THE LAW SOCIETY OF ALBERTA

RESIGNATION COMMITTEE REPORT

IN THE MATTER OF THE *LEGAL PROFESSION ACT*,
AND IN THE MATTER OF AN APPLICATION TO RESIGN WHILE FACING INVESTIGATION UNDER PART 3 OF THE *LEGAL PROFESSION ACT*,
REGARDING **DAVID J. BLOTT**
A MEMBER OF THE LAW SOCIETY OF ALBERTA

1. On June 13, 2014, a Resignation Committee (the "Committee") of the Law Society of Alberta (the "LSA") convened at the LSA offices in Calgary, Alberta, to hear an application by the Member, David J. Blott, to resign from the LSA, pursuant to s. 61 of the *Legal Profession Act.* The Committee comprised Robert Harvie, Q.C., Chair, Darlene Scott and Glen Buick. The LSA was represented by Ms. Heather Spicer. The Member was in attendance, and was represented by legal counsel, Roy Millen.

2. A Statement of Facts was entered as Tab D of Exhibit 5, signed by Mr. Blott. It contained certain information which was made part of Mr. Blott's application to resign. It was effectively a Joint Submission as to the appropriateness of the resignation under s. 61 of the *Legal Profession Act* in the face of the extant investigation and the admissions made in the Statement of Facts. While Mr. Blott did not admit all of the allegations against him, he did make admissions that certain findings were made by the LSA during the course of their investigation, which, if proven, might well have resulted in disbarment from his membership with the LSA. The Resignation Committee was aware that such a joint submission should receive the deference of a committee such as this unless that submission is unfit, unreasonable in the circumstances, or contrary to the public interest.

3. Mr. Blott's application was constituted by four documents that were entered as Exhibit 5:

   i. EXHIBIT 5(A) - Application for Resignation
   ii. EXHIBIT 5(B) - Statutory Declaration
   iii. EXHIBIT 5(C) - Undertaking
   iv. EXHIBIT 5(D) - Statement of Facts

   Exhibit 5 is appended to this Memorandum.

4. Mr. Blott's application, as indicated, was an application brought under section 61 of the *Legal Profession Act*, being an application by the Member to resign from the LSA while under investigation regarding his conduct under Part 3 of the *Legal Profession Act*.

5. An application brought under s. 61 of the *Legal Profession Act*, is an application to resign brought during the currency of an investigation into the conduct of a member.

6. Pursuant to Part 3 of the *Legal Profession Act*, where there are allegations that a lawyer has acted in a manner injurious to the profession or the interests of the public, the LSA may take steps to conduct a hearing to impose a sanction against a member for that conduct.

7. The most serious sanction available to the LSA respecting misconduct of one of its members is disbarment – to effectively say, "You have acted in such an egregious manner that we no longer will allow you to be a member of our profession."

8. In some cases – as perhaps such is the case in this matter – disbarment is not of sufficient consolation to those who have been wronged or hurt by the lawyer's conduct. Unfortunately, however, our role as a regulator of our profession does not extend to awarding damages for inappropriate conduct or to impose harsher penalties against a member as might be available in a criminal prosecution.

9. The LSA has been involved in the investigation of this Member respecting what they have alleged reflects conduct which, should this matter have proceeded to hearing, ought to have attracted a disbarment of this Member – the ultimate penalty that they could impose. In this case, the Member has said, "I will agree, effectively, to resign on conditions that equate to disbarment".

10. As set out in paragraph 8 of the Statutory Declaration entered as Tab B in Exhibit 5 of these proceedings, the Member confirmed:

> "I have read section 61 of the *Legal Profession Act* concerning resignation, and considered section 1(c) of the *Act*, the definition of "disbar" and am aware of the effect of my resignation instead of continued proceedings under the above citations."

11. The member was further questioned by the Chair, and did confirm at the time of this hearing that he understood that the effect of his resignation under section 61 did constitute "disbarment" in accordance with section 1(c) of the *Act*.

12. Some will, no doubt, suggest this is too little consequence for the conduct imputed to the Member. To this, we would affirm that from the point of view of the LSA, it is the most serious consequence that we have the authority to impose.

13. There may be other courses of retribution for those hurt by Mr. Blott through criminal or civil actions – but those efforts would be outside of the purview of the LSA.

14. In the circumstances, this panel has considered the representations of counsel for Mr. Blott and for the LSA, and does accept the application for resignation tendered under section 61 of the *Legal Profession Act*, which, as stated under section 1(c), is a "disbarment" from his membership with the LSA.

15. That being said - we would make the following observation.

16. Our profession holds a privileged place in society - as members of the LSA and as part of the justice system, part of our duty as lawyers is to assure respect for what we refer to as the "Rule of Law."

