

Financial statements of

**The Law Foundation of Ontario**

December 31, 2013

# The Law Foundation of Ontario

December 31, 2013

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## Independent Auditor's Report

To The Trustees of  
The Law Foundation of Ontario

We have audited the accompanying financial statements of The Law Foundation of Ontario, which comprise the statement of financial position as at December 31, 2013, the statements of revenue, expenses and grants, changes in fund balances, and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risk of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of The Law Foundation of Ontario as at December 31, 2013, and the results of its operations and its cash flows for the year then ended, in accordance with Canadian accounting standards for not-for-profit organizations.

*Deloitte LLP*

Chartered Professional Accountants, Chartered Accountants  
Licensed Public Accountants  
April 16, 2014

# The Law Foundation of Ontario

## Statement of financial position as at December 31, 2013

	2013	2012
	\$	\$
<b>Assets</b>		
Current assets		
Cash	1,547,524	719,067
Externally restricted cash and investments for Class proceedings fund (Note 3)	9,616,961	10,485,095
Short-term investments (Note 5)	17,079,155	23,721,430
Prepaid expenses	19,489	17,814
Other receivables	1,697,476	1,911,424
Interest receivable	1,823,263	458,895
	<b>31,783,868</b>	<b>37,313,725</b>
Long-term investments (Note 5)	17,310,861	12,677,971
Externally restricted cash and investments for Roy & Ria McMurtry Endowment Fund (Note 4)	105,683	110,448
Capital assets (Note 6)	190,278	257,116
	<b>49,390,690</b>	<b>50,359,260</b>
<b>Liabilities</b>		
Current liabilities		
Accounts payable and accrued liabilities (Note 15)	274,912	595,046
Due to Legal Aid Ontario (Note 7)	1,458,600	240,513
Grants payable (Note 8)	11,414,158	13,861,028
	<b>13,147,670</b>	<b>14,696,587</b>
Long-term grants payable (Note 8)	1,693,546	3,443,295
	<b>14,841,216</b>	<b>18,139,882</b>
<b>Fund balances</b>		
Internally restricted		
Grant Stabilization Fund (Note 9)	15,000,000	15,000,000
Access to Justice Fund (Note 10)	3,019,413	3,794,804
Others (Note 11)	235,448	529,152
	<b>18,254,861</b>	<b>19,323,956</b>
Externally restricted		
Class Proceedings Fund (Note 12)	9,495,618	7,820,241
Roy and Ria McMurtry Endowment Fund (Note 13)	99,549	104,314
	<b>9,595,167</b>	<b>7,924,555</b>
Unrestricted - General Fund	6,699,446	4,970,867
	<b>34,549,474</b>	<b>32,219,378</b>
	<b>49,390,690</b>	<b>50,359,260</b>

Approved by the Board

\_\_\_\_\_ Director

\_\_\_\_\_ Director

The accompanying notes to the financial statements are an integral part of this financial statement.

