

Why did Legal Aid Ontario withdraw its funding from the African Canadian Legal Clinic?

THE REASONS

- ▶ The management and board of ACLC were found in "fundamental breach" of their obligations to the community. There are serious concerns of **financial mismanagement, lack of transparency and failure of accountability.**
- ▶ ACLC's management and board have **failed to account for hundreds of thousands of dollars** meant for client service.
- ▶ ACLC's management and board repeatedly **failed to meet their obligations**, despite being given seven years to take specific steps and numerous opportunities to do so.

How did this start?

In 2009/10, Legal Aid Ontario (LAO) received numerous complaints from staff and board members within the African Canadian Legal Clinic (ACLC) alleging financial mismanagement, gross misconduct and poor governance at the clinic. Two of ACLC's board members resigned because of their concerns. LAO had a responsibility to look into these allegations and tried to resolve these concerns informally through a series of meetings, but the management and board of ACLC refused.

In June 2011, LAO retained PricewaterhouseCoopers (PwC) to conduct an independent forensic review. PwC released its report in April 2013.

Does LAO understand the need for this organization?

Yes, we understand the reality of anti-Black racism, the over-representation of members of the Black community in the justice system and the need for dedicated legal services to address these issues. LAO also recognizes that test cases and law reform are important tools in the fight against anti-Black racism.

However, these issues with ACLC's management and board are not minor. ACLC's management and board have failed to account for hundreds of thousands of dollars of taxpayer money that was supposed to be used to provide legal services to vulnerable members of the Black community.

We did not want it to come to this, but after seven years of trying to work with the ACLC management and board to resolve the concerns, LAO had no choice but to make the decision to withdraw funding.

THE PwC REPORT

What did the PwC report find?

- ▶ **\$2,281 credit card charges at various retail stores**, including Stillwater Spa, La Senza, William Ashley, and Lava Life.
- ▶ **\$754 for a ring from the Diamond Shop purchased by the executive director.**
- ▶ **\$6,650 in unexplained cash advances using ACLC credit card.**
- ▶ **\$39,007 spent on taxis in and around the GTA**, an average of \$38 per day. PwC found that taxis were frequently used to travel between ACLC and employees' homes, including to and from work during the day. In PwC's opinion, the taxi expenditures appeared high, given the size of ACLC and relatively small number of staff.
- ▶ **\$170,000 in lump sum bonuses to staff**, \$121,000 of which went to ACLC's executive director. PwC reviewed ACLC board minutes and did not find approval for the bonuses. There was also no corresponding reduction for this lump sum in the time claimed by the executive director, as is the practice for recording overtime payments. To pay these bonuses, ACLC used money that was meant for lawyer staff positions, which they kept vacant for many years.
- ▶ **\$155,107 in compensatory time claimed to be owed to staff**, \$150,513 of which was recorded as owing to ACLC's executive director. The compensation accrual was in excess of the maximum of 168 hours permitted under ACLC's personnel policy. This created a large liability and deficit. Furthermore, PwC reviewed ACLC's board minutes and did not find approval for the compensatory time.

Did the executive director of ACLC ever pay back the diamond ring?

PwC did not find any evidence of reimbursement in ACLC's financial records. ACLC's executive director said she withdrew money from her bank account and repaid the purchase the same day. LAO asked the executive director to provide bank records to verify she had withdrawn money from her bank account. ACLC's executive director refused and ACLC's board supported her refusal.

In December 2012, ACLC's board and management told LAO that the executive director offered to pay back the ring a second time but the board declined. Five years later, in August 2017, ACLC posted on its website a photograph of a handwritten paper slip dated July 20, 2012 for \$780 (\$754 was the actual cost of the ring) that ACLC's board and management says shows a repayment, though this has not been authenticated or provided to LAO. PwC interviewed the executive director on August 8, 2012 and the paper slip was not mentioned or provided.

Was the \$170,000 in lump sum bonuses used to pay Black lawyers for overtime?