17. The fundamental tenet of the Rule of Law is that all persons are equal before the law, regardless of personal status, and are entitled to equal protection of the law.

18. The residential school claims, at their outset, were an example of the very best of our profession – aboriginal people in Canada have historically been a politically disadvantaged and abused segment of Canadian society – a situation that was at the core of sordid history of residential schools in Canada. In light of this abuse, certain members of our profession stood up and said, "The Government of Canada, and others, cannot get away with this... we will help give these people a voice who have, until now, remained voiceless."

19. These lawyers stood up and said the Rule of Law requires that the most powerful in our society are not permitted to abuse those who are less powerful – and this ultimately resulted in the residential school settlement process. A process whereby compensation and reconciliation for past harm could be redressed.

20. The tragic reality, however, is that what started as an effort at reconciliation and righting of wrongs, under Mr. Blott's direction turned into what can only be described as a factory of gross self-interest, where victims of the residential school system were, effectively, re-victimized and treated less like human beings and more like cattle. They were, in some respects, again dehumanized by a process where the ultimate goal appeared to be making as much money as possible with the least amount of personal attention.

21. For this, Mr. Blott, you brought the legal profession into the worst form of embarrassment.

22. As a result, this application was allowed, with the expectation of this panel that subsequent to this resignation, which has been accepted, Mr. Blott will not practice law again in Alberta or any other jurisdiction in Canada.

23. With regard to the issue of costs – there will be a direction that as a condition of this application, Mr. Blott will pay costs in the total sum of $60,000.00 – $30,000 being paid by the end of 2014, $15,000 paid by the end of 2015 and a final $15,000.00 paid by the end of 2016.

24. With regard to further costs – we have considered the representations of counsel for Mr. Blott and of the LSA regarding additional costs payable in the event of an application for reinstatement. It is to be noted in this regard that the lawyers of this Province have expended what appears to be $215,000.00 to investigate this matter – and we see no reason why the members should be asked to shoulder that burden without consequence to Mr. Blott. The LSA has not sought the whole of those costs to be paid as a condition of this application; however, it is the determination of this panel that those costs shall be paid upon the filing of any application for reinstatement that may be sought hereafter by Mr. Blott.

27. Collateral to these proceedings:

a) there is a direction that all exhibits in these proceedings be available for inspection and copying, subject to redaction of names of 3rd parties for privacy purposes;

b) as a condition of the granting of this application, Mr. Blott is directed to make his best efforts to locate his certificate of admission, and should it be found, to surrender same to the LSA;

c) a Notice to the Profession and the Courts shall be given in accordance with the discretion of the Executive Director of the LSA;

d) the details of this decision shall be noted in the Roll, including the conditions relating to Mr. Blott's resignation and the Statement of Facts as put before this panel; and

e) finally – there appears to be reasonable grounds to believe that Mr. Blott may have been a party to collection of interest at rates contrary to the *Criminal Code* of Canada – as such, in that regard, a referral shall be made to the Attorney General for such further attention as they deem appropriate.

Dated at Calgary, Alberta, the 17th day of June, 2014.

____
Robert G. Harvie, Q.C (Chair)

____
Darlene Scott

____
Glen Buick

EXHIBIT 5(A)

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

IN THE MATTER OF AN APPLICATION BY
DAVID BLOTT
A MEMBER OF THE LAW SOCIETY OF ALBERTA

APPLICATION FOR RESIGNATION

I, David Blott, hereby make application to the Benchers of the Law Society of Alberta to resign as a member of the Law Society of Alberta pursuant to Section 61(1) of the *Legal Profession Act*.

DATED at the City of Calgary, in the Province of Alberta this 13th day of June, 2014.

____
David Blott

EXHIBIT 5(B)

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

IN THE MATTER OF AN APPLICATION BY

DAVID BLOTT

A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATUTORY DECLARATION

I, David Blott, of the City of Calgary, in the Province of Alberta, DO SOLEMNLY DECLARE THAT:

1. I was born [redacted].

2. I was admitted to the bar in the Province of Alberta on October 14, 1999.

3. I reside in Calgary, Alberta.

4. I am currently suspended, effective March 31, 2014. The suspension resulted from nonpayment of fees. Prior to being suspended I last practised at David Blott Professional Corporation.

5. The history of my practice status is as follows:

a)	David Blott Professional Corporation	February 21, 2008 to March 31, 2014
b)	Blott & Company	September 1, 2002 to December 9, 2008
c)	E Corp.	May 2, 2002 to September 1, 2002
d)	Blott & Associates	May 2, 2002 to June 30, 2002
e)	D LLP	October 2, 2000 to March 15, 2002

f) B LLP November 1, 1999 to September 22, 2000

6. All trust funds and client property for which I was and am responsible have been accounted for and paid over or delivered to the persons entitled thereto.

