

NOTICE TO:

February 18, 2004

All Active Members and Students-at-Law,
All Non-Practising Paying Members,
All Executive Directors of other Law Societies in Canada,
All Justices of the Court of Appeal and Court of Queen's Bench,
All Judges of the Provincial Court of Alberta,
All Masters In Chambers,
All Clerks of the Court

NOTICE OF RESIGNATION

On May 12, 2003, the Benchers of the Law Society of Alberta granted the application of **Mr. David Goldenberg** to resign, pursuant to Section 61 of the *Legal Profession Act*, R.S.A. 2000, c. L-8, effective immediately. The application and its outcome had the effect of a disbarment. Mr. Goldenberg resided and practised in Calgary as a sole practitioner until August 7, 2002, when he elected to become inactive.

Mr. Goldenberg faced twenty citations at the time of his resignation application. The Member admitted the following specifics arising from the circumstances related to the citations and acknowledged the admissions were deserving of sanction:

- a) The member admitted he commingled trust funds from eleven real estate transactions. As the cumulative funds were insufficient to discharge prior encumbrances on all eleven units, the member used the funds to clear the title of ten properties and leave the eleventh fully encumbered, contrary to his undertaking to counsel for the eleventh purchaser. In addition the member paid \$10,000 of the funds directly to the vendor contrary to the undertaking.
- b) The member admitted he advanced \$20,000 from the closing proceeds in another transaction directly to the vendor, in breach of his undertaking to the mortgagee.
- c) The member admitted that on certain occasions he failed to serve clients and that on other occasions he breached duties he owed to unrepresented purchasers. These admissions were all associated with his conduct on several other transactions in the same building development as (a) and (b).

The Panel directed that the following conditions must be met prior to Mr. Goldenberg being entitled to apply for re-enrollment:

- a) That the outstanding costs be paid in full.
- b) That Mr. Goldenberg maintain ongoing compliance with his Undertaking

- c) That Mr. Goldenberg demonstrates he has purged the finding of contempt made against him by Veit, J.

The Panel directed that Mr. Goldenberg pay fixed costs in the sum of \$18,453.90, which costs are to be paid by May 12, 2004 and in any event prior to any application for readmission.

The Panel further directed, in accordance with Section 78(5) of the *Legal Profession Act*, that the Executive Director send a copy of the hearing record to the Minister of Justice and Attorney General.

Mr. Goldenberg made private arrangements to transfer his practice to the following lawyers:

Martin Zimmerman
Barrister & Solicitor
2210, 411 – 1st Street SE
Calgary, AB T2G 5E7
Phone (403) 517-3333
Fax (403) 517-3339

Beaumont Church
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2200, 411 – 1st Street SE
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This Notice is being sent in accordance with recent instructions from the Benchers who heard the application, pursuant to Rule 106(3)(c).

Donald F. Thompson
Executive Director
The Law Society of Alberta

