture mode so that you are muted,
9 but we will come out of lecture mode to hear from you
10 at appropriate times. When we do that and you don't
11 wish to speak, do press star 6 so that we don't hear
12 the background noise of your dog barking or whatever
13 else is happening where you are.

14 So I'd like to first pause now and
15 confirm who is on the telephone. I've got a few names;
16 I'll read those out and then I'll see who else may have
17 joined us. Larry Banack?

18 MR. BANACK: Here, thank you.

19 TREASURER SCHABAS: Paul Copeland?
20 Howard Goldblatt?

21 MR. GOLDBLATT: Here, thank you.

22 TREASURER SCHABAS: Carol Hartman?

23 MS. HARTMAN: Yes, good morning.

24 TREASURER SCHABAS: Jeffrey Lem?

25 MR. LEM: Present.

1 TREASURER SCHABAS: Thank you. Virginia
2 MacLean?

3 MS. MacLEAN: Present.

4 TREASURER SCHABAS: Thank you. Harvey
5 Strosberg? Is there anybody whose name I haven't
6 called that is on the phone?

7 MR. MANES: Ron Manes.

8 TREASURER SCHABAS: Thank you, Mr.
9 Manes.

10 MS. POTTER: Good morning. Judith
11 Potter.

12 TREASURER SCHABAS: Judith Potter?

13 MS. POTTER: Yes.

14 MR. FALCONER: Julian Falconer. Good
15 morning, Treasurer.

16 TREASURER SCHABAS: Good morning.

17 Anybody else? Good.

18 Then I have a few introductory remarks.

19 First, I want to thank all of those Benchers who came
20 at eight o'clock this morning to our Diversity and
21 Inclusion training session, is I guess what I'll
22 describe it as, with Ritu Bhasin, as part of our
23 commitment to diversity and inclusion amongst us as
24 Benchers.

25 We had an extraordinary session with

1 her. I think it was enlightening for all of us, even
2 those who have experienced her in the past. It wasn't
3 nearly enough time and it demonstrated to us that we
4 all have a lot of work to do and it's a lifelong
5 process.

6 For those of you who didn't make it, I
7 just want to say you missed something very important
8 and, you know, you should talk to your colleagues about
9 what went on and get the information that you can
10 because it's a critical piece of how we function
11 effectively as Benchers.

12 A few outreach matters that I want to
13 just tell you about. On May the 11th, I hosted the
14 Treasurer's Dinner for the Federation of Ontario Law
15 Associations at their spring plenary in Ottawa.

16 The agenda at their conference was
17 ambitious and included a number of initiatives
18 emanating from the Law Society which I think is
19 testament to our very busy agenda these days.

20 There were panels on the dialogue on
21 licensing, on real estate, the family law services
22 review, and an important discussion on libraries. And
23 I want to thank Benchers Ross Earnshaw and Peter Beach
24 for their participation and also note the work of
25 senior staff, Rob Lapper, Diana Miles and Sheena Weir

1 for their participation on various panels.

2 The future direction of libraries, in
3 particular, was, I gather, a very lively discussion,
4 but an optimistic and forward-looking one and I think
5 we're in a good space with FOLA and our partners on the
6 future of libraries in Ontario.

7 Mr. Lapper and I, as well as Michelle
8 Haigh and Sheena Weir, were invited to attend the Law
9 Society of British Columbia's planning conference in
10 Victoria.

11 The theme of the conference was
12 alternate legal services, and British Columbia was very
13 much interested in learning from us about our
14 experience with paralegals, and Michelle and Sheena
15 participated in an excellent panel describing our
16 experiences with paralegal regulation and that's
17 exactly what B.C. is now looking at.

18 Malcolm Mercer and Mark Benton of BC's
19 Legal Aid Plan led a discussion on unmet legal needs.

20 In a couple of weeks I will be attending
21 the Law Society of Alberta's planning session and
22 participating in a panel on articling and legal
23 education. I think it's fair to say that there is keen
24 interest in our ambitious agenda across the country on
25 these issues, that other provinces are watching us

1 closely and want to be kept involved and up-to-date and
2 I'm happy to do that. I think we benefit from their
3 input as well, so that we appreciate that what we're
4 doing, of course, will impact on other provinces as
5 well.

6 The Law Society Awards Ceremony was held
7 last night and I want to congratulate the winners
8 again. The Law Society Medallists were Patrick Case,
9 Larry Chartrand, Sarah Colquhoun, Mike Eizenga, Marie
10 Henein, Joanna Radbord and Gary Yee.

11 The Lincoln Alexander Award recipient
12 was Thora Espinet; the Laura Legge Award winner was
13 Breese Davies; the William Simpson Distinguished
14 Paralegal Award went to Dena Castro; and the Shirley
15 Denison Award went to Grace Alcaide Janicas.

16 These were all extraordinary people, it
17 was an extraordinary event to hear from them, and I
18 would say, in particular, many of those names may not
19 be known to most of us and they are the unsung
20 heroes of our profession. And without taking anything
21 away from those we know, in my view the most deserving
22 and why these awards are so important at the Law
23 Society. So I want to just again congratulate the
24 award winners.

25 Upcoming Pride Celebration is on June

1 the 1st. This year's program will feature a panel
2 discussion on the Just Society Report released by Egale
3 Canada in 2016. And on June 6th, we have our access
4 awareness event, and the title of that is The UN
5 Convention on the Rights of Persons with Disabilities,
6 The View From Canada. Speakers will critically reflect
7 on the impact of the UN process for proposed federal
8 accessibility legislation and other disability rights
9 initiatives in Canada.

10 So I want to encourage everyone to
11 attend those events which will be, of course, public.

12 We will be having a number of guests at
13 lunch today to celebrate the tenth anniversary of
14 paralegal regulation. It will include a number of
15 people who were involved in the initiative ten plus
16 years ago, including Michael Bryant, the Attorney
17 General of day; Malcolm Heins, our former CEO;
18 Professor Adam Dodek, who was the chief of staff for
19 the Attorney General at the time; Paul Dray, a former
20 appointed Lay Bencher; Margaret Louder, a former
21 appointed Paralegal Bencher; Stephen Parker, the
22 president the Ontario Paralegal Association; John
23 Tzanis, the first president of the Ontario Paralegal
24 Association; and Cara O'Hagan, who worked both with us
25 and the Ministry on the development of the regulatory

1 framework.

2 I also want to say that Bill Simpson is
3 unfortunately unable to make the luncheon today, he was
4 unable to travel from Ottawa, but he played a critical
5 role, as we all know, as chair of the Paralegal Task
6 Force in 2004 and it was through his leadership as a
7 Benchler that we were able to develop an accepted
8 regulatory framework for licensing paralegals in the
9 province.

10 The ten year mark is a significant
11 milestone, which the Law Society should be proud of.
12 Regulation has had, and continues to have, challenges,
13 but it has been very successful in establishing
14 standards of licensing, competence and professional
15 conduct and it's resulted in meaningful change in
16 making legal service more accessible and improving
17 consumer services and public protection.

18 -- CONSENT AGENDA:

19 TREASURER SCHABAS: With that, then, we
20 will move to the agenda, and the first item is the
21 Consent Agenda, moved by Teresa Donnelly and seconded
22 by Mr. McDowell.

23 And just before we open the floor to
24 that, I just want to point out, obviously the main item
25 in the Consent Agenda is the reappointment of

1 everyone -- or many of you, I should say, that's part
2 of my point, it doesn't include everyone, the
3 reappointment of people to the Hearing Panel and to the
4 Appeal Panel. Of course, this follows our processes
5 and our requirements for training and experience to be
6 on those panels and so that's why, as I said, it
7 doesn't include everybody.