7. I am aware that a claim has been commenced against me in my professional capacity or in respect of my practice, and that this claim has been reported to ALIA.

8. I have read Section 61 of the *Legal Profession Act* concerning resignation, and considered Section 1(c) of the *Act*, the definition of "disbar" and am aware of the effect of my resignation instead of continued proceedings under the above citations.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it has the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

DECLARED BEFORE ME at the
City of Calgary, in the Province of
Alberta, this 13th day of June,
2014.

____
David Blott

____
A Commissioner of Oaths in and for the
Province of Alberta

EXHIBIT 5(C)

IN THE MATTER OF SECTION 61 OF THE *LEGAL PROFESSION ACT*

IN THE MATTER OF A RESIGNATION APPLICATION BY DAVID BLOTT A MEMBER OF THE LAW SOCIETY OF ALBERTA

Undertaking

I, David Blott, undertake and agree to cooperate with the Law Society of Alberta in the future in respect to any claim made against me or the Assurance Fund regarding me.

I acknowledge and agree that, notwithstanding my resignation, section 91 of the *Legal Profession Act* still applies to me. I undertake and agree to pay the Law Society of Alberta, on its demand, any deductible with respect to any claim paid on my behalf by the Law Society's insurer.

Signed at Calgary, Alberta, this 13th day of June, 2014.

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David Blott

EXHIBIT 5(D)

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND IN THE MATTER OF A RESIGNATION

OF DAVID J. BLOTT

A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF FACTS

I. INTRODUCTION

1. I was admitted to the Law Society of Alberta (the "LSA") on October 14, 1999.

2. Within 3 years of being called to the Bar I started my own firm called Blott & Associates, later known as Blott & Company.

3. From between 2006 until 2012 my firm represented over 4600 clients with claims in the Indian Residential School ("IRS") proceedings.

4. In 2007 the LSA received a complaint about me regarding communicating with a claimant who was represented by other counsel in an attempt to cause the claimant to become a client of Blott & Company. In 2009 a Conduct Committee Panel directed that I receive a Mandatory Conduct Advisory ("MCA") and, on the recommendation of the Bencher who conducted the MCA, the Conduct Committee Panel dismissed that complaint. In June 2011, concerns over my representation of clients within the IRS were raised first by the Chief Adjudicator in the IRS and later before the Supreme Court of British Columbia in the *F* v. *Canada* (the "Class Action").

5. On November 10, 2011, the British Columbia Supreme Court ordered that the court appointed Monitor (the "Monitor") in the Class Action investigate the allegations against me. In particular, the investigation was empowered to audit claims made under the IRS Settlement Agreement (further described below) including Alternate Dispute Resolution ("ADR") and Individual Assessment Process ("IAP") claims in order to determine the following:

   (a) The identity of my client-claimants in relation to any claim;

   (b) The participation of a client of mine in any claim;

(c) The retainer and fee arrangements between my clients and any of Blott & Company, H Ltd., F Inc., RS, Mr. H, Mr. D, B Inc., and S Inc.;

(d) The existence, nature and terms of any loan agreements and/or applications for loans including directions to pay made between my clients and any of Blott & Company, H Ltd., F Inc., RS, Mr. H, Mr. D, B Inc., and S Inc.;

(e) The payment of any compensation under the Agreement and pursuant to any claims made or otherwise to any of my clients and any fees, loans, gifts in kind, or any security taken or consideration made, deducted, provided or promised by any of Blott & Company, H Ltd., F Inc., RS, Mr. H, Mr. D, B Inc., and S Inc.; and

(f) Such other and further investigations that may be required in aid of determining if my clients and their respective claims under the Settlement Agreement were being dealt with in accordance with the Settlement Agreement and any other orders of the Court.

6. The Court also restricted my ability to represent class claimants in the Class Action.

7. Between 2009 and 2014, the LSA received 10 written complaints from clients of Blott & Company regarding representation in the IRS process. On November 10, 2011, the LSA commenced its own investigation in response to certain of those complaints made by former clients of Blott & Company directly to the LSA. The Director, Lawyer Conduct issued an Investigation Order pursuant to s. 53(3)(b) of the *Legal Profession Act*, authorizing Dan Dorsey and Gabriel Poirier to investigate my conduct. During the investigation process, approximately 20 additional Blott & Company clients voiced complaints to LSA investigators.

8. On February 24, 2012, the Monitor issued a report (the "Monitor's Report") relating to my handling of IRS claims.

9. On April 23, 2012, the Benchers heard an application pursuant to section 63 of the *Legal Profession Act* and imposed restrictions on my ability to practice law.