# The Law Foundation of Ontario

## Statement of revenue, expenses and grants year ended December 31, 2013

	Internally Restricted Funds			Externally Restricted Funds		2013
	Unrestricted General	Others (Note 11)	Access to Justice (Note 10)	Class Proceedings (Note 12)	Roy and Ria McMurtry Endowment (Note 13)	Total
	\$	\$	\$	\$	\$	\$
<b>Revenue</b>						
Interest on lawyers' mixed trust accounts, net of service charges of \$1,088,060 (Notes 7 and 14)	34,182,270	-	-	-	-	34,182,270
Other investment income	1,182,362	-	136,528	166,862	4,219	1,489,971
Other Income	25	-	46,022	-	-	46,047
Levy on awards (Note 12)	-	-	-	2,897,976	-	2,897,976
	<b>35,364,657</b>	<b>-</b>	<b>182,550</b>	<b>3,064,838</b>	<b>4,219</b>	<b>38,616,264</b>
<b>Expenses</b>						
Salaries and benefits	1,019,667	-	127,484	157,043	-	1,304,194
Rent and occupancy	219,347	-	-	11,028	-	230,375
Other administrative	164,661	-	6,577	24,177	-	195,415
Professional fees	191,402	-	2,728	219,494	-	413,624
Printing and office supplies	28,028	-	10,078	12,313	-	50,419
Cost awards (Note 12)	-	-	-	977,397	-	977,397
Amortization	67,472	-	-	-	-	67,472
	<b>1,690,577</b>	<b>-</b>	<b>146,867</b>	<b>1,401,452</b>	<b>-</b>	<b>3,238,896</b>
Excess of revenue over expenses before the undernoted	<b>33,674,080</b>	<b>-</b>	<b>35,683</b>	<b>1,663,386</b>	<b>4,219</b>	<b>35,377,368</b>
Allocation to Legal Aid Ontario (Note 7)	<b>24,368,770</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>24,368,770</b>
Grants authorized, net of reversal of grants authorized in prior years and transfer to unrestricted General Funds (Note 8)	<b>8,448,534</b>	<b>120,824</b>	<b>811,074</b>	<b>(11,991)</b>	<b>10,000</b>	<b>9,378,441</b>
	<b>32,817,304</b>	<b>120,824</b>	<b>811,074</b>	<b>(11,991)</b>	<b>10,000</b>	<b>33,747,211</b>
Excess (deficiency) of revenue over expenses and grants for the year before the undernoted	<b>856,776</b>	<b>(120,824)</b>	<b>(775,391)</b>	<b>1,675,377</b>	<b>(5,781)</b>	<b>1,630,157</b>
Change in unrealized gain on investments	<b>698,923</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,016</b>	<b>699,939</b>
<b>Excess (deficiency) of revenue over expenses and grants for the year</b>	<b>1,555,699</b>	<b>(120,824)</b>	<b>(775,391)</b>	<b>1,675,377</b>	<b>(4,765)</b>	<b>2,330,096</b>

The accompanying notes to the financial statements are an integral part of this financial statement.

# The Law Foundation of Ontario

## Statement of revenue, expenses and grants year ended December 31, 2012

	Internally Restricted Funds			Externally Restricted Funds		2012
	Unrestricted General	Others (Note 11)	Access to Justice (Note 10)	Class Proceedings (Note 12)	Roy and Ria McMurtry Endowment (Note 13)	Total
	\$	\$	\$	\$	\$	\$
<b>Revenue</b>						
Interest on lawyers' mixed trust accounts, net of service charges of \$1,288,000 (Notes 7 and 14)	29,628,063	-	-	-	-	29,628,063
Other investment income	872,882	-	191,036	186,852	6,440	1,257,210
Other Income	650	-	563,829	-	-	564,479
Levy on awards (Note 12)	-	-	-	1,911,337	-	1,911,337
	<u>30,501,595</u>	<u>-</u>	<u>754,865</u>	<u>2,098,189</u>	<u>6,440</u>	<u>33,361,089</u>
<b>Expenses</b>						
Salaries and benefits	1,054,174	-	160,722	219,576	-	1,434,472
Rent and occupancy	219,382	-	-	11,022	-	230,404
Other administrative	186,651	-	7,329	32,192	-	226,172
Professional fees	214,771	-	31,499	304,797	-	551,067
Printing and office supplies	42,033	-	-	-	-	42,033
Cost awards (Note 12)	-	-	-	2,916,515	-	2,916,515
Amortization	80,636	-	-	-	-	80,636
	<u>1,797,647</u>	<u>-</u>	<u>199,550</u>	<u>3,484,102</u>	<u>-</u>	<u>5,481,299</u>
Excess (deficiency) of revenue over expenses before the undernoted	28,703,948	-	555,315	(1,385,913)	6,440	27,879,790
Allocation to Legal Aid Ontario (Note 7)	20,872,812	-	-	-	-	20,872,812
Grants authorized, net of reversal of grants authorized in prior years and transfer to unrestricted General Funds (Note 8)	7,568,965	37,621	3,554,631	563,137	10,000	11,734,354
	<u>28,441,777</u>	<u>37,621</u>	<u>3,554,631</u>	<u>563,137</u>	<u>10,000</u>	<u>32,607,166</u>
Excess (deficiency) of revenue over expenses and grants for the year before the undernoted	262,171	(37,621)	(2,999,316)	(1,949,050)	(3,560)	(4,727,376)
Change in unrealized gain on investments	335,135	-	-	-	82	335,217
<b>Excess (deficiency) of revenue over expenses and grants for the year</b>	<u>597,306</u>	<u>(37,621)</u>	<u>(2,999,316)</u>	<u>(1,949,050)</u>	<u>(3,478)</u>	<u>(4,392,159)</u>

The accompanying notes to the financial statements are an integral part of this financial statement.

