

Cheryl A. Foy
Former CCCA President

January 23, 2011

Dear Mr. Snow,

Re. Your letter of January 17, 2011

I am not sure how many times that I have been told to think of CBA as a “family”, but it is numerous. As a dedicated member of this “family”, I was shocked to receive your letter removing me from my roles as President and CCCA Board Member on Monday, January 17, 2011. I later learned that every other volunteer Board Member received the same letter, and that the highly successful and visionary Executive Director Silvie Kuppek, had also been terminated from her job.

I received the letter as I was heading to a luncheon to promote the CCCA with a potential new law firm sponsor interested in funding the next World Summit. It arrived only a few hours after I had reached out to Guy Joubert to express our disappointment at the fact that the mediation had failed, and to invite Guy to contact me. I wanted to keep the dialogue going on the understanding that as long as we were talking, progress could be made.

I did not foresee that the attempts of the CCCA Board to fulfil its mandate from the CBA to improve the position of corporate counsel within the CBA would be rewarded in such a fashion. To say that the treatment was high-handed and shoddy is an understatement. The Members of the former CCCA Board are ethical, dedicated and committed and did not deserve this treatment.

Questions

There are serious questions to be answered:

1. On what substantive basis could the CBA Board have possibly concluded that dissolving the CCCA Board was the “right thing to do”?
2. At what Board meeting was the decision taken to dissolve the Board and was that meeting properly called?
3. On what basis does the CBA Board conclude that the decision to dissolve the CCCA Board and appoint a new board is authorized under section 33 of the CBA Bylaws?

Procedural Issues with CBA Authority and Decision

Other than to note that I have concerns about serious procedural irregularities regarding the decision to dissolve/reappoint, and a concern that the decision was a sure thing prior to the mediation, thus raising questions about the degree to which it undermined the CBA negotiating team’s commitment to the mediation, I pose the second and third questions above for your response.

In the interests of transparency, perhaps you could also comment on the process followed for the appointment of the new CCCA board members.

How could the CBA Board conclude that dissolution was the “right thing to do”?

With respect to this first question, I want you, the CBA Board Members, and the CCCA Chapter Presidents to have my perspective.

Having long held dear the principle that I should treat others as I wish to be treated, I can confirm that I would not treat you or any other Member of the CBA in this manner. The kind of treatment imposed on the former Board was punitive. I would expect that such a decision would be taken only in response to improper behaviour, not merely efforts to advocate for one group within the CBA. The decision was reactive and it is an understatement to say that it was out of all proportion.

I hope that the CBA Board Members now understand that they have set a terrible precedent for dealing with conferences, sections and even branches of the CBA that express and advocate differing positions than the larger group. This was a sad day for the CBA and a sad day for you as President. Ask yourself what this action tells the world about the CBA's (and your) values, the place of corporate counsel within the CBA, and the treatment dedicated volunteers can expect at the hands of the CBA.

My Commitment to the CCCA/CBA

As your former colleague on the CBA Board and the recipient of many affirmations of the high regard in which I was apparently held by my colleagues and friends at the CBA, I am deeply offended. Recognizing that a good relationship between the CBA and CCCA is fundamental, I have worked hard to build and maintain relationships within the CBA, including a relationship with you. Although an advocate for change within the CBA, I was a constructive Member of the CBA Board and Finance Committee, trying at all times to provide principled and thoughtful input. I worked hard to understand the CBA perspective. I have tried to promote understanding at the CBA by sharing my vision of a CCCA within the CBA, at all time in a constructive and respectful fashion. I continue to believe that such a vision considers and addresses both the interests of the CBA and the CCCA.

In addition to the time spent with the CBA Board, the CCCA Board, the CCCA negotiating team, and the CBA negotiating team, I have spent days with Guy Joubert trying to find a way to solve the challenges we have faced. At the same time, I have tried to hold together an increasingly frustrated CCCA Board that simply wanted the funding and governance issues resolved. The CCCA Board wanted to focus on providing improved services to corporate counsel and ensuring the CCCA's position in the market (all to the benefit of the CBA as a whole). I advised Guy last summer that one of our biggest risks was the loss of increasingly disaffected CCCA Board Members and I was deeply saddened when our Board lost three Members over this issue in November. Nonetheless, in November the remaining Board Members and I reaffirmed our commitment to finding a negotiated solution with the CBA.

I was absolutely committed to implementing the will of the CCCA Board and finding such a negotiated solution. To the extent you have heard otherwise, you have been misinformed. My email to Guy on the Monday morning after the mediation confirms this continuing commitment. A copy will be provided upon request.

To the extent that the CBA Board concluded that dissolving the CCCA Board was the right thing to do because the CCCA was not committed to finding a negotiated solution within the CBA, the CBA Board was wrong.