10. On June 5, 2012, Madam Justice Brown of the Supreme Court of British Columbia accepted the Monitor's Report. The Court ordered that I was prohibited from further representing clients in the Class Action. The Court also ordered me to pay the costs of the Monitor's investigation. These costs were very significant.

11. On July 17, 2012 a replacement Investigation Order was issued by the LSA authorizing Dan Dorsey and John Dooks to continue to investigate my conduct.

12. The LSA's investigators were provided with a complete copy of the Monitor's Report

and the raw evidence developed during the Monitor's investigation.

13. On November 18, 2013, a final investigation report (the "LSA Report") was issued by the investigators of the LSA. The LSA Report incorporates evidence the Monitor identified as well as original evidence developed during the investigation underlying the LSA Report.

14. The LSA Report states that the evidence obtained in the investigation supports the following conclusions:

(a) I failed to serve my clients in a conscientious, diligent and efficient manner and in particular:

(i) I failed to serve my clients when I facilitated and encouraged the issuance of loans to my clients who were claimants in the IRS process.

(b) My personal and professional relationships created a conflict of interest with clients who were claimants in the IRS process and in particular:

(i) My personal and professional relationship with Mr. D and H Ltd. competed and conflicted with my professional judgment and professional obligations to my clients who were claimants in the IRS process;

(ii) My personal and professional relationship with Mr. H and F Inc. competed and conflicted with my professional judgment and professional obligations to my clients who were claimants in the IRS process;

(iii) My clients who were claimants in the IRS process were unaware of my conflict of interest.

(c) I brought the profession into disrepute and in particular:

(i) Because of business relationships, shared office facilities, shared office staff and joint marketing information I and Blott & Company became so closely associated with H Ltd. that it caused members of the public and claimants to believe the two organizations were the same entity;

(ii) The conduct and actions of H Ltd. was not in the best interests of claimants;

(iii) I counseled and encouraged the actions and conduct of H Ltd.;

(iv) I and Blott & Company paid a referral fee to H Ltd. for the purpose of soliciting clients.

(d) My conduct as a member of the LSA has established I am not capable of being governed, guided, or restrained by the rules of the profession and code of conduct and in particular:

(i) I disregarded the previous directions of the LSA and failed to distance my practice from H Ltd.;

(ii) I misled or attempted to mislead the Court Monitor and others investigating my conduct in relation to clients who were claimants in the IRS process.

15. Although I do not necessarily admit or agree with all of the allegations and conclusions in the LSA Report, discussed further below, I acknowledge and understand that if a hearing panel found me guilty of citations similar to the conclusions set out above, that the possible sanction that would be imposed could well be disbarment.

16. In order to avoid a lengthy hearing into the merits of my conduct, avoid inconveniencing a significant number of witnesses, and to bring these long outstanding matters to conclusions, I have elected to apply to resign as a member of the LSA pursuant to section 61 of the *Legal Profession Act.*

17. I admit the contents of this Statement of Facts, which is tendered in support of my resignation application.

II. FACTS

A. BACKGROUND REGARDING THE IAP

18. On May 8, 2006, an agreement was reached to settle all but one of the outstanding class action lawsuits that were before various courts across Canada for claims arising from attendance at Indian Residential Schools in Canada. The Indian Residential School Settlement Agreement (the "Settlement Agreement") created universal guidelines for compensating claimants. Prior to the creation of the Settlement Agreement, the ADR was a process for those who had suffered physical or sexual abuse but did not include student on student abuse. The Settlement Agreement created two types of compensation protocols. The Common Experience Payments ("CEP") were paid to individuals who attended an Indian Residential School. To assist and compensate claimants for the most serious cases, including "student on student abuse", the Settlement Agreement also established the IAP . In exchange for receiving compensation under the IAP, claimants were required to execute releases in favor of the Government of

Canada and other involved parties. The IAP replaced the ADR Process.

19. To initiate the IAP process, claimants were required to submit a completed application to the Adjudication Secretariat. The Monitor received the completed applications on behalf of the Adjudication Secretariat. Applicants were required to confirm that all the information in the application was true. The applicant's signature had to be witnessed. If a lawyer represented the applicant, the lawyer was also required to sign the declaration certifying that he or she had reviewed the application with the applicant to make sure it was accurate. In most cases the applications were certified by a lawyer.

20. Once a certified application was submitted, a determination of eligibility was made based on the criteria set out in the Settlement Agreement. If the application was determined to be eligible, a hearing for the claimant was scheduled before an adjudicator. Claimants were entitled to be represented by a lawyer at the hearing, and sworn evidence was taken. Certified applications were marked as evidence. Claimants also had the right to be assisted by a support person at the hearing.