# The Law Foundation of Ontario

## Statement of changes in fund balances year ended December 31, 2013

	Internally Restricted Funds				Externally Restricted Funds		2013
	Unrestricted General	Others (Note 11)	Grant Stabilization (Note 9)	Access to Justice (Note 10)	Class Proceedings (Note 12)	Roy and Ria McMurtry Endowment (Note 13)	Total
	\$	\$	\$	\$	\$	\$	\$
<b>Fund balances, beginning of year</b>	<b>4,970,867</b>	<b>529,152</b>	<b>15,000,000</b>	<b>3,794,804</b>	<b>7,820,241</b>	<b>104,314</b>	<b>32,219,378</b>
Excess (deficiency) of revenue over expense, and grants for the year	<b>1,555,699</b>	<b>(120,824)</b>	-	<b>(775,391)</b>	<b>1,675,377</b>	<b>(4,765)</b>	<b>2,330,096</b>
Transfers (Note 11)	<b>172,880</b>	<b>(172,880)</b>	-	-	-	-	-
<b>Fund balances, end of year</b>	<b>6,699,446</b>	<b>235,448</b>	<b>15,000,000</b>	<b>3,019,413</b>	<b>9,495,618</b>	<b>99,549</b>	<b>34,549,474</b>

The Unrestricted General Fund balance includes \$190,278 (2012 - \$257,116) that is Invested in Capital Assets.

The accompanying notes to the financial statements are an integral part of this financial statement.

# The Law Foundation of Ontario

## Statement of changes in fund balances year ended December 31, 2012

	Internally Restricted Funds				Externally Restricted Funds		2012
	Unrestricted General	Others (Note 11)	Grant Stabilization (Note 9)	Access to Justice (Note 10)	Class Proceedings (Note 12)	Roy and Ria McMurtry Endowment (Note 13)	Total
	\$	\$	\$	\$	\$	\$	\$
<b>Fund balances, beginning of year</b>	3,182,884	757,450	16,000,000	6,794,120	9,769,291	107,792	36,611,537
Excess (deficiency) of revenue over expense, and grants for the year	597,306	(37,621)	-	(2,999,316)	(1,949,050)	(3,478)	(4,392,159)
Transfers (Note 11)	1,190,677	(190,677)	(1,000,000)	-	-	-	-
<b>Fund balances, end of year</b>	<b>4,970,867</b>	<b>529,152</b>	<b>15,000,000</b>	<b>3,794,804</b>	<b>7,820,241</b>	<b>104,314</b>	<b>32,219,378</b>

The Unrestricted General Fund balance includes \$ 257,116 (2011 - \$320,578) that is Invested in Capital Assets.

The accompanying notes to the financial statements are an integral part of this financial statement.



# The Law Foundation of Ontario

## Statement of cash flows year ended December 31, 2013

	2013	2012
	\$	\$
<b>Operating activities</b>		
Deficiency of revenue over expenses and grants for the year	2,330,096	(4,392,159)
Items not affecting cash		
Amortization	67,472	80,636
Realized gain on sale of investments	(485,087)	(102,058)
	1,912,481	(4,413,581)
Changes in non-cash operating items		
Prepaid expenses	(1,675)	(480)
Other receivables	213,948	1,115,606
Interest receivable	(1,364,368)	87,745
Due to Legal Aid Ontario	1,218,087	28,033
Accounts payable and accrued liabilities	(320,134)	(180,581)
Grants payable	(4,196,619)	(3,751,539)
	(2,538,280)	(7,114,797)
<b>Investing activities</b>		
Decrease in investments	2,494,472	7,035,119
Decrease in externally restricted cash and short-term investments for Class Proceedings Fund	868,134	322,270
Decrease in externally restricted cash and investment for Roy & Ria McMurtry Endowment Fund	4,765	3,478
Purchase of capital assets	(634)	(17,174)
	3,366,737	7,343,693
Net increase in cash	828,457	228,896
Cash, beginning of year	719,067	490,171
<b>Cash, end of year</b>	<b>1,547,524</b>	<b>719,067</b>

The accompanying notes to the financial statements are an integral part of this financial statement.

