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Monday – Friday
9:00 am – 5:00 pm

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MEMBER STATISTICS:

(As of April 30, 2010)
Resident Members: 129
Non Resident Members: 133
Total Membership: 262

THE YUKON AMICUS

PRESIDENT'S REPORT

Susan Dennehy, President

GOOD NEWS – LEGAL PROFESSION ACT

The future of self regulation of the legal profession has been the subject of discussion across Canada. Not surprising when you consider that from Australia to France the legal profession has undergone change through co-regulation with government and other manners of reform. There are a number of factors that prompted this significant change and government involvement in regulating the profession, one being the public's confidence in the ability of the legal profession to regulate in the public interest.



Susan Dennehy

One of the biggest challenges to effective regulation of the profession in the Yukon is the Legal Profession Act. Over the past few years, a number of areas for regulatory reform have been identified, including admissions, discipline, trust accounting, advertising and the Special Fund, all of which would increase the protection of the public. In addition, there are changes required to the Society's governance structure that would improve the operational effectiveness of the Law Society. The good news is that Yukon Government indicated it would begin consultations around replacing the Legal Profession Act this spring. This is an opportunity for the Law Society to craft a Legal Profession Act that incorporates the best practices for lawyer regulation in today's regulatory environment.

The Law Society will establish a special Committee to undertake this work. The Committee will include members of the Executive and members at large. Once the terms of reference for the committee are established, they will be circulated to the membership and members will have an opportunity to indicate their interest in sitting on the committee.

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VOLUNTEER COMMITTEE WORK

The Law Society relies on and values the committee work done by our volunteers. The Society has a number of internal committees, including:

- Continuing Legal Education
- Discipline
- Yukon Lawyers Assistance Program
- Law Society Rules
- Social
- Special Fund

From time to time there are vacancies on these committees. If you are interested in submitting your name for future consideration, please send your name to the Law Society.

LOSS PREVENTION eBYTES

Are you aware that CLIA's posts Loss Prevention eBytes on their website – www.clia.ca? Some recent articles include:

- Succession Planning for Your Practice
- Dealing with Unexplained Trust Deposits
- Plaintiff Must Disclose and Preserve Facebook Profile
- New Fraud Targets Real Estate Practitioners
- The Perils of Family Law Practice
- Off the Cuff Remarks Do Not Create a Solicitor-Client Relationship

In addition to the current postings, readers can obtain notice of new postings via RSS feed or by signing up to receive an e-mail when a new item is posted.

Federation of Law Societies of Canada
Signing the Quebec Mobility
Agreement
Toronto, March 2010



REAL ESTATE MATTERS

The Canadian Bankers Association (CBA) provides Law Societies with a list of bank personnel to contact in the event that there is a delay in the discharge of a mortgage. Please note that a recently updated contact list has been posted to the Law Society's website under the "Notices" tab.

www.lawsocietyyukon.com

NEW MEMBERS:

JANUARY 1 - APRIL 30TH 2010

Land-Murphy, Brook | Whitehorse
MacNeil, Janet Lynn | Whitehorse
Bergner, Keith | Vancouver
Pollock, Mara | Whitehorse
Kellgren, Kristjana | Edmonton
Bussoli, Lino | Vancouver
Morgan, Michael | Vancouver
Valiela, Diana | Vancouver
Isaac, Thomas | Vancouver

CERTIFICATES OF PERMISSION TO ACT:

73 Active Certificates

YUKON LAWYERS ASSISTANCE PROGRAM

The Yukon Lawyers Assistance Program (YLAP) committee has been busy. One of our key projects was to produce a poster advertising the program and to distribute the poster to all members of the Yukon bar. You received your copy of the poster by email. You may want to print it off and post it in your place of work for all to see.

YLAP provides free counselling to all members. If you are in need of assistance, contact Barb Nimco and Associates at 668-4058. All services are strictly confidential. And please note that, if you are a member of another law society, you may also qualify for further services through that law society.