21. The hearing is largely an inquisitorial process where the adjudicator may ask the claimant questions but the claimant is not cross-examined as one would expect in an adversarial process. Following the review of all evidence in the hearing the adjudicator determined whether the claimant was entitled to compensation under the Settlement Agreement. If so, the adjudicator assessed the level of harm and abuse experienced by the claimant, and determined the amount of compensation to be awarded to the claimant based on the parameters established in the Settlement Agreement.

22. In addition to paying claimants the settlement amount, the Government of Canada paid legal fees of 15% of the total award. Lawyers could also bill their clients up to a maximum of an additional 15% of the total award, which was paid by the client directly from the settlement amount. The 30% maximum contingency fee was to be reserved for the most serious of claims involving complex issues. Legal bills were subject to approval by the adjudicator. Claimants could request a fee review, and adjudicators could also review fees of their own volition. Most fees were subject to review.

B. H LTD.

23. In 2005, I met Mr. D. We discussed ways by which we could develop a business relationship where his company would help my law firm help people with IRS claims obtain compensation efficiently and effectively. Mr. D's company H Ltd. employed local individuals as form fillers – often people who had their own experiences with IRS or who understood the local First Nations community because of their backgrounds. Mr. D also operated the RS.

24. Where RS would identify IRS survivors they would be referred to H Ltd. in order to have an IAP application completed by a form filler. The form filler would then refer the claimant to Blott & Company.

25. The H Ltd. form fillers would include in the package of materials reviewed with each potential client a copy of the Blott & Company retainer agreement.

26. Where the form and retainer agreement were completed by H Ltd. form fillers, they would be submitted to Blott & Company. Most of Blott & Company's administrative functions were carried out by HF Corp. Ms. M was the principal mind directing HF Corp. She was also in a relationship with Mr. D. HF Corp. provided secretarial and support services to Blott & Company and H Ltd.

27. H Ltd., RS, HF Corp. and Blott & Company did sometimes work out of the same buildings and had some staff overlap. It was not clear to clients, and sometimes staff, which entity they were dealing with at any given time.

28. Form fillers were directed by Mr. D, to focus on the harms that I had identified were most commonly accepted by adjudicators. I did not want H Ltd. filling out every ground and instead thought that the lawyers, once they received the applications, would pursue additional grounds at the hearing as part of normal progressive disclosure process if warranted.

29. At the beginning, I paid H Ltd. for the services it provided to Blott & Company when I could. When I could not afford to pay amounts owing to H Ltd., Mr. D agreed to use a credit card that I provided which would help me with cash flow. That process worked well and we kept it in place as it was convenient. There was no written contract or agreement detailing the relationship between Blott & Company and H Ltd.

30. I was not in control of H Ltd. – Mr. D was. However, Blott & Company and H Ltd. were dependent on each other.

31. Because we knew each other, Mr. D trusted me to pay him amounts Blott & Company owed for services provided by H Ltd. Mr. D and I had a system of paying him a monthly amount based on what he and I agreed it would cost to provide H Ltd.'s services to Blott & Company each year. That monthly amount eventually increased to $200,000 per month. Over the last 6 years of Blott & Company's operations, I paid more than $6 million to H Ltd. in relation to the services it provided.

32. Clients of Blott & Company were never charged for the services that H Ltd. provided. Blott & Company paid H Ltd. from its revenues that it earned from representing claimants in the IAP. If a claim was rejected and the client did not get an award, Blott & Company did not get compensated for

the effort it put into the claim.

33. The LSA Report states that the relationship between Blott & Company and H Ltd. leads to the inevitable conclusion that Blott & Company paid H Ltd. referral fees for the solicitation of clients.

34. As of April 1, 2012, Blott & Company terminated its business relationship with H Ltd., in response to the issues raised in the Monitor's Report (and which were thereafter addressed in the LSA Report).

C. FAILURE TO SERVE

35. During the LSA investigation, the investigators determined that I and Blott & Company provided inadequate service to Blott & Company clients in the following areas:

(a) The processes used to certify applications to the IAP;

(b) The procedures for internal controls and handling documents on client files;

(c) Delay in the actual submission of certified applications to the Adjudication Secretariat;

(d) Inadequate preparation of claimants for their hearings;

(e) Misuse of the "progressive disclosure" concept;

(f) The retainer agreement and the billing of clients for additional services; and

(g) Inability of clients to contact Blott & Company lawyers.