The CCCA Former Board

I have been involved with the CCCA since 2005, when I was approached to speak at, and help organize, the Spring Conference held in Ottawa in 2006. I knew none of the CCCA Board Members when I joined the CCCA Board in 2007. I have since come to count most of the Board Members as dear friends and colleagues. I have not before had the opportunity to work with such a talented, committed, loyal, thoughtful, and principled group of people.

I want you and the CBA Board to understand what you have lost in responding as you have to our efforts to improve the lot of corporate counsel within the CBA. To the extent that I have been able to gather the information, I list below the contributions of the volunteer Board and negotiating team members whose time, effort, and personal sacrifice was disregarded when the CBA decided to summarily dissolve the former volunteer CCCA Board.

Ray Dean –CBA Member (20 years), CCCA Member (7 years), CCCA Board Member (1 year)

Todd Wharton –CBA Member (7 years), Young Lawyer Representative on the CCCA Board (since 2007)

Michael Doody –CBA Member (35 years), CCCA Member since the 1990s, former CCCA president and CCCA Negotiating Team Member

Kari Horn –CBA Member (17 years), involved with CCCA since 2006, CCCA Board Member since 2007, Treasurer and Vice President of the CCCA, CBA Finance Committee Member, CBA Board Member, CCCA Negotiating Team Member

Leanne Andree –CBA Member (15 years), Young Lawyer Executive 1996 to 2000, CCCA Board Member since 2002. Has held the following positions: CBA Young Lawyers Conference Executive, CBA National Executive, CBA Finance and Planning Directorate, CBA Board Member, CBA Finance Committee Member, CCCA Board Member, Treasurer, Vice President, President and Past President of the CCCA and CCCA Negotiating Team Member

Kjelti Kellough –CBA Member (15 years), CCCA Board Member (1.5 years)

Barbara Munroe – CBA Member (19 years), CCCA Board Member (1.5 years)

Charles Gervais – CBA Member (15 years), CCCA Negotiating Team Member, CCCA Board Member (5 years), New Brunswick CCCA Chapter President (4 years), Law School Representative of the CBA (1 year)

Sandra Swystun – CBA Member (16 years), CCCA Member (16 years), CBA Board Member, CBA Finance Committee Member, CCCA Board Member, Treasurer, Vice President, President and Past President of the CCCA, Manitoba Chapter Executive, and CCCA Negotiating Team Member

Francois Lavallee, CBA Member (27 years), CCCA Board Member (since 2007)

Donald Sword – CBA Member (35 years), Branch Section Chair, CCCA Chapter President – Newfoundland, CBA National Council Member, CCCA Board and Committee Member, Organization Committee – CBA National Convention, Organization Committee – CCCA/CBA National Convention, Task Force Member, Membership Fees Working Group.

Former CBA Members and CCCA Board Members also include **Diana Galassi** (3.5 years), **Maria Tesla** (3.5 years) **Catherine Smith**, and **Mary Ellen Greenough**.

As you read this list, please consider the time and effort all of these people have given to the CCCA and CBA only to be treated with disrespect. To those involved in this decision – For shame!

My Status with the CBA and CCCA

It has been my inclination to discontinue my membership with the CCCA and CBA. However, I plan to defer that decision until I receive answers to the questions raised in this letter. As a CBA member, you are still my President and I trust that you will respond accordingly.

Recognizing the negative membership and competitive effects that could arise from a public campaign, the former CCCA Board made a deliberate decision not to broadly publicize the funding and governance issues. However, in order for CCCA Members to make an informed decision about whether the CBA is acting in their interests, this information must now be made available to them. All Members of the CCCA must be told what proportion of their membership fees are currently allocated to the CCCA and what proportion is retained by the CBA.

I understand that the CBA may be telling Members and others that the funding to CCCA has been tripled in the wake of the dissolution of the former Board – if this means, as I expect it does, that the CCCA has been given an increase from \$200,000 to \$600,000 or so, I think it's also important to tell members that this continues to represent not more than 10% of the revenue derived from CCCA members.

My Vision for Corporate Counsel

I joined the CCCA because I care about creating a community for corporate counsel in Canada. As I participated on the CCCA Board and came to understand from CCCA Members what they want and care about, the CCCA Board and I developed a clearer sense of what corporate counsel need from their association. I am more determined than ever to advocate for that vision. You and the CBA Board terminated my roles as President and CCCA Board Member because we were advocating for improved funding and a better governance model. I am committed to making sure that corporate counsel in Canada understand what it was we were striving to achieve, and have the information necessary to assess whether the CBA can deliver on that vision.

Yours sincerely,

“Cheryl A. Foy”

Cheryl A. Foy

Cc: John Hoyles
Guy Joubert
CBA Board Members
CCCA Chapter Presidents
Robert Patzelt, “Chair” of the CCCA Board