An important (but often challenging) part of being a lawyer is taking care of your own needs. Taking steps to promote your health and well-being can go a long way to preventing problems from developing in the first place. You might consider taking part in some of the following activities:

- Join the Step Challenge or the Commuter Challenge through RPAY. For more information, visit www.rpay.org.
- Attend a fitness class at one of our great local gyms.
- Play drop-in sports at the Canada Games Centre: tennis, badminton, basketball and more.
- Introduction to Meditation and Positive Living, Alpine Bakery, 4:30 p.m., Sundays.
- Tae Chi, Elijah Smith School, 6 p.m. and 7 p.m., Wednesdays.

- Take a dance class at one of our local dance schools.
- Whitehorse Toastmasters, Yukon Inn, 6:30 p.m., Wednesdays.
- Volunteer for a worthy cause that lets you have fun. Joining another board does not count!

UPCOMING CLE - SAVE THE DATE

Westlaw Canada (formerly WestlaweCarswell) has a wealth of experience in helping organizations overcome the challenges of online legal research.

In conjunction with the Law Society of the Yukon, Westlaw Canada will be offering training sessions for beginner and advanced users of Westlaw Canada. All sessions will cover the following:

- Finding Cases and Statutes
- Keyword Searching
- Noting Up with KeyCite Canada
- Using the Canadian Abridgment & C.E.D.
- Research Trail and User Preferences

Both sessions will cover the same topics. The advanced session will cover more features. It is recommended that anyone taking the advanced session should first take the introductory session.

WHEN: Tuesday, June 8, 2010

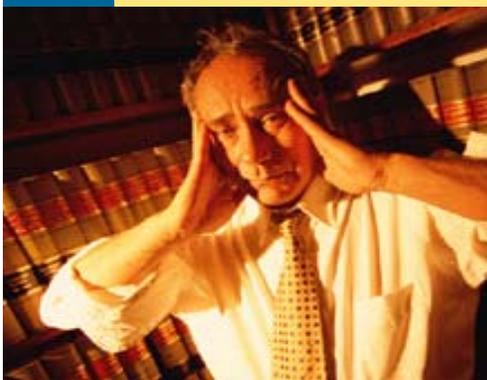
LOCATION: Yukon College

COST: TBA

SPEAKER: Allan Akizuki from Carswell

If you are interested in attending a training session, please email shannon.kmyta@lawsocietyyukon.com as soon as possible and indicate whether you want the introductory or advanced session.

Share the Load



Feeling Overwhelmed?

Stressed?

Burnt Out?

In Conflict?

Yukon Lawyers Assistance Plan
can Help with Confidential Counselling
Contact Nimco & Associates at
867-668-4058

RECOGNIZING 25 YEARS OF MEMBERSHIP

The Law Society of Yukon is celebrating its 25th Anniversary. To mark the occasion we are recognizing those individuals who were members of the Law Society in 1985 and have been members continuously for 25 years. These members will be presented with a special commemorative pin at the joint Yukon Court of Appeal/Law Society of Yukon Anniversary dinner on May 17th. Hope to see you all at the dinner.

Members who will be receiving their 25 year pins include:

Brian Abraham	Murray Leitch
George Asquith	Douglas Lent
Barbara (Buffy) Blakley	Grant Macdonald
William (Bill) Byers	Lesley McCullough
Gordon Coffin	John McDougall
Scott Dunlop	Keith Mitchell
Barry Ernewein	Stephen Phillips
Malcolm Florence	Tim Preston
Penelope Gawn	Alexander Pringle
Gerald Ghikas	Harold Sandell
Grant Hardwick	John Singleton
Edward Horembala	Tom Ulyett
David Joe	Daniel Webster
Anne King	Bruce Willis

CLIA CANADIAN LAWYERS INSURANCE ASSOCIATION ~ EXCESS INSURANCE

Do you have protection for claims over \$1 million? Although the \$1 million limit offers generous financial protection for the majority of claims lawyers face, this may not be enough to protect you from the potential liability risks inherent in your practice. Excess insurance extends the primary limits. We recommend that all lawyers consider both the financial and "sleep-easy" benefits excess insurance offer. Application Forms for excess insurance can be found on the CLIA website.