ACLC's management and board told PwC that the bonuses were paid to staff for performance and to boost staff morale. They did not say this lump sum was for overtime. Of the \$170,000, \$121,000 went to the executive director, \$19,000 went to four lawyers at ACLC, one of whom was Black.

THE CONDITIONS

What conditions were ACLC's management and board asked to meet?

In November 2014, the clinic's management and board were asked to meet the following conditions:

1. Notify LAO of ACLC board of directors' meetings in writing and allow an LAO staff member to attend board meetings.
2. Take specific steps to have a board that includes two people with financial skills and two lawyers.
3. Train ACLC's board members on their duties and responsibilities.
4. Submit for LAO's approval a sound financial restructuring plan to eliminate the deficit in ACLC's LAO funds, stabilize the clinic's financial position, and improve financial management.
5. Implement best practices for financial controls, and financial reporting systems, including a policy not to use money provided by LAO for legal aid services to pay off unrelated debts.
6. Co-operate with an independent audit of compensation time by an auditor of LAO's choice.
7. Only request money for actual expenses. This included a prohibition from requesting and receiving funds for vacant positions.
8. Implement all of the recommendations made by PwC following the PwC Forensic Review.

Which conditions were not met?

Despite being given nearly three years, ACLC's board and management did not meet the following conditions:

- ▶ **Have an LAO staff person attend board meetings as an observer and provide financial documents** (Condition 1): the board and management of ACLC did not include the LAO staff person in a number of board meetings. They refused to provide a number of financial documents. The Clinic Committee found that at least some of this was intentional and the ACLC management and board's reasons for not inviting LAO staff to some of the meetings were simply untrue.
- ▶ **Come up with a financial plan and eliminate ACLC's deficit** (Condition 4): ACLC's management and board did not submit a sound financial restructuring plan that incorporated LAO's feedback. The clinic's management and board also did not eliminate ACLC's deficit.
- ▶ **Stop transferring funds from LAO to other funders and vice versa** (Condition 5): ACLC's board and management promised to adopt a policy to use LAO funds only for legal aid services and not to pay for unrelated debts. Instead, the clinic's own annual financial statements showed that the board and management continued to use LAO funds to pay off debts to other funders.
- ▶ **Stop collecting money for expenses the clinic does not actually have** (Condition 7): The management and board of ACLC was required to request funding only for positions that it actually filled and for expenses that it actually incurred. However, between 2010/11 through to 2015/16, ACLC requested and received almost half a million dollars from LAO. Despite LAO's repeated requests for them, ACLC's board and management has provided receipts for only half this amount. This means that approximately \$250,000 meant for client services is still unaccounted for, even though the clinic's board and management have had years to account for this.

THE ADVISORY COMMITTEE

What is the advisory committee's role and when was it created?

The committee was created last year to provide advice on how best to meet the Black community's needs and help ensure continued services. The members of the advisory committee were not involved in the dispute between ACLC and LAO or in LAO's decision to stop funding. They are serving on the committee in a volunteer capacity.

Who makes up the advisory committee?

The committee is made up of six people who are all Black:

- Sandy Hudson
- Rinadlo Walcott
- Idil Abdillahi
- Aba Stevens
- Zanana Akande

For more information on the members, please visit our website: https://www.legalaid.on.ca/en/news/newsarchive/2017-08-16_advisory-committee-legal-services-to-black-community.asp

Is it true that John McCamus is the board chair of this committee?

No. John McCamus is the chair of Legal Aid Ontario and the Clinic Committee that made the decision to withdraw funding from the ACLC. He is not the chair of the advisory committee. He has no role on this advisory committee whatsoever.

This committee is not an advisory committee of LAO's Board of Directors. It is a group of community members with a long history of working to combat anti-Black racism who came together to advise LAO on how to establish an independent, Black-led, Black-run community-based organization to deliver legal services to Black Ontarians.