# The Law Foundation of Ontario

## Notes to the financial statements

December 31, 2013

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### 1. Purpose of the organization

The Law Foundation of Ontario (the "Foundation") was established in 1974, under an amendment to the Law Society Act, as a corporation without share capital. The Foundation was created to receive interest accruing on monies held in lawyers' mixed trust accounts and to establish and maintain a fund to be used for the purposes of legal education and legal research, legal aid and the establishment, maintenance and operation of law libraries. The Foundation is a not-for-profit organization under subsection 149(1) (1) of the Income Tax Act (Canada) and, as such, is exempt from income taxes.

### 2. Significant accounting policies

The financial statements have been prepared in accordance with Canadian accounting standards for not-for-profit organizations. The significant accounting policies are summarized below:

#### *Revenue recognition*

The Foundation follows the fund restricted method of accounting for revenue. Revenue is recognized when received or receivable in the respective fund if the amount to be received can be reasonably estimated.

#### *Fund balances*

The Grant Stabilization (formerly, The Reserve) Fund, Future Commitment Fund, Access to Justice Fund and Rejuvenation Fund are internally restricted funds (Notes 9-11). The Class Proceedings Fund and the Roy & Ria McMurtry Endowment Fund are externally restricted funds (Notes 12 and 13).

#### *Interest earned on lawyers' mixed trust accounts*

The interest earned on lawyers' mixed trust accounts is calculated and remitted to the Foundation based on agreements made with individual financial institutions. The lawyers' mixed trust accounts are not the property of, nor administered by, the Foundation. The Foundation is, therefore, unable to determine the amount of interest that is accruing until such time as it is advised by each individual financial institution and statutory filings are received from the lawyers. Such interest is therefore recorded when determinable by the Foundation, in the Unrestricted General Fund.

#### *Grants*

Grants for legal education, legal aid, legal research and law libraries are recorded in the period in which they are authorized by the Board of Trustees.

#### *Levy on awards*

The Class Proceedings Fund is entitled to a 10% levy on any award or settlement to the plaintiff in a funded action. The levy on awards is recorded when determinable by the Foundation.

#### *Capital assets*

Capital assets are carried at cost less accumulated amortization. Furniture and fixtures are amortized on the declining balance basis at 20% per annum. Computer hardware and software are amortized on the straight-line basis over their estimated useful lives of three years. Leasehold improvements are amortized on the straight-line basis over the term of the lease.

#### *Use of estimates*

The preparation of financial statements in conformity with Canadian accounting standards for not-for-profit organizations requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the statement of financial position date and the reported amounts of revenues and expenses during the year (the Foundation relies on bank statements to record the interest revenue earned on lawyers' mixed trust accounts). Actual results could differ from those estimates. Accounts requiring significant estimates and assumptions include investments, interest earned on lawyers' mixed trust accounts, and accrued liabilities.

# The Law Foundation of Ontario

## Notes to the financial statements

December 31, 2013

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### 2. Significant accounting policies (continued)

#### *Financial instruments*

Financial assets and financial liabilities are initially recognized at fair value when the Foundation becomes a party to the contractual provisions of the financial instrument. Subsequently, all financial instruments are measured at amortized cost, except for equities quoted in active markets, Canadian equities not quoted in active markets, restricted cash and fixed income for the Roy & Ria McMurtry Endowment Fund, which are carried at fair value. Any subsequent changes in fair value are recorded in the Statement of revenue, expenses and grants.

	Measurement
Cash and restricted cash	Fair value
Interest receivable	Amortized cost
Short-term investments	Amortized cost
Fixed income	Amortized cost
Canadian equities	Fair value
Investments Fund for class proceedings	Amortized cost
Investments for Roy & Ria McMurtry Endowment Fund	Fair value
Accounts payable and accrued liabilities	Amortized cost
Due to Legal Aid Ontario	Amortized cost
Grants payable	Amortized cost

Financial assets measured at amortized cost are assessed at each reporting date for indications of impairment. If such impairment exists, the asset is written down and the resulting impairment loss is recognized in the Statement of revenue, expenses and grants.

#### *Transaction costs*

Transaction costs for investments are expensed as they are incurred.

#### *Fair value*

The fair value of Canadian equities is determined based on bid prices.