8 As well, it involves the appointment, or
9 reappointment I should say, of the vice-chairs of each
10 of those panels. And I just wanted to say that they
11 are reappointed for two years, but I am mindful, as are
12 the vice-chair, and as is Mr. Wright, the chair, of the
13 fact that in two years they may be termed out.

14 I can't say that necessarily for Mr.
15 Bredt, but I know Mr. Anand will have reached his term
16 limit as a Bencher. While they've both done excellent
17 jobs, I've urged on them, and they've agreed, that we
18 need to move forward with succession planning on that
19 front with respect to the Bencher leadership of the
20 panel. So I just wanted to make you all aware of that.

21 Are there any questions or discussion on
22 the Consent Agenda? Anybody on the phone wish to
23 address the Consent Agenda?

24 Seeing no hands and hearing nothing,
25 I'll ask those in favour please raise your hands.

1 Anyone opposed? Anybody opposed on the phone? Then
2 the motion is carried. Thank you.

3 Report of the Chief Executive Officer.

4 Mr. Lapper, there you are.

5 -- REPORT OF THE CHIEF EXECUTIVE

6 OFFICER:

7 MR. LAPPER: I decided to save travel
8 time this time. Thank you.

9 Good morning. This morning I wanted to
10 report out on a couple of things. I will have a full
11 semi-annual report next month on all of our various
12 operational activities, but I thought this morning I
13 would report out a little bit on progress in our
14 Professional Regulation Division. I'd also like to
15 speak for a minute or two about our MAP program.

16 Starting with Professional Regulation
17 Division and its investigation, its complaint
18 investigation and discipline functions, as you probably
19 know, we are now at the three month mark of our
20 organizational transformation and, as always, when
21 change happens there are challenges and we have
22 experienced some of those, but we've also experienced
23 some significant successes. And I wanted to take some
24 -- the chance to talk about those successes, because
25 our stats tell us a story that is very, very good.

1 There has been a dramatic decrease in
2 the number of investigation files in our inventory. We
3 have a decrease from about 2500 files in inventory last
4 year at this time to 1500 files this year. So this
5 demonstrates the very hard work that that division has
6 undertaken to effectively and efficiently deal with a
7 backlog of cases.

8 The intake and resolution staff have
9 been working very hard with large caseloads for an
10 extended period of time to also work through complaints
11 and deal with them in an impressive manner, triaging
12 them, and they have embraced the challenge to reduce
13 the number of complaints being transferred to
14 investigations, and we are probably down from the same
15 time last year, we've probably -- we're somewhere
16 around a hundred fewer complaints being transferred
17 into investigations. So these have been managed out,
18 triaged and dealt with.

19 There seems to have some apocryphal
20 story that there remains a huge inventory of files in
21 intake and resolution awaiting assignment to
22 enforcement teams. That is absolutely not the case.
23 Intake is referring cases to the enforcement teams as
24 they are received. This has been a very heavy workload
25 and a major and significant effort on the part of the

1 PRD team.

2 Looking forward, we are actually looking
3 to bringing technology into the investigation and
4 discipline world. We're very happy to report that we
5 are now starting to use metadata to prove that
6 licensees under investigation may or may not have
7 created the documents that they are showing us at the
8 time that they suggested they created them, for
9 example. This is going to be obviously very helpful in
10 the longer term.

11 Trustee service department is also
12 working with the technology unit on a number of
13 electronic initiatives, including the forensic
14 duplication of hard drives received from recovered
15 computers in practices under trusteeship. There will
16 be more about that technology initiative in future
17 discussions, and obviously we want to enhance that
18 capacity. It is, after all, the 21st century.

19 In 2016 the Proceedings Authorization
20 Committee authorized 204 matters either to proceed for
21 a hearing before the Law Society Tribunal, Hearing
22 Division, or for other regulatory action. Of those 204
23 matters authorized, 169 matters were authorized to
24 proceed for a hearing. That is the largest total
25 number of hearings authorized since 2013 and the

1 highest number of lawyer matters authorized since
2 before 2011. 35 matters were authorized for either a
3 letter of advice, an invitation to attend, or a
4 regulatory meeting.

5 Just some of the highlights of the
6 lawyer hearings: The Tribunal ordered 18 reprimands,
7 39 suspensions, nine permissions to surrender licence
8 and nine revocations of licence.

9 All of these stats are available in the
10 annual report and there is, of course, a great deal
11 more there.

12 Into 2017 our discipline counsel
13 continued to be busy. For the time period January 1st
14 to April 30, 2017, we issued 49 notices, including 12
15 interlocutory applications. As a comparison, last year
16 at this time we had issued 7 interlocutory
17 applications, so we're certainly stepping up there.

18 Perhaps some good news. Maybe too early
19 to call it a trend, although every year I say that and
20 we're starting to look a little healthier in this area.
21 In 2016 in the mortgage fraud area, the Law Society
22 opened 29 investigations relating to mortgage fraud
23 involving 50 complaints. This is an average of 2.4 per
24 month. This is the lowest number for about five or six
25 years, and over the last couple of years we are seeing

1 lower numbers, so that looks like good news. Again, I
2 hesitate to call it a trend, but very, very hopeful.

3 Since 2001 when we first started
4 categorizing these, the Law Society has completed 123
5 mortgage fraud prosecutions, and since 2001, of those,
6 45 lawyers have had their licence revoked, 20 were
7 permitted to surrender, there were 56 suspensions, and
8 two have had lesser penalties, such as fine or
9 reprimand. This is, again, all due to the good work of
10 PRD, for which I commend them.

11 You will have heard that there are a
12 number of vacancies in Professional Regulation
13 Division. There are a number of vacancies elsewhere,
14 in particular, in our policy shop, and we are working
15 very hard to post those and fill those as quickly as
16 possible. We all recognize that this is taking a
17 little longer than we'd like, but we do want to get
18 quality and appropriate candidates.

19 Interestingly, our policy shop posted
20 vacancies for two research positions, so these are
21 entry level policy counsel positions, and we have
22 received something just over a hundred applications.
23 So it says something either about the market or the
24 desirability of working here or both.

25 Turning now to the Member Assistance

1 Program. I'd just like to remind all of you that the
2 services of MAP are available to all lawyers and
3 paralegals and their families, and there is a full
4 range of services provided. The service is provided by
5 Homewood Human Solutions, and it is fully confidential.

6 The very good news is that the user rate
7 is continuing to increase. In 2015 our rate was
8 3.24 percent. In 2016 it has increased to 5.12
9 percent. We're advised that that number is roughly
10 where one would expect an organization like ours to
11 utilize the services, so we're very, very pleased that
12 we're at that rate.

13 The total new cases in 2016 were 1485.
14 Now, that includes lawyers, paralegals, judges and
15 students. 868 were for lawyers and about more than
16 half in each -- in both cases of lawyers and paralegals
17 were from private practice.

18 The cases are geographically distributed
19 approximately the same as the geographical distribution
20 of lawyers and paralegals in the province. The highest
21 usage of services is within the 31 to 40 age range, and
22 then to the 21 to 30, and then in the 41 to 50 age
23 range.

24 There is also now an excellent and well
25 established peer to peer program. We have now got 34

1 active peers who have been trained and are delivering
2 peer to peer service. There are nine who have been
3 interviewed and are accepted for training, and there
4 are five to be interviewed.