(1) Certification of IAP Applications

36. Form fillers from H Ltd. interviewed the claimants and prepared applications. Once a form filler completed an application, the client and the form filler would call Blott & Company so the application could be certified by a Blott & Company lawyer. The IAP requires the claimant's lawyer to review the allegations made on the application with the claimant and to certify that the claim was complete and accurate.

37. While some applications were certified between a lawyer and a client in person, most were certified on the phone. Once Blott & Company was retained to represent an IRS claimant, there would be work done in order to get the information necessary and relevant to the claim and the application. This varied for each claim, but would typically include collecting medical and employment records and other supporting documents required for the application package.

38. After the pertinent information and documentation was received and compiled, one of Blott & Company's lawyers would contact the client to review the application and confirm whether the application was accurate, complete, and correctly done or if changes were required. Once an application was confirmed as accurate and complete, Blott & Company would either file the client's application or advise the client that, in their opinion, the client was not an eligible claimant or that the client's alleged claim did not qualify for compensation.

39. Many of the applications certified by Blott & Company lawyers were certified over the phone after the form filler met with the claimant and completed the application. Some Blott & Company lawyers like Ms. K followed a detailed script that took 30 to 45 minutes to go through in order to complete a certification.

40. Ms. K provided training to other lawyers working at Blott & Company and in most cases it was Blott & Company's other lawyers that were completing certifications. As of November 2011, Blott & Company had 9 lawyers completing this work. According to my records, I performed 641 certifications. The investigators reviewed 25 of my phone logs related to certifications and I took less than 8 minutes per call.

41. The LSA Report also identified the following issues from the use of form fillers:

(a) There were several instances where the substance of the application as certified by a Blott & Company lawyer differed from what claimants had actually reported to the form fillers;

(b) Applications were sometimes altered by way of an "insert", which was a page attached or added to the application form containing information allegedly about the claimant's experience. Some claimants told the investigators that they had never seen their completed application in the format in which they were filed with the Adjudicator Secretariat; and

(c) A discrepancy between information on the application and actual evidence delivered by the claimants at the hearing was open to challenge at the adjudication on the grounds of credibility.

42. The direction I gave to H Ltd. to focus on "common" harms sometimes led to discrepancies at the hearing stage and, as a result, some adjudicators questioned the credibility of the claimants in certain cases.

43. In some cases, blank application forms were sometimes pre-signed by a witness who did not actually witness the form filling. Other times my signature page was attached to completed applications when they were submitted to HF Corp.

(2) Improper Handling of Documents / Delay in Submission of Certified Applications

44. H Ltd. sent Blott & Company the application materials with the date on completed application forms left blank. Other documents were pre-witnessed. Signatures were cut and pasted onto forms in some cases, or electronic signatures were used. In some cases staff of HF Corp. would date documents when they received them and not consider when they were completed.

45. The LSA Report and the Monitor found that my processes were detrimental to claimants.

46. The Monitor found the following (that are also addressed in the LSA Report):

(a) A total of 63 claimant files were located in documents seized by the Monitor from Blott & Company's offices, 16 of which identified claimants as deceased but the Adjudication Secretariat had not been informed the claimants were deceased. 5 files contained applications which were submitted after the claimant had already died;

(b) There were 1159 completed applications that were primarily located in a storage area in Bragg Creek and which had not yet been submitted to the Adjudication Secretariat. Some of these claimants were under the false impression that their applications were being processed as they had not been informed by Blott & Company that their applications had not been submitted;

(c) 182 claimant files marked "Do Not Qualify/DNQ" were discovered. The Monitor concluded that in several instances the "DNQ" determination, made by Blott & Company lawyers, was incorrect and otherwise eligible claims were not submitted thereby depriving eligible claimants from receiving compensation; and

(d) In four cases I sent a letter to the claimant advising them that Blott & Company had received notice from the government that their claims were ineligible even though I had made that determination on my own and had not submitted information to the Adjudication Secretariat.

47. The Monitor was critical that I advised clients that they did not qualify. It is the Adjudication Secretariat's position that the proper process for determining the eligibility of an application was for the application to be submitted and the Adjudication Secretariat to conduct the threshold review.

48. I acknowledge that because Blott & Company was reliant on H Ltd. for form filling, some matters did appear to be delayed or errors made. I should have been ensuring that the services H Ltd. provided were thorough and accurate.

(3) <u>Inadequate Preparation for Hearings</u>

49. Some Blott & Company claimants expressed concern over their lack of preparation by their lawyer prior to the hearing of their claim by an adjudicator. Some adjudicators also expressed similar concerns.

50. Some Blott & Company lawyers spent several hours with clients on the day of the hearing or in the days leading up to the hearing in order to prepare them but I acknowledge that in some cases clients did not receive much pre-hearing time from their lawyer.