The fair value of the investments of the Roy & Ria McMurtry Endowment Fund approximates their cost due to the immediate or short-term maturity of these instruments, except for the Canadian equities, the fair value of which is determined based on bid prices.

#### *Foreign exchange*

Transactions denominated in foreign currencies are translated into Canadian dollars at the rate of exchange in effect on the dates of the transactions. The market value of foreign currency denominated assets and liabilities is translated using the year-end rates of exchange. The resulting gains and losses from changes in these rates are included in the realized gain (loss) for investments sold and in the unrealized gain (loss) on investments held at year-end.

# The Law Foundation of Ontario

## Notes to the financial statements

December 31, 2013

### 3. Externally restricted cash and short-term investments for Class Proceedings Fund

	2013	2012
	\$	\$
Cash	110,905	241,622
Guaranteed Investment Certificates	9,506,056	10,243,473
	<b>9,616,961</b>	<b>10,485,095</b>

The effective yields on the Guaranteed Investment Certificates are between 1.35% and 1.97% (2012 - between 1.1% and 1.97%).

\$1,313,452 (2012 - \$2,205,199) of the above-noted balance will be used to pay grants obligations (see Note 8).

### 4. Externally restricted cash and investments for Roy & Ria McMurtry Endowment Fund

Restricted cash and investments consist of cash, fixed income securities and equities. The fixed income securities are comprised of bonds and deposit notes which mature between March 8, 2015 and June 2, 2022 (2012 - between June 3, 2013 and December 18, 2021) and the coupon rates range from 3.15% to 4.50% (2012 - from 3.25% to 4.50%).

	2013	2012
	\$	\$
Restricted cash	5,547	1,762
Fixed income	57,253	64,306
Canadian equities	42,883	44,380
	<b>105,683</b>	<b>110,448</b>

### 5. Investments

	2013	2012
	\$	\$
Short-term, at cost	17,079,155	23,721,430
Long-term:		
Fixed income, at cost (fair value - \$13,927,857; 2012 - \$9,140,524)	13,871,715	8,878,689
Canadian equities, at fair value (cost - \$2,529,448; 2012 - \$3,591,828)	3,439,146	3,799,282
	<b>17,310,861</b>	<b>12,677,971</b>

The Foundation's short-term investments of \$17,079,155 (2012 - \$23,721,430) comprise cash, GICs and short-term bonds. The effective yields on the GICs of \$14,926,913 (2012 - \$21,020,195) range from 1.3% to 1.85% (2012 - from 1.3% to 2%). Short-term bonds of \$2,150,992 (2012 - \$2,700,000) mature between March 8, 2014 and December 22, 2014 (2012 - between February 13, 2013 and December 15, 2013) and have a coupon rate from 2.2% to 5.1% (2012 - from 2.7% to 5.05%).

The Foundation's fixed income long-term investments include bonds of \$8,400,968 (2012 - \$8,878,689), which mature between March 2, 2015 and June 2, 2022 (2012 - between March 8, 2014 and June 2, 2022). The coupon rates range from 1.7% to 4.55% (2012 - from 1.70% to 5.10%).

# The Law Foundation of Ontario

Notes to the financial statements

December 31, 2013

## 6. Capital assets

			2013	2012
	Cost	Accumulated amortization	Net book value	Net book value
	\$	\$	\$	\$
Furniture and fixtures	254,704	199,808	54,896	67,836
Computer hardware	165,643	145,632	20,011	26,320
Computer software	186,099	186,099	-	3,511
Leasehold improvements	402,897	287,526	115,371	159,449
	<b>1,009,343</b>	<b>819,065</b>	<b>190,278</b>	<b>257,116</b>

## 7. Due to Legal Aid Ontario

Pursuant to Section 55(3) of the Law Society Act (R.S.O. 1990, Chapter L.8), 75% of the net revenue received during the year from interest received on lawyers' mixed trust accounts, less operating expenses, is to be paid to Legal Aid Ontario. The provision for the share of net revenue payable to Legal Aid Ontario is recorded annually in the Foundation's accounts.