5 There has been a substantial increase in
6 the number of peer connections over the last year, and
7 that service continues to find considerable take-up.
8 So, overall, we're encouraged that the utilization of
9 this is increasing and we're very happy to report that
10 progress.

11 Those are the two things I wanted to
12 talk about today, Treasurer. Happy to take any
13 questions, if there are.

14 TREASURER SCHABAS: Thank you, Mr.
15 Lapper. Are there any questions? Anybody on the
16 telephone? Any questions or comments on the telephone?
17 Hearing nothing, thank you very much.

18 Mr. McDowell, Professional Regulation.

19 -- PROFESSIONAL REGULATION COMMITTEE

20 REPORT:

21 MR. McDOWELL: Treasurer, there's one
22 matter for decision, which is at 2.1 of BoardBooks.
23 You have the motion there.

24 This simply amends those persons within
25 the Law Society who can exercise powers in relation to

1 the collection of costs, extending time for payment,
2 approving payment plans and so on.

3 There are currently two people who have
4 the authority, and so the proposed amendment to the
5 by-law would add the office of assistant manager,
6 intake resolution, to those who have authority to make
7 these arrangements. It just means that if the other
8 two are unavailable, then there's a third person who
9 can carry the responsibilities.

10 So that is the motion. If someone could
11 second it.

12 TREASURER SCHABAS: Ms. Vespry, thank
13 you. Any discussion on the floor about this
14 controversial motion? Anybody on the telephone?

15 Hearing no questions on the telephone,
16 I'll put it to a vote. All in favour? Is there
17 anybody opposed? Anybody opposed on the phone? Thank
18 you, Mr. McDowell; well done.

19 MR. McDOWELL: A banner day for our
20 Society, Treasurer.

21 So I just wanted to touch briefly on the
22 end of your report from the Professional Regulation
23 Division. The CEO, I know, has addressed a number of
24 the statistics, but I just wanted to touch a little
25 more on what has been going on. There's a more robust

1 triage resolution process which has been carried out by
2 the larger intake and resolution department that we
3 have fashioned.

4 Complaints Resolution and Investigation
5 have been merged. There are new multifunctional
6 enforcement teams, and you have investigators and
7 discipline counsel working together in teams. There is
8 a technology and evidence control department which
9 deals with the management of data, as Mr. Lapper said.
10 All of this came into effect February 6th, 2017, and we
11 are seeing results.

12 So Mr. Lapper touched on the number of
13 notices of application which were being processed.
14 Another thing that I think bears mention is that there
15 is a record number of notices of motion for
16 interlocutory suspensions, so 25 in 2016, compared to
17 14 each in 2015 and 2014. The inventory, as Mr. Lapper
18 says, has been reduced dramatically.

19 Now, just to touch very briefly on the
20 analysis of complaints received. Really, I think, just
21 as a warning to those of us in the room who are
22 practising. Page 36, you don't need to turn it up, but
23 service issues comprise 50 percent of all the
24 complaints; integrity issues, 46 percent; governance,
25 17 percent of some component of that.

1 The leading areas of complaint, civil
2 litigation, real estate, matrimonial and family law,
3 this is consistent with the trend over the last few
4 years. Sole practitioners continue to receive a
5 significantly higher number in proportion of
6 complaints. Those practising in large firms continue
7 to receive significantly fewer -- few number of
8 complaints and proportion of complaints.

9 Encouragingly, lawyers in practice for
10 five years or less received significantly fewer
11 complaints.

12 Now, one significant departure relates
13 to lawyers in private practice and practice more than
14 30 years. In previous years it was consistently noted
15 that this group received significantly more complaints
16 than would be expected. In 2016 no significant
17 difference was noted.

18 Then just moving ahead, because all of
19 these statistics are there to be perused, but moving
20 ahead to the analysis of complaints received in
21 Professional Regulation, there's a deeper analysis.
22 One thing I did want to draw to your attention, though,
23 is that the number of complaints and -- appears to
24 differ from the previous two years. There appears to
25 be a spike, however, these differences are attributed

1 to one notice issued in 2016 in the Cho matter, which
2 involved over one hundred complaints. When the Cho
3 matter was removed from the analysis, the differences
4 disappear.

5 So I think that's -- those are probably
6 the highlights, taking into account what the CEO has
7 already said, and that's all I propose to say from the
8 Professional Regulation Committee.

9 TREASURER SCHABAS: Before you go, are
10 there any questions or comments? Thank you for this,
11 Mr. McDowell. The news is very encouraging around the
12 clearing up of the backlog and the activity and work of
13 the PRD in the move to change and the reorganization,
14 which is clearly showing results. So thank you for
15 this.

16 MR. McDOWELL: Right. Through you,
17 Treasurer, I really wanted to thank Karen Manarin and
18 her team. She has shown excellent leadership, as has
19 her team. So I appreciate it.

20 TREASURER SCHABAS: Thank you very much.

21 -- Applause.

22 TREASURER SCHABAS: Mr. Wright, the
23 Tribunal Committee Report.

24 -- TRIBUNAL COMMITTEE REPORT:

25 MR. WRIGHT: Thank you, Treasurer. I'm

1 speaking today to the Tribunal Annual Report, which is
2 in BoardBooks at page 146 in English et á la page 161
3 en français.

4 This is the third annual report of the
5 Law Society Tribunal. The annual report was proposed
6 or set out in the Tribunal reform report of 2012 that
7 there was to be an annual report from the chair to
8 Convocation, and you'll see in the annual report this
9 year some of the key highlights of what happened this
10 year and some of the effects of the last three years of
11 the new Tribunal that have kind of come to fruition in
12 2016, which was the last year of my first term as
13 chair.

14 I'm not going to take you through the
15 report, but I do want to touch on three themes. The
16 first is some key highlights of 2016, which you will
17 see in the report. Second, some reflections, as we did
18 in the report, of taking stock of what's happened over
19 the last three years in building the new Law Society
20 Tribunal. And, third, I wanted to -- as we do at the
21 end of my message at the beginning of the report, talk
22 about some of the focus in the upcoming couple of
23 years.

24 So let me start, then, with 2016. As
25 you've heard from the CEO and Mr. McDowell, the

1 Professional Regulation Division has shifted towards an
2 increase in filing interlocutory suspension motions.
3 That obviously has a significant impact on the
4 Tribunal, and we've seen a significant increase in the
5 number of urgent motions that get filed. We have been
6 able to respond and always schedule those hearings
7 quickly because they are urgent. I'm grateful to our
8 Bencher and appointed adjudicators for their
9 flexibility and availability on short notice to be able
10 to make those hearings happen efficiently.

11 It also means that the Tribunal
12 continues to develop jurisprudence in this area.
13 You'll see in my message at the outset of the annual
14 report a couple of cases that have dealt with that, and
15 I think we will see more to come in that area in 2017.

16 Some numbers are set out at page 152 of
17 BoardBooks, and I think the story there is that we're
18 seeing the results of the Tribunal reforms and our work
19 on more effective case management working on
20 prehearings and controlling the time through active
21 case management.

22 You'll see despite, as you've just heard
23 from Mr. McDowell, an increase or generally steady or
24 slight increase in the number of notices of application
25 being filed, a significant reduction in the total time

1 that we're spending on hearings. So over two years,
2 the total number of adjudicator hours being spent in
3 hearings is down about 40 percent. That is the result
4 of more creative solutions to issues -- sorry, it also
5 allows for more creative solutions, including terms of
6 orders and so on to promote rehabilitation that can
7 sometimes be more easily done when there's agreement.