HER MAJESTY THE QUEEN v JENNIE CUNNINGHAM

In the Supreme Court of Canada decision - Her Majesty the Queen v. Jennie Cunningham the Court allowed the appeal and held that the Court did have the authority to deny counsel's request to withdraw, although they did conclude that the jurisdiction should be exercised "exceedingly sparingly". There is a discussion about the relationship between the Courts and the Law Society in this case.

A link to the decision can be found at:

scc.lexum.umontreal.ca/en/2010/2010scc10/2010scc10.html

REMINDER!

LAW SOCIETY OF YUKON ANNUAL GENERAL MEETING

Wednesday, May 12, 2010, 4:00 pm
High Country Inn, Conference Room A
Whitehorse, Yukon

UPCOMING DATES & DEADLINES

ANNUAL GENERAL MEETING

May 12, 4:00 pm, at the High Country Inn

YUKON COURT OF APPEAL / LAW SOCIETY OF YUKON ANNIVERSARY DINNER

May 17, 5:30 pm, at MacBride Museum

CLIA

For those of you with mandatory professional liability insurance coverage, the Notice of Levy for the 2010/2011 policy year will be distributed in early May. The deadline to submit your 1st installment payment is Friday, June 18, 2010.

SKATE & SHINNY EVENT

Submitted by Tom Ulyett

In Her Majesty vs. the Commoners, a spirited group of Law Society members and their families took to the Olympic ice at the Canada Games Centre on January 31 for a one-hour skate followed by an almost two-hour game of shinny hockey. There was food galore (including large chunks of chocolate) and that made the many kids very happy. There were countless goals scored by each side by young and older alike. Perhaps the most dramatic moment was an unintended collision involving a prosecutor and a judge. A-list player Peter Chisholm was on the receiving end of an elbow to the face by Judge Cozens that left Chisholm with a bloody nose. Other than that incident, the event was harmless and a lot of fun for all.

Afterwards, there was talk of a game of shinny with the medical community or even a cross country skiing event for members and their families.

Stay tuned!



Shinny



Skate & Shinny



Shinny 2010!

FRAUD: HOW TO AVOID BECOMING ITS NEXT VICTIM

This article was adapted, with permission, from the *Fraud Fact Sheet* originally published in 2009 by the Lawyers' Professional Indemnity Company.

Fraud is a real and growing problem for all law firms and their staff. Each year, fraudsters "trick" dozens of law clerks and lawyers, young and old, in practices large and small, into helping make fraud happen.

Fraudsters come in all shapes and sizes. They could be the promising new "clients" who just walked in off the street. Or a third party you never do get to meet. Or a member of an organized crime syndicate who is laundering money through your trust account. Or even a colleague whom you'd never suspect.

And it's not just real estate firms that are being targeted. Litigation firms, firms specializing in corporate commercial work, wills and estates lawyers and others also are frequent targets.

How can you protect yourself and the firm? Take some time to read this information on fraud. It explains the most common fraud scenarios and how to spot them.

BAD CHEQUE SCAMS

Fraudsters retain the firm on a contrived legal matter so that they can run a counterfeit cheque or bank draft through the firm trust account and walk away with real money. When the bad cheque or draft bounces, there will be a shortfall in the trust account

DEBT COLLECTION FRAUD

- Generally targets litigators;
- New client (often offshore) contacts your firm seeking representation on a debt collection;
- Client provides legitimate documentation including invoices, demand letters, etc.;
- Collection is hassle-free; debtor returns calls and pays up promptly;
- Certified cheque looks authentic and has all normal security features;
- You're instructed to send funds, minus legal fees, to an offshore account;
- Days later your bank tells you the cheque/draft is fraudulent.