	2013	2012
	\$	\$
Interest on lawyers' mixed trust accounts (net of service charges of \$1,088,060; (2012 - \$1,288,000))	34,182,270	29,628,063
Unrestricted General and Other Funds expenses	(1,690,577)	(1,797,647)
Interest after expenses	<b>32,491,693</b>	<b>27,830,416</b>
Due to Legal Aid Ontario, beginning of year	240,513	212,480
75% allocation to Legal Aid Ontario	24,368,770	20,872,812
Paid to Legal Aid Ontario, during the year	(23,150,683)	(20,844,779)
Due to Legal Aid Ontario, end of year	<b>1,458,600</b>	<b>240,513</b>

# The Law Foundation of Ontario

Notes to the financial statements

December 31, 2013

## 8. Grants payable

Grants payable consist of the following:

						2013	2012
	Unrestricted	Others	Access to Justice	Class proceeding	Roy & Ria McMurtry	Total	Total
	\$	\$	\$	\$	\$	\$	\$
Opening	9,264,384	60,456	5,769,284	2,205,199	5,000	17,304,323	21,055,862
Grants authorized	8,844,853	120,824	831,449	464,491	10,000	10,271,617	14,189,408
Payments	(9,582,817)	(124,150)	(2,978,337)	(879,756)	(10,000)	(13,575,060)	(15,485,893)
Grants reversed	(396,319)	-	(20,375)	(476,482)	-	(893,176)	(2,455,054)
Ending grants payable	8,130,101	57,130	3,602,021	1,313,452	5,000	13,107,704	17,304,323
Less: Long-term grants payable	(1,162,218)	-	(531,328)	-	-	(1,693,546)	(3,443,295)
Current grants payable	6,967,883	57,130	3,070,693	1,313,452	5,000	11,414,158	13,861,028

Details of December 31, 2013 long-term grants payable are as follows:

	2013		
	Unrestricted	Access to Justice	Total
	\$	\$	\$
2015	1,107,227	507,906	1,615,133
2016	54,991	23,422	78,413
	1,162,218	531,328	1,693,546

# The Law Foundation of Ontario

## Notes to the financial statements

December 31, 2013

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### 9. Grant Stabilization Fund

In 1981, the Trustees of the Foundation established an internally restricted Reserve Fund to provide for future contingencies and future beneficiaries of its statutory objects that relate to legal education, legal research and law libraries. This fund was created and has been maintained from the 25% of net revenue intended to be made available for those beneficiaries. In 2009, the Trustees of the Foundation changed the name of the fund to the "Grant Stabilization Fund". In 2012, the Trustees of the Foundation authorized the transfer of \$1 million to the General Fund. The balance of the Fund is maintained at \$15 million (2012 - \$15 million).

### 10. Access to Justice Fund

In 2009, the Trustees of the Foundation established an internally restricted fund to provide grants that promote access to justice. The initial source of this fund in 2009 came from a one-time cy-près settlement in the amount of \$14,530,395 (together with interest earned thereon of \$63,735) that the Foundation received as a result of a ruling on a class action lawsuit, although the Foundation was not a party to the action. The amount was transferred from the Unrestricted General Fund to the new Access to Justice Fund. The Access to Justice Fund was established to receive cy-près settlements that are directed to the Foundation.

### 11. Other Internally Restricted Funds

			2013	2012
	Future Commitment Fund	Rejuvenation Fund	Total	Total
	\$	\$	\$	\$
Opening balances	172,880	356,272	529,152	757,450
Deficiency of revenue over expenses for the year	-	(120,824)	(120,824)	(37,621)
Transfer to Unrestricted General Fund	(172,880)	-	(172,880)	(190,677)
Closing balances	-	235,448	235,448	529,152

#### (a) Future Commitment Fund

In 2004, the Trustees of the Foundation established a fund to hold funds which have been allocated from the Unrestricted General Fund to budget for funding plans extending beyond one year. Multi-year funding plans will continue to be formally approved and booked on a year-by-year basis, but the funds will come out of the Future Commitment Fund, rather than the Unrestricted General Fund. In 2013, the Board of Trustees closed the fund and authorized \$172,880 (2012 - \$190,677) to be transferred to the Unrestricted General Fund.

#### (b) Rejuvenation Fund

In 2007, the Rejuvenation Fund was established for the purpose of providing both human and organizational infrastructure support to eligible grantees for optimum performance and efficiency, and includes such activities as professional development, consulting services, technology upgrades and capital acquisitions and improvements. The initial source of this fund came from the Unrestricted General Fund.