8 Our appeals, you will see, are down
9 significantly as well and all of that has led to a
10 reorganization of staff in the Tribunal office and, in
11 particular, a reduction in cost of staff, as well as
12 adjudicator time.

13 We had a reorganization in 2016 that
14 brought in a staff non-lawyer administration manager.
15 We've reduced the number of lawyer positions towards
16 staff positions and we're seeing, therefore,
17 significant cost savings, although it's not -- the main
18 goal is a result of the changes that we've made. And
19 so despite a generally consistent number of cases and
20 increased time in prehearings, our amount of time being
21 spent in the hearing room is significantly down.

22 And I think while it's obviously not the
23 Tribunal's -- the results aren't seen at the Tribunal,
24 reduced time in the hearing room also has effects
25 throughout elsewhere in the organization, in particular

1 in the Professional Regulation Division. So those are
2 the main things I wanted to highlight about 2016.

3 I wanted to just share a couple of
4 reflections on the last three years as one of the
5 themes of our report is that reflection. At the outset
6 of the new Tribunal we collectively agreed on four core
7 values: Fairness, quality, transparency and
8 timeliness.

9 I think we've built on each of those
10 significantly over the past three and a half years. To
11 name just some things; more coherent jurisprudence,
12 streamlined processes, better information for the
13 public and the professions on our website, reducing
14 adjournments and hearing times.

15 The ingredients of all of those things
16 have been a collective effort by so many people, and I
17 thought I would take just a moment to talk about some
18 of the ingredients that went into that.

19 First, the Tribunal Committee and
20 Convocation working in partnership with the Tribunal to
21 enhance our processes, to amend our rules, where
22 necessary, to build education, and I wanted to
23 recognize, in particular, current committee chair, Barb
24 Murchie, former chair, Raj Anand, current vice-chair,
25 Isfahan Merali, and former vice-chairs, Janet Leiper,

1 Adriana Doyle and Peter Wardle.

2 The changes that we have made depended
3 and required and benefited from the support of Law
4 Society staff and Treasurers, in particular,
5 operationally, Treasurers Tom Conway, Janet Minor and
6 the current Treasurer, working together to build an
7 independent Tribunal operationally, which included
8 things like support for speedy moves to build a
9 separate website and enhance that website, to build
10 state of the art new premises, and I want to, in
11 particular, recognize the support that the Tribunal has
12 gotten from Terry Knott's operational team and from the
13 CEO.

14 We've built relationships with
15 representatives on both sides of the bar, the Law
16 Society counsel and individuals who represent -- or
17 representatives who represent individuals before the
18 Tribunal. We have built a Chair's Practice Roundtable
19 and, in particular, we owe a debt of gratitude to those
20 on the defense side of the bar who have volunteered
21 their time to assist as duty counsel.

22 The Advocates' Society has put in place
23 and supported a formal program, and an informal group
24 has built and expanded the duty counsel program
25 organized by Bill Trudell, who many of you will see as

1 a frequent counsel before the Tribunal.

2 These volunteers have given their pro
3 bono, and continue to do so and expand their program,
4 and that has contributed tremendously to some of the
5 innovations we have been able to make.

6 I also want to recognize counsel and
7 staff in the Professional Regulation Division and Karen
8 Manarin and her predecessors, Zeynep Onen and Lesley
9 Cameron, who have supported and worked together with
10 the Tribunal in building some of these developments.

11 Our adjudicative team is tremendous.
12 The commitment and collegiality of adjudicators who
13 have embraced enhancements like education, colleague
14 review, who have collectively worked together to build
15 a coherent jurisprudence, and together with the
16 vice-chairs, Raj Anand, Chris Bredt and former-vice
17 chairs of the Hearing and Appeal Divisions, Linda
18 Rothstein and Mark Sandler, our adjudicative team has
19 worked tremendously hard to make our Tribunal the
20 innovator that I think we now are.

21 Our Tribunal staff are very tremendous.
22 They're a dedicated and committed team who have
23 embraced the new model. One of things that I think
24 we're also doing well is melding our registry and
25 adjudicative functions for more seamless case

1 management and to move things forward.

2 The other thing that I want to say is that those
3 in the legal community who have supported us, in particular
4 with education; Kathleen Lickers, Myeengun Henry, Justices
5 Freya Kristjanson, Stephen Goudge, John Evans and Katherine
6 Swinton, Sherry Liang of the Information and Privacy
7 Commission, Pam Chapman from the Society of Ontario
8 Adjudicators and Regulators and others have all volunteered or
9 contributed their time to make our education programs really
10 innovative.

11 And so at the end of my first term I hope you
12 can see that this has been and continues to be a collective
13 enterprise with so many people contributing and supporting it
14 and I'm so grateful for that.

15 I want to conclude just by talking about a
16 couple of upcoming areas of focus for the Tribunal team and I
17 think Ms. Murchie and Ms. Merali won't mind me saying also for
18 the Tribunal Committee, and that's two key things.

19 The first is thinking about our rules and
20 revamping our rules to make our process more streamlined, more
21 clear, more transparent to the public and to those who appear
22 before us with simpler and more plain language rules. We would
23 like to revamp them and we'd also like to think about, with the
24 policy decisions being made by the Tribunal Committee and
25 Convocation, how we can innovate and make our process more

1 streamlined, effective and focused on access to timely justice.
2 We look forward to making proposals, to discussing
3 possibilities and working through them with the Tribunal
4 Committee, as we have already started to do.

5 The other key area of development in the next
6 little while is electronics. We continue to work on building
7 our case management system so that we have a Tribunal with less
8 paper, fewer courier costs, electronic access for adjudicators
9 to materials, more information for the public, and improved
10 statistics, among other things.

11 We are working on an ongoing basis with the Law
12 Society's fabulous project management office. We will shortly
13 be rolling out an internal calendar for staff and then
14 branching that out to adjudicators later on and subsequently
15 building electronic endorsements, electronic access to
16 documents and electronic reason editing and discussion.

17 Of course, as those in the room who are Tribunal
18 members know, we have built an electronic education database,
19 including ongoing education through video that can be accessed
20 at adjudicators' work stations or iPads or wherever you are.

21 So that's what I wanted to highlight, and I look
22 forward to answering any questions that you may have.

23 TREASURER SCHABAS: Thank you very much,
24 Mr. Wright. Maybe I can just, as well, take this
25 opportunity to thank you and commend you on your

1 leadership over the past few years in developing a
2 modern, independent and professional Tribunal. We've
3 come a long way in the past few years and that's due in
4 no small part to your leadership over the years. So
5 thank you for that. And of course we look forward to
6 more progress.

7 I just wanted to put that on the record
8 and now I'll open the floor. Yes, Ms. Murchie.

9 MS. MUIRCHIE: Treasurer, I think you've
10 said most of what Ms. Merali and I wanted to say, but
11 we did want to particularly thank Mr. Wright and his
12 staff for another very productive year. Their
13 dedication to implementing and continuing the
14 development of the Tribunal model is very much
15 appreciated.

16 It's three years old now, but a great
17 deal has been accomplished, but three years is still
18 young as institutions go so we have a lot of
19 development and continued ongoing work to do. And I
20 just want to thank Mr. Wright and his staff and, of
21 course, Mr. Bredt and Mr. Anand as well, who have been
22 very supportive and helpful and provided the guidance
23 to all of us.

24 So on behalf of the Tribunal community,
25 Ms. Merali and myself, I wanted to add my thanks to

1 yours.