BUSINESS LOAN FRAUD

- New client retains your firm's services to help with buying small business equipment or inventory;
- Documentation in client's file looks real (invoices, letters, etc.);
- Background checks (corporate or PPSA searches) may look normal;
- You're asked to represent lender and borrower;
- Certified cheque looks authentic and has all normal security features;
- Funds are disbursed to the client;
- Days later your bank tells you the cheque/draft is fraudulent.

DIG DEEPER

- Do a reverse phone number search on the company and use Google to verify phone numbers, addresses and e-mail contacts;
- Contact the company to confirm that they are expecting debtor's payment or business loan;
- Go to bank website to verify branch transit number, address and phone number on the cheque;
- Hold funds until your bank confirms the funds are "good" by contacting the other bank, and it's safe to withdraw from the deposit.

TIP

RED FLAGS

- Client is offshore, unknown to the firm and/or in a rush – pressures you to "do the deal" quickly;
- Client willing to pay higher-than-usual fees on a contingent basis from (bogus) funds you are to receive;
- Client shows up around banking holidays – when banks are closed and offices short-staffed;
- Debtor pays without any hassle – unusual given client's need to retain you to get payment in the first place.

REAL ESTATE SCAMS

IDENTITY THEFT FRAUD

- Client uses fake ID to assume identity of existing property owner (or director/officer of corporate owner);
- Client sells or mortgages the property, or discharges mortgage from title, then gets new (often high-ratio) mortgage from another lender, and repeats, using different lenders and lawyers each time;
- Paperwork looks in order; no encumbrances on title, but one or more recently discharged mortgages;
- Client in a hurry and accommodating: May discourage house inspection or appraisal;
- Transaction closes, you pay proceeds to client who makes a few mortgage payments, then disappears with funds;
- Lender sues you for value of mortgage.



RED FLAGS

THE CLIENT:

- Does not care about property, price, mortgage interest rate. Legal and/or brokerage fees;
- Uses only cell phone number for contact (one fraudster had nine cell phones, each for a different false identity);
- Cannot produce title documents, survey, reporting letter, tax or utility bills;
- Does not appear familiar with property;
- Won't permit contact with prior lawyer;
- Clients "out of sync" with property – e.g. don't appear educated/affluent enough;
- Funds directed to third party with no apparent connection to transaction;
- Stranger who appears to control client attends to sign documents.

TIP

BE ALERT

- Avoid having documents executed outside your office;
- Consider reviewing or discussing transaction with another lawyer;
- Consider market trends in the transaction area.

FLIP (VALUE) FRAUD

- Client says she or he is a real estate agent or in business of buying and selling;
- Client promises high fees, lots of business for quick turnaround on deals. (Short turn-around means proper searches aren't conducted);
- Once transaction closes, client flips property to accomplice (e.g. appraiser and/or mortgage broker) for much higher value;
- Lender issues mortgage on inflated property value;
- Client uses mortgage proceeds to pay initial purchase price, splits excess funds with accomplices;
- Client makes a few payments, then disappears with funds;
- Lender sues you for excess/inflated value of mortgage.



RED FLAGS

THE TRANSACTION:

- Repeat activity on single property or for single clients;
- Rental and vacant properties especially vulnerable;
- Client buys and sells often, prefers to deal in cash;
- Property listing expired without sale (i.e. sale may be unregistered);
- Frequent and quick mortgage discharges on property;
- New referral source sending lots of business;
- "Rush" deals, often with promise of more;
- Client produces small deposit relative to price;
- No amendments to Agreement of Purchase and Sale;
- Sale is presented as a "private agreement" – no agent involved, or names agent has no knowledge of transaction;
- Municipality or utility companies have no knowledge of client's ownership;
- Client paying little or nothing from own funds;
- Unusual adjustments in favour of vender, or in large vendor-take-back mortgage;
- Use of counter cheques;
- Use of Power of Attorney.