# The Law Foundation of Ontario

## Notes to the financial statements

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### 12. Class Proceedings Fund

The Class Proceedings Fund (the "Fund") came into being in 1993 under an amendment to The Law Society Act to provide financial support to plaintiffs in class proceedings in respect of disbursements incurred and payments made to defendants regarding cost awards made against the funded plaintiffs. In the event a funded action settles or wins an award, disbursement award grants already paid are recoverable, and outstanding disbursement award grants payable are cancelled. As well, the Fund is entitled to a 10% levy on any award or settlement to the plaintiff in a funded action.

In 2013, the Fund recovered a previous year's disbursement award grant payment of \$245,455 (2012 - \$799,562). This amount is included in the payments amount in Note 8. The Fund paid cost awards of \$977,397 (2012 - \$2,916,515) as a result of cost awards made against funded plaintiffs. The Fund received a levy on awards of \$2,897,976 (2012 - \$1,911,337) as a result of settlements to funded plaintiffs.

### 13. The Roy & Ria McMurtry Endowment Fund

In 2005, the Foundation established the Roy & Ria McMurtry Endowment Fund in honour of Chief Justice and Mrs. McMurtry, upon his receipt of the 2005 Law Foundation of Ontario Guthrie Award. From the interest earned on the Fund, awards will be made in support of work within the Foundation's objects, of an organization chosen by the former Chief Justice and Mrs. McMurtry. In June 2007, the Board decided that an additional annual \$5,000 scholarship will be available to a student selected from the Law School on a rotating basis.

### 14. Interest on Lawyers' Mixed Trust Accounts

The Foundation negotiates with each financial institution for interest rates of return and service charges in order to achieve a net competitive rate of return.

### 15. Accounts payable and accrued liabilities

There are no outstanding government remittances as at December 2013 and 2012.

### 16. Lease commitments

The Foundation has obligations under a non-cancellable operating lease. The future minimum annual lease payments for premises (excluding occupancy costs) are as follows:

	\$
2014	81,700
2015	81,700
2016	54,467

There are no lease commitment obligations after 2016.

### 17. Contingencies

Once funding has been granted by the Class Proceedings Committee to a plaintiff in a class action, the Class Proceedings Fund (the "Fund") becomes potentially liable for adverse cost awards against the plaintiff in the action. As at December 31, 2013 the Fund remained exposed to potential adverse cost awards in funded actions. In all actions, the likelihood of loss is indeterminable. Any loss will be recorded in the year it is determined.

Indemnity has been provided to all trustees and/or officers of the Foundation for various items including, but not limited to, all costs to settle suits due to their association with the Foundation, subject to certain restrictions. The Foundation has purchased trustees' and officers' liability insurance to mitigate the cost of any potential future suits or actions. The maximum amount of any potential future payment cannot be reasonably estimated.



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Notes to the financial statements

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## 18. Risk management

The Foundation follows a Statement of Investment Policies, which provides the investment objectives, performance expectations and guidelines for the management of these investments. The Statement of Investment Policies requires that all investments must fall within the Trustee Act of Ontario and requires that certain additional restrictions must be met.

### *Market risk*

Market risk is the risk that the value of an investment will fluctuate as a result of changes in market prices (other than those arising from interest rate or foreign exchange risk) whether those changes are caused by factors specific to the individual investment or factors affecting all securities traded in the market. To mitigate this specific risk, the Foundation invests in a diversified portfolio of investments in accordance with the Foundation's investment policy.

### *Interest rate risk*

The Foundation is exposed to interest rate risk with respect to its long-term investments. Changes in the prime interest rate will have a positive or negative impact on the Foundation's interest income. Such exposure will increase accordingly should the Foundation maintain higher levels of long-term investments in the future.

### *Credit risk*

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Foundation's investment policy defines permitted investments and provides guidelines and restrictions on acceptable investments which minimizes credit risk. The Foundation limits credit risk by investing in the debt of corporations that have a minimum credit rating of A or equivalent as rated by at least two of the three recognized bond rating agencies operating in Canada at the time of purchase.

### *Foreign exchange risk*

Foreign exchange risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in foreign exchange rates. The Foundation invests in non-Canadian equities and is therefore directly exposed to currency risk as the value of the equities denominated in other currencies will fluctuate due to changes in exchange rates.