2 TREASURER SCHABAS: Thank you very much.

3 Ms. Merali, you wanted to say a few words?

4 MS. MERALI: Just a few words. I want
5 to echo, first of all, Ms. Murchie's comments and my
6 congratulations.

7 I start first by repeating my plea to
8 please remove the photo of me on page 3 of the annual
9 report because, frankly, it's scary, but now I have
10 assured that everyone is going to actually open the
11 annual report and read it. And I wear the same outfit
12 so you can actually see I don't actually look like
13 that, but anyway.

14 I want to congratulate Mr. Wright and
15 his staff for the excellent annual report. I thought
16 when I read it it was extremely easy to follow. It
17 offers practical information about what the Tribunal
18 does, how it does it, and what its core values are and
19 how it's integrated into its work. I thought it also
20 included some very helpful data, which I encourage
21 everyone to have a look at. It's a very short but
22 sweet annual report.

23 And I think it also does a really good
24 job of setting out what more work needs to be done and,
25 again, we're in the early stages to enhance and advance

1 the work of the Tribunal, and whether that's in
2 enhancing the rules, doing more work on having
3 accessible and inclusive services and including
4 innovative or more innovative practices.

5 I know that from the Tribunal community
6 Mr. Wright and the Law Society Tribunal and their staff
7 are seen as leaders in many of the work that it does
8 every day. People look at it in terms of how it does
9 electronic access, how it does adjudication, how it
10 does its education, and so I congratulate Mr. Wright,
11 the Tribunal and its staff for that.

12 I really do see many people in the
13 administrative law and Tribunal community look at it as
14 being ahead of the curve in a number of areas, but of
15 course we have so much more work to be done and I'm
16 honoured to be part of that in a small way.

17 I also want to thank Mr. Bredt and Mr.
18 Anand for their excellent work as well. Thank you.

19 TREASURER SCHABAS: Thank you. Any
20 tough questions? Mr. McDowell.

21 MR. McDOWELL: I feel that somehow
22 through all of this Mr. Wright has been deprived of his
23 round of applause.

24 -- Applause.

25 MR. WRIGHT: Really, that round of

1 applause, I hope, is for the Tribunal staff as well
2 because they're the ones who make me look good. The
3 work on this annual report, which I should give
4 particular credit to my executive assistant and master
5 of all things, Vashti Ramsukh, who was involved, and
6 also our great support from the Law Society
7 communications team, but thank you very much.

8 TREASURER SCHABAS: Thank you. Anybody
9 on the phone wish to say anything? No. Thank you very
10 much, Mr. Wright. Equity and Indigenous affairs, the
11 Human Rights Monitoring Group, Ms. Donnelly.

12 -- EQUITY AND INDIGENOUS AFFAIRS

13 COMMITTEE REPORT:

14 MS. DONNELLY: Thank you, Treasurer.

15 The motion is found at tab 3.1 at page 92 of
16 BoardBooks, and that is that Convocation approve the
17 letters and public statements in the following cases:

18 Two of the letters relate to three
19 lawyers in China. That's the conviction of Li Heping.
20 The letter and intervention is found at tab 3.1.1. The
21 trial of Xie Yang, letter and intervention found at
22 3.1.3; and the detention of Chen Jiangang, letter and
23 intervention found at 3.1.3; and also the arrest and
24 detention of lawyer, Prawet Prapanukul, a lawyer from
25 Thailand.

1 I can tell you that the requests for
2 intervention fall within the mandates of the Human
3 Rights Monitoring Group and that there are no concerns
4 with the quality or sources used for these reports.

5 I'll just briefly tell you about each of
6 these lawyers. With respect to the three lawyers from
7 China, Li Heping is a prominent human rights lawyer
8 known for defending disenfranchised people. The Law
9 Society previously intervened in his case in 2015.
10 Following a secret trial on April 25th, 2017, Li Heping
11 was found guilty of subversion of state power and was
12 given a suspended prison sentence, and he was also to
13 be deprived of his political rights for four years.
14 The trial occurred two years after he was first
15 detained.

16 By way of update, and this is not found
17 in your materials and I will be seeking an amendment to
18 the motion at the end, Li Heping was released from
19 detention on May the 9th.

20 With regard to Xie Yang, he is also a
21 prominent human rights lawyer known for his work on
22 politically sensitive cases. He also was detained in
23 2015, and the Law Society has also previously
24 intervened in his case in 2015.

25 He has been accused of conspiring to

1 distort incidents of police brutality in order to
2 subvert state power, overthrow the socialist system and
3 harm national security and social stability.

4 His trial was on May the 8th. By way of
5 an update, and I will be seeking an amendment,
6 Treasurer, with respect to this update as well; Xie
7 Yang was released on bail, but apparently remains under
8 tight surveillance by secret police.

9 The third lawyer from China is Chen
10 Jiangang. He was Xie Yang's lawyer before Xie Yang was
11 denied his choice of lawyer and was provided with
12 government appointed lawyers. Chen Jiangang has
13 remained vocal in Xie Yang's case.

14 On May 3rd, 2017, while vacationing with
15 his family, Chen Jiangang was detained by several armed
16 security forces and driven to Beijing under police
17 escort.

18 His eldest son has been prevented from
19 enrolling in primary education, which is compulsory for
20 all Chinese children, and he was prevented from
21 enrolling after local police put political pressure on
22 the school, and I will be seeking an amendment with
23 respect to that as well.

24 Finally, the third lawyer in Thailand is
25 Prawet Prapanukul, who is a prominent human rights

1 lawyer and he is critical of the Thai monarchy. On
2 April 29th, 2017, his home was raided by soldiers and
3 the police and electronic devices were seized. He has
4 been charged with ten counts of royal insult and three
5 counts of sedition. He is detained.

6 So the motion is found at tab 3.1, page
7 92 of BoardBooks, and I seek to amend that motion to
8 add to the letters and public statements the things
9 that I've told you are updates, and that's with respect
10 to Li Heping, to add information that he was released
11 from detention on May 9th; with respect to Xie Yang,
12 that he has been released on bail following his trial,
13 but remains under tight surveillance by secret police;
14 and with respect to Chen Jiengang, to add a sentence
15 that additionally reports indicate that Jiengang's
16 eldest son has been prevented from enrolling in primary
17 education, which is compulsory for all Chinese
18 children, after local police put political pressure on
19 the school.

20 The motion is moved by me, it is
21 seconded by Mr. Evans, and I've provided the changes to
22 Mr. Varro.

23 TREASURER SCHABAS: Thank you very much.
24 Is there any discussion? Questions? Anybody on the
25 telephone? Anybody on the phone wish to comment?

1 Hearing nothing, I'll ask those in
2 favour? Anyone opposed? Anybody opposed on the
3 telephone? Thank you very much, Ms. Donnelly, the
4 motion is carried. Ms. Leiper, Governance Task Force.

5 -- GOVERNANCE TASK FORCE REPORT:

6 MS. LEIPER: Thank you, Treasurer,
7 members of Convocation.

8 I'm moving, beginning at page 129, the
9 report, and the motion is at page 132, on behalf of
10 governance task force that Convocation approve that
11 with respect to the election of Benchers, the lawyer
12 and paralegal Bencher elections occur on a single date,
13 starting on April 30th, 2019.

14 The term of the current paralegal
15 Benchers be extended beyond 2018 to end at the same
16 time as the current elected lawyer Benchers' term ends,
17 and for the purpose of the 12 year paralegal Bencher
18 term, and here I would insert the word "limit," please,
19 as an amendment, serviced by a licensed paralegal as an
20 appointed or elected member of the Paralegal Standing
21 Committee and as an appointed or elected Bencher, be
22 included in calculating the twelve years.