51. The LSA Report states that 25-30% of all claimants were only prepared by lawyers from Blott & Company moments before entering the hearing room. Some clients also said they had not been provided with a copy of their claim prior to their hearing.

(4) <u>Misuse of the "progressive disclosure" concept</u>

52. The progressive disclosure concept recognizes that claimants who suffered abuse as children may disclose details of the abuse over a period of time because they might not be ready to disclose everything at the time the application is prepared. Within the IAP, adjudicators were made aware of this aspect of dealing with abuse claims and were advised to consider it when assessing the credibility of claimants.

53. Some Adjudicators were critical of how Blott & Company lawyers used "progressive disclosure" to correct information that differed as between the application materials and the testimony at the hearing. They concluded that the issues in the application materials arose not from a reluctance or inability on the part of claimants to provide details of their claims but because of the manner in which applications were prepared by H Ltd. and certified by Blott & Company.

54. The LSA Report concluded that this process was flawed as follows:

(a) The volume of files managed by Blott & Company required an assembly line approach to the files which sometimes led to errors and oversights in the collection and compilation of complainant information; and

(b) Clients had limited contact with counsel, which sometimes led to errors and a lack of preparedness at the hearing stage.

(5) The Retainer Agreement and Billing Clients for Additional Services

55. I used different forms of retainer agreements over the years. Generally, however, our retainer agreements for IRS clients provided that Blott & Company would be paid:

(a) 30% of the total amount recovered (plus GST) from the settlement or completion of the client's IRS claim, less any portion of fees paid by the Government of Canada.

(b) $8,000 (which the Monitor and others have referred to as a "break fee"): if the client decided to change lawyers for any reason prior to completion of the file, the client would pay Blott & Company; and

(c) All disbursements and GST.

56. The 30% rate fee was later reduced to 25%. Generally speaking the 30% rate fee was reserved for the most complex cases. The adjudicators ultimately reviewed and determined legal fees payable in cases where clients were represented by Blott & Company.

57. Disbursements were to have been paid by the Government of Canada.

58. I never enforced the "break fee" against any client. In the normal course where a claimant did change lawyers, an arrangement would be made with the new lawyer to pay a portion of the legal fees to Blott & Company for work done. Likewise when clients came to Blott & Company from other firms, I arranged to pay the former firm for its work to date.

(6) Inability of clients to contact Blott & Company lawyers

59. The LSA Report finds that the process I had in place with H Ltd. and the volume of files managed by Blott & Company necessitated an assembly line process in file and client management which resulted in clients having minimal contact with counsel.

60. The Settlement Agreement only required lawyers to be involved in two steps of the IAP:

the certification of applications and to assist claimants during hearings. The procedures that I established with Blott & Company and H Ltd. meant that lawyer time was spent primarily on those two aspects of the claims, as well as preparing clients for hearing. All other steps were attended to by non-lawyer staff from H Ltd. and HF Corp.

61. Due in part to the large volume of files that Blott & Company was handling, starting in 2009 Blott & Company used a journaling software to track all interactions with clients on files. Both lawyers and staff were required to record in brief every conversation with a client and every major step taken in the file including estimated time spent contemporaneously with the time the event occurred. Once anyone made an electronic journal entry the entry was date and time stamped automatically by the program and could not be deleted by anyone in the firm. This software was useful in managing workflow and keeping track of what had been done on which file. It also allowed any lawyer or staff member with access to the database to respond to a client's question about their file immediately. The corollary of this is that in some cases lawyers did not speak to clients in the normal course of a file.

D. LOANS

62. There was often a significant delay between the time a claimant was awarded compensation by an adjudicator and when they actually received settlement funds. The delay could be several months. Blott & Company clients who sought out loans were frustrated by the amount of time it took the Government of Canada to deliver settlement funds. In many cases these clients were desperate to receive funds, heard that loans were possible and actively sought them out.

63. In 2008, I started accepting "Directions to Pay" from lenders that advanced funds to clients while they were waiting for the Government of Canada to pay them their compensation awarded under the IAP process. Over the following few years, I accepted approximately 380 Directions to Pay involving 77 clients served by Blott & Company in the IRS settlement process. Where a Direction to Pay was on file, Blott & Company paid the lender pursuant to the Direction when Blott & Company received the compensation award cheque from the government, and remitted the remainder of the funds to the client. The payee companies involved were B Inc., S Inc. and F Inc.

64. At the time when I was accepting Directions to Pay, I was unaware that assignment of a Crown debt of this nature is prohibited by statute. I phased out my acceptance of Directions to Pay after they were expressly prohibited by the policies issued to guide the IAP.

