

Ex-Barreau president hits back after exit

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Barely two weeks after she reluctantly resigned, former Barreau du Québec president Lu Chan Khuong has raised the possibility she may attempt to come back and seek another term if her electoral platform is not fulfilled by the new president of the province's legal society.

Khuong formally stepped down in mid-September after a settlement agreement reached with the Barreau and its board of directors provided her with "assurances" that her electoral program would still be considered and where possible, put in place.

"If I listened to myself and took the decision only for me, Lu Chan Khuong personally, I would have pursued the fight and I would have brought the case all the