23 Ms. Haigh, you'll second this motion?

24 So I'll speak to the motion and ask that
25 it be put to vote. So this is an interim report from

1 the Governance Task Force. We were before you in
2 February to introduce these ideas and, as you'll
3 recall, there was a call for input among the
4 profession. That closed on April 28th.

5 We received eight responses, five from
6 licensed paralegals, three from lawyers. Most of the
7 people who wrote supported the proposal, described as a
8 reasonable policy, an excellent idea, idea that makes
9 perfect sense. There were two submission who were
10 opposed to the idea, one did not seem to deal with the
11 issues around paralegal regulation, the other
12 submission was concerned that there might be high board
13 turnover if we had one election all at the same time,
14 which could create board inefficiencies, or the fact
15 that a single Benchers election date might make it
16 difficult for paralegal candidates to get their
17 voices heard, they could be drowned out by their lawyer
18 candidate colleagues.

19 We considered that at the task force
20 level and, nevertheless, do bring forward this proposal
21 to you. We remain of the view that the disparity in
22 election dates no longer serves a useful purpose.
23 Arguably, it affects the integrity of our governance
24 systems, it's duplicative of cost and time and effort.
25 Paralegal Benchers are fully integrated into the Law

1 Society's governance processes and a single date,
2 therefore, for the election of Benchers is appropriate.

3 We will recommend that this election be
4 held at the same time as the next lawyer Bencher
5 election, April 30th, so for that reason, and we extend
6 the current paralegal Bencher terms by one year in
7 order for us to synchronize the two elections.

8 As for the term limits, let me just say
9 briefly that when paralegals first became part of our
10 governing body they were appointed by the government,
11 not elected, and in December of 2009 when we amended
12 by-law 3 to provide for a twelve year term limit for
13 elected Benchers, this included paralegals; however, it
14 did not take into account those who had been appointed
15 to the Paralegal Standing Committee in terms of how to
16 calculate the terms of service.

17 In May of last year the Paralegal
18 Standing Committee considered the interpretation of the
19 provision for paralegal Benchers and determined that
20 all service at the Law Society ought to count towards
21 the total of twelve years, whether appointed or
22 elected. The task force agrees with this approach and
23 recommends it be adopted by Convocation. So I move the
24 motion as stated, seconded by Ms. Haigh.

25 TREASURER SCHABAS: Thank you very much.

1 Questions, comments in the room? Quiet bunch today.
2 Anybody on the telephone, questions or comments for
3 Ms. Leiper?

4 MS. POTTER: Was the motion seconded?

5 TREASURER SCHABAS: I'm sorry, is that
6 Ms. Potter? We can't really hear you.

7 MS. POTTER: Sorry, I said is the motion
8 seconded.

9 TREASURER SCHABAS: Yes, it is, by Ms.
10 Haigh.

11 MS. POTTER: Thank you.

12 TREASURER SCHABAS: Any other questions?
13 If not, all in favour in the room? Anybody opposed in
14 the room? Anybody opposed on the telephone? No. Then
15 the motion is carried. Thank you, Ms. Leiper.

16 MS. LEIPER: Thank you. And I have one
17 matter for information, if I might, Treasurer.

18 TREASURER SCHABAS: Yes, please. Go
19 ahead.

20 MS. LEIPER: So as a result of the
21 governance reforms and implementation that took place
22 between 2009 and 2011, this is in your report, I'm just
23 going to summarize parts of it. The governance
24 structure, as we know, changed, and part of the change
25 dealt with the role of former Treasurers.

1 In addition, a five year review was
2 required of the experience of Convocation with the new
3 role for former Treasurers and, as you know likely,
4 former Treasurers become Honorary Benchers once they
5 have completed their term and are called now Emeritus
6 Treasurers. They may attend and participate in
7 Convocation, but they do not have a vote. Prior to the
8 reforms, all former Treasurers had a vote in
9 Convocation for life.

10 Convocation's decision to make former
11 Treasurers Emeritus Benchers was in the context of a
12 larger set of recommendations aimed at reducing the
13 size of Convocation's ex officio component, and the
14 decision addressed the concern that former Treasurers
15 with a vote could wield significant influence as
16 unelected members of Convocation. That was some of the
17 thinking behind those governance reforms.

18 The purpose of the review was that some
19 way would be created to look at how these new
20 provisions were operating in practice, to find out
21 whether there was any undue impact on the size or
22 function of Convocation and the level of engagement
23 and participation of former Treasurers.

24 So the review was dated from the fifth
25 anniversary of the first Emeritus Treasurer, and that

1 was Treasurer Laurie Pawlitza.

2 This review included an invitation to
3 each of the Emeritus Treasurers to meet with Law
4 Society staff at the direction of the task force to
5 discuss their experience as Emeritus Treasurers, and
6 they provided input on their role and their activities
7 since becoming emeritus.

8 So we have three Emeritus Treasurers;
9 Treasurer Pawlitza, who became emeritus in 2012,
10 Treasurer Conway, who became emeritus in June 2014, and
11 Treasurer Minor, who became emeritus in June 2016.

12 Between the time each became emeritus
13 and the present, Treasurer Conway and Treasurer
14 Pawlitza have not attended Convocation regularly and,
15 in part, that relates to the custom of not attending
16 Convocation in the year after one has left office, so
17 both lost and then regained rights and privileges by
18 way of continuing to attend Convocation once their year
19 in the wilderness has passed.

20 As of April 2017, Treasurer Minor has
21 not attended Convocation, and as a result has lost her
22 right to participate, but this again can be regained by
23 attending three out of five consecutive regular
24 Convocations.

25 It is noted that Ms. Pawlitza and

1 Mr. Conway's participation in Convocation debates has
2 been limited mostly to speaking to reports relating to
3 the Federation of Law Societies. Ms. Pawlitzka was the
4 Law Society representative on Federation Council and
5 reported on meetings and conferences. Mr. Conway
6 served as president of Federation of Law Societies from
7 November 2014 to November of 2015 and reported in that
8 capacity here.

9 Mr. Conway has not served on Law Society
10 committees, task forces or working groups or on the
11 Tribunal. Following her term as Treasurer, Ms.
12 Pawlitzka served on the hearing panel as a member of the
13 Articling Task Force and co-chair of the Retention of
14 Women Working Group.

15 All of the Emeritus Treasurers were
16 asked about this tradition of refraining from attending
17 Convocation, and in my report it says six months, but
18 all of them had refrained for one year. For one of the
19 Treasurers surveyed, the tradition helped to
20 demonstrate a change in leadership.

21 The comments on the function of Emeritus
22 Treasurer; the three Emeritus Treasurers favour
23 continuing the role. They have some suggestions for us
24 to think about, and potential changes to the Emeritus
25 Treasurer functions. Views were expressed that

1 Emeritus Treasurers could serve and provide assistance
2 at the committee level by way of both historical
3 background and their experience having been Treasurer.

4 Other possible ways the Treasurers have
5 much to offer are as Law Society ambassadors, making
6 stakeholder contacts in the community, representing the
7 Treasurer or Convocation or the Law Society at various
8 functions. They could also function as connectors and
9 help Benchers develop connections to work effectively
10 and mentor Benchers, to act as envoys on strategic
11 issues for a particular time or for a particular
12 purpose, or to act as mentors to Treasurers with
13 respect to institutional history, serving as sounding
14 boards, or providing strategic advice. There was a
15 suggestion that outgoing Treasurers could provide a
16 greater role during the transition for the incoming new
17 Treasurer.