65. I gave clients who were seeking loans contact information for B Inc., S Inc. and/or F Inc. F Inc. was operated locally by Mr. H. I knew Mr. H as a friend and business associate of Mr. D. In some

cases he would provide consumer goods to claimants (who would purchase those goods from a portion of their loan amount instead of obtaining their full loan proceeds). F Inc. also arranged loans from B Inc. for a finder's fee of 20% of the face value of the loan.

66. In 2008 I briefly provided legal advice to F Inc. on a corporate matter that was unrelated to loans to Blott & Company clients. I also introduced Mr. H to KD, a lawyer of Blott & Company and to one of my brothers who would later invest in F Inc.

67. I never received any direct benefit from these loans. The Monitor retained K LLP to perform an analysis of financial arrangements between Blott & Company, David Blott, H Ltd. and Mr. D. K LLP made the following findings:

(a) 380 loans were made by ten lenders totaling a principal loan amount of $3.3 million;

(b) Mr. B, my brother, made a loan to Ms. W. This finding by K LLP was incorrect. Mr. B never loaned money to Ms. W. The promissory note signed by Ms. W and identified at Exhibit 74 of the Monitor's Report was never provided to Mr. B and it was never used. At the time, Ms. W was desperate for money because there had been a fire at her home. She approached Mr. D for a loan as she was a consultant of H Ltd. Mr. D asked me to help advance the money because he was out of town and unable to help Ms. W. I gave Ms. W the money in this case as a favour to Mr. D and Ms. W, on the understanding between myself and Mr. D that the money would be reconciled against amounts Blott & Company owed to H Ltd. I did not get repaid that specific amount. I advanced Ms. W $6,000 from my bank account and Mr. D later advanced her $5,000. I paid Mr. D back the whole $11,000 from Ms. W's settlement funds on her direction and then Mr. D and I would have deducted amounts owing to Blott & Company from amounts owing to H Ltd. for its services. Ms. W did not pay interest on her loan;

(c) The loans taken by Blott & Company claimants included stated rates of interest which, based upon the loan documentation, ranged between 19.95% and 29.95% per annum where the rates were stated as a percentage of face value, and between $50 and $500 per month where the rates were stated in terms of flat amounts. Fees were charged and deducted from the loans prior to any amounts being advanced to the Blott & Company claimant; and

(d) The administration fee charged by F Inc. raised the total fee and interest charged on claimant loans. K LLP determined that from the loans reviewed where documentation was complete, several exceeded a criminal rate of interest (defined in s. 347 of the Criminal Code as an effective rate that exceeds 60% per annum).

68. The LSA Report states that my judgment and professional obligations and my duty to clients with respect to the numerous loans at extraordinary rates of interest was compromised by my relationship with Mr. D and Mr. H.

E. GOVERNABILITY

69. In 2009, the LSA received a complaint that I had communicated with an IRS claimant who was represented by other counsel in an attempt to cause the claimant to become a client of Blott & Company. The complaint was resolved by way of an MCA and the complaint was dismissed on November 23, 2009. The MCA did not prohibit me from working with H Ltd. or Mr. D. Instead, I was cautioned that my marketing efforts needed to have clarity, "particularly when those efforts involved third parties such as Mr. D."

70. I understood that the recommendation from the MCA was that I create a separation between Blott & Company and H Ltd. I asked Mr. D to make it clear to the form fillers and to claimants that H Ltd. and Blott & Company were separate. However, I did not fundamentally change how I did business with H Ltd. The LSA Report states that the relationship among H Ltd. and Blott & Company, Mr. D and myself, was so closely linked that the actions of one became indistinguishable from the actions of the others.

71. In March 2012, I tried to reduce the size of the Blott & Company practice in an effort to address the matters raised by the Monitor's Report in terms of client service. I did this by sending letters to certain categories of clients respecting either closing their file or transferring their file to new counsel. The LSA Report states that it was improper for me to force a unilateral and abrupt termination of the solicitor-client relationship.

72. I do not agree with all the findings in the LSA Report and the Monitor's Report but I accept that there are matters that should have been handled differently, and certain actions may be seen as contrary to the spirit and letter of the Code of Conduct and other applicable rules of the LSA.

73. I have wound down my practice, and closed the Blott & Co. trust account as of August 22, 2013. I also severed the relationship between Blott & Co. and H Ltd. as of April 1, 2012. I entered into a settlement with the Government of Canada in relation to the orders made in the Class Action including agreeing to pay the costs of the investigation by the Monitor in that proceeding.

74. I wish to resign from the LSA and submit this statement of facts in support of my application at this time.

ALL OF THESE FACTS ARE ADMITTED THIS 13th DAY OF JUNE, 2014.

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David J. Blott