18 The takeaways and the next steps as a
19 result of this review are at paragraphs 36 and 37 of
20 the report. We note it's a fairly limited sample size
21 and perhaps we have had insufficient experience with
22 the operation of the Emeritus Treasurer function to
23 make any recommendation at this stage, but we do
24 propose to add all of this information into the broader
25 review of governance issues that we will all be

1 involved in in the fall, and develop those
2 recommendations in tandem with any broader governance
3 issues at that time.

4 Thank you, Treasurer, those are my
5 comments.

6 TREASURER SCHABAS: Thank you very much.
7 Are there any comments?

8 MS. LIPPA: I have one, Treasurer.

9 TREASURER SCHABAS: Ms. Lippa, yes.

10 MS. LIPPA: Thank you, Treasurer.

11 Ms. Leiper, I just have a question of interest.

12 With respect to representation of
13 Benchers versus licensees at the Law Society, I note
14 that we have 40 elected lawyer Benchers for
15 approximately 50,000 lawyer licensees and we have five
16 elected paralegal Benchers for approximately now 8500
17 paralegals, which is set to increase annually.

18 Is the Governance Task Force looking
19 into a more equal representation of paralegal Benchers
20 in the future?

21 MS. LEIPER: I would say that broadly we
22 are looking at the entire scope of what would be best
23 practices in governance, and that would include
24 questions of proportionality, how many people do you
25 need to serve a given size of a population, how do you

1 make sure you have representation across all
2 backgrounds, including area of practice.

3 MS. LIPPA: Thank you.

4 MS. LEIPER: Thank you for the question.

5 TREASURER SCHABAS: Mr. Evans.

6 MR. EVANS: Thank you, Treasurer. I
7 just wanted to comment that it was nice to see two of
8 our Emeritus Benchers at the awards ceremony last
9 night. And although it's not really on topic of
10 Treasurers, I'm wondering if the Treasurer and all of
11 us as Convocation could consider making use of our
12 Emeritus Benchers in areas where they have expertise or
13 interest to help us in various matters when they come
14 up from time to time.

15 TREASURER SCHABAS: Thank you. And I
16 know that's also part of the review of the Governance
17 Task Force, so thank you for that.

18 Are there any other questions or
19 comments for Ms. Leiper? On the telephone. Anybody on
20 the phone? No? Thank you very much.

21 MS. LEIPER: Thank you.

22 TREASURER SCHABAS: Audit and Finance,
23 Mr. Bredt.

24 -- AUDIT AND FINANCE COMMITTEE REPORT:

25 MR. BREDT: Thank you, Treasurer, and

1 I'm delighted that my path to the podium is
2 unobstructed.

3 So the first item on the agenda here is
4 the financial statements for the first quarter of 2013,
5 and if we could go to BoardBooks at page 185.

6 So what you should have there is just an
7 overview of our revenues and expenses, both compared to
8 2016 and also against budget. And what I have for
9 Convocation today is kind of a good news and a bad news
10 story, and I'll give you the good news first.

11 So if you look down to line 15, you can
12 see that we're doing better than budget by about
13 \$4.8 million, and that comes both on the revenue and on
14 the expense side of the equation.

15 So if you look at our revenues under
16 annual fee income, we're doing somewhat better than
17 budget. Line 2 PD&C, the revenues are substantially
18 higher than what we had budgeted there. Investment
19 income is down slightly, but the other items are
20 slightly better than budget, so overall on the revenue
21 side we're about \$1.98 million better than budget.

22 When we look at the expense side of
23 these figures, we're under budget in all expense
24 categories except for the Compensation Fund, and I'm
25 going to come back to the Compensation Fund issue at

1 the end of these remarks.

2 Note that the actual expenses for the
3 first quarter of 2017 have increased significantly from
4 the first quarter of 2016 by about 1.3 million. And I
5 think that this reflects a couple of factors. So we
6 are spend more money this year than we did last year.
7 In part it reflects some of the new programs that we've
8 invested in coming on-line, like coaching and
9 mentoring. It also reflects our investment in the
10 reorganization of Professional Regulation and some of
11 the inflationary increases to staff salaries and so
12 forth.

13 However, if you look overall compared to
14 budget, we are 2.9 million under budget on expenses,
15 and so, overall, we have had a good start to the first
16 quarter of this financial year. It's a bit early in
17 the year. Some of these differences are timing, but I
18 think that we are probably heading towards a favourable
19 financial result overall for this fiscal year.

20 Let me turn to some not so good news,
21 and that relates to our Compensation Fund. The lawyer
22 Compensation Fund is reporting a deficit of
23 \$3.3 million in the first quarter, and this reflects
24 continued adverse claim experience, and these adverse
25 claims are new even after accounting for the claims

1 that arose out of the Cho matter and all the
2 condominium claims that flowed from that.

3 The end result of that is that the
4 Compensation Fund is currently at a balance of
5 9.5 million and, as Convocation will know, that we have
6 a policy that we try to keep both our General Fund and
7 our Compensation Fund within a specified range. The
8 Compensation Fund is now below our policy minimum of
9 \$13 million.

10 The implications of that is that unless
11 there's a change in terms of the experience that the
12 Compensation Fund has had so far, there will have to be
13 a significant increase in the Compensation Fund in the
14 next levy.

15 Now, what our policy says is that when
16 we're below the minimum, we have a period of three
17 years within which to bring the fund back up to within
18 the policy range, so one of the issues that we'll be
19 looking at through the budget process is how could we
20 spread this increase in a reasonable period given the
21 increases and so forth.

22 So overall I think some good news with
23 respect to our financial results, but some clouds on
24 the horizon with respect to the Compensation Fund.

25 So, Treasurer, perhaps I'll take

1 questions on the financial things. There's just one
2 other thing I wanted to speak about before I close my
3 remarks.

4 TREASURER SCHABAS: Okay. Questions for
5 Mr. Bredt? No questions? Anybody on the telephone
6 with questions for Mr. Bredt? That's surprising.

7 MR. BREDT: Treasurer, it reflects my
8 general advocacy abilities. When I go to court, the
9 court just falls asleep, they don't have any questions
10 for me, and often the result is not that good.

11 -- Laughter.

12 TREASURER SCHABAS: I'm tempted to dream
13 up a question and ask you, but I'm resisting that
14 temptation.

15 MR. BREDT: The second matter I just
16 wanted to just let Convocation become aware of is the
17 fact that we've put together a working group on Bencher
18 remuneration and compensation expense.

19 If you go to BoardBooks at page 193 you
20 will see the task -- the -- the framework for this
21 working group. And this was in response, I think, both
22 to the mandate that we got from the Treasurer where
23 we're looking at increased transparency and
24 accountability with respect to matters, but also in
25 response to a number of inquiries that I've had from

1 Benchers who have raised some anomalies in the system.
2 I know that Mr. Udell and Mr. Lerner had raised some
3 issues.

4 So we've set up a working group of the
5 Audit and Finance Committee to look at this. You can
6 see the mandate is to look at the remuneration and
7 expense reimbursement by-law policies and process. The
8 objective is to increase transparency, fairness and
9 accountability.

10 We're looking also to see if we can
11 facilitate some practical processes for Benchers and
12 staff, and what we've heard from staff and from the
13 Benchers is that the current processes are somewhat
14 cumbersome.

15 The working group is going to be moving
16 forward on the basis they're going to do some research
17 and there will also be extensive consultation, both
18 with the Benchers and with staff. And just in terms of
19 who's sitting on that committee, I've asked Suzanne
20 Clément and Theresa Donnelly, the co-chairs of Audit
21 and Finance to also co-chair the committee. On the
22 committee with them will be Peter Beach, Paul Cooper,
23 Janis Criger and Michelle Haigh.

24 Benchers, if you have any questions or
25 concerns, don't hesitate to speak to the members of

1 that subcommittee. I thought I should also report on
2 that item as well, Treasurer.

3 TREASURER SCHABAS: Yes, thank you very
4 much, Mr. Bredt. Are there any questions, comments
5 about that? Any comment or questions on the telephone
6 about the working group relating to Bencher
7 remuneration and expenses? Mr. Cooper.

8 MR. COOPER: I'm not sure if people know
9 this, but everybody on that subcommittee is from
10 outside of Toronto, and so input is -- will be required
11 going forward from others.

12 TREASURER SCHABAS: That's a fair
13 observation. Do you want to elaborate on that at all?

14 MR. BREDT: I think that certainly the
15 last time that this issue was addressed, that it
16 became, to some extent, a debate between out of town
17 Benchers and the Toronto Benchers. And I think it's
18 fair to say that the out of town Benchers have much --
19 have a greater level of commitment, higher expenses and
20 have a lot of concerns that perhaps aren't shared by
21 those of us who can simply walk across the street.

22 I wanted to make sure, and the committee
23 agreed, that in putting together the committee we had
24 people on it that would adequately reflect and
25 understand the concerns that had been raised by out of

1 town Benchers. That's the reason why, in effect,
2 everybody is from out of town.

3 I think Mr. Cooper is close to being in
4 town, but shorter commute than the others, but we did
5 want to make sure that in setting up this working group
6 that the people that are most concerned about these
7 kind of issues were adequately represented and that
8 those people would be properly listened to.

9 TREASURER SCHABAS: Maybe that's why
10 there weren't any questions or comments. Mr. Wright.

11 MR. WRIGHT: Having people who are
12 affected by decisions made by committees and working
13 groups present on those committees and working groups
14 is a very, very good thing.

15 TREASURER SCHABAS: Anybody else?

16 MR. BREDT: Treasurer, sounds to me like
17 I finally did something right here.

18 TREASURER SCHABAS: Had to happen sooner
19 or later.

20 MR. BREDT: Even a blind squirrel
21 occasionally finds a chestnut.

22 TREASURER SCHABAS: We appreciate your
23 work. Thank you very much.

24 There's one more matter that Mr. Lerner
25 has asked to address before we proceed with the in

1 camera portion of the meeting. Mr. Lerner, you had a
2 question, I think, that you wanted to raise.

3 MR. LERNER: Thank you, Treasurer. On
4 behalf of the many practitioners who will be negatively
5 impacted by the proposal in the recent budget to treat
6 work in process differently as income for taxation
7 purposes, I assume that the Law Society is actively
8 involved in dealing with both CRA and the government,
9 and I would ask that those who are involved might
10 provide a report not only to Convocation, but to those
11 other members of the profession who have expressed
12 concern and those, of course, who are joining us on the
13 website.

14 TREASURER SCHABAS: So Mr. Lerner had
15 asked to raise this in public so that the public would
16 be aware that we are mindful of this.

17 Mr. McDowell has raised some concern
18 about responding to it in public, but I think if you
19 could do your best and, you know, we will be going in
20 camera in a few minutes if you wish to address it
21 further in camera. But I think it's important that we
22 say what we can in public.

23 MR. McDOWELL: All right, that's fine.
24 The one thing that I would highlight right at the start
25 is at the outset of the budget phasing, if I can put it

1 that way, you have the budget, but then there are a lot
2 of things where the mechanics haven't been worked out.

3 It was proposed that income tax be
4 payable on WIP even in cases where there was a
5 contingency fee arrangement in place, and that was
6 problematic because often it's a ten year journey
7 between the retainer and the contingent basis and the
8 fee being paid.

9 So that, I can tell you, and this is a
10 matter of record, CRA released on April -- towards the
11 end of April, a clarification in which CRA confirmed
12 until such time, that is, that the fee's actually paid,
13 there is often no liability on the professional's
14 client to pay any fee, consequently no amount is
15 receivable by the professional until the right to
16 collect is established. So they said that until that
17 happened, tax wouldn't be payable.

18 There are ongoing discussions with the
19 government. There is an individual liberal MP who has
20 reached out to the law societies across the country and
21 we are in touch with him. The Advocates' Society is
22 doing its own work on the broader issue of WIP.

23 One of the issues that Mr. Lerner did
24 raise with me privately was the question of whether or
25 not there should be some transitional period, and this

1 to me is something that is rational. You may remember
2 that there was the tax-free year many years ago when
3 lawyers just older than me became partners, and that
4 was eliminated, but there was a transitional, I think,
5 five year period before that happened.

6 So I guess what I would say in public
7 is -- which actually wouldn't differ that much from
8 what I would say in private --

9 TREASURER SCHABAS: Good.

10 MR. McDOWELL: Yes. There is a certain
11 logic about being consistent, I guess. But is that a
12 lot of this is still in flux, and I think this is one
13 of those instances where the thinking at the Department
14 of Finance was that this was a measure that wouldn't
15 affect lawyers, except those with very high incomes,
16 and the reality is that it will affect lawyers with
17 lower incomes working in social justice areas and in
18 remote parts of the province, more than the Bay Street
19 part of the profession.

20 So I expect that this provision or
21 proposed provision will continue to be modified, but I
22 thank Mr. Lerner for giving notice of his question, and
23 I know that Mr. Callaghan will be happy to follow up
24 with him as there are developments.

25 TREASURER SCHABAS: Thank you. Mr.

1 Lerner.

2 MR. LERNER: Thank you, Treasurer. I'm
3 reassured, and I'm sure those members of the profession
4 who have expressed some concern as to whether or not we
5 were on this issue now know that we are.

6 TREASURER SCHABAS: Thank you, and thank
7 you very much for raising it. Unless there's any other
8 business that people wish to raise in the public
9 session, we will move -- is there any -- on the phone
10 as well, unless there's any other business anybody
11 wishes to raise in public, we will move to the in
12 camera portion of the meeting. Thank you. Oh,
13 Mr. Swaye.

14 MR. SWAYE: Sir, I would like to raise
15 an issue that one of the MPPs has had a -- has
16 presented a bill in regard to contingency fees in the
17 provincial legislature that should be limited to
18 15 percent. And I'm just wondering whether the Law
19 Society is involved in monitoring that particular issue
20 for the members of our public -- for the members of our
21 Society.

22 TREASURER SCHABAS: Mr. McDowell is --
23 I'll put you back in the hot seat. I'm sure you're
24 aware of this, as am I.

25 MR. McDOWELL: Yes, Mr. Speaker. Yes,

1 we are, but here I'm at a disadvantage because Mr.
2 Callaghan has taken the lead in those discussions.

3 TREASURER SCHABAS: All right. So we
4 are aware of that, it's a private member's bill, and
5 the -- there has been contact between the Law Society
6 and that member to help that member understand the
7 steps we are taking and the work we are doing with
8 respect to both advertising and referral fees, as well
9 as contingency fees, and I think that's provided some
10 degree of comfort to that member of Provincial
11 Parliament that the Law Society is on this.

12 And so while we continue to monitor it,
13 I don't think we see this as something that is of --
14 it's something that we can manage, let me put it that
15 way, if that helps you.

16 MR. SWAYE: Thank you.

17 TREASURER SCHABAS: Thank you. All
18 right. Not hearing or seeing any other hands, I'd ask
19 that we go in camera at this time. Thank you.
20 -- Whereupon adjourning in public at 12:04 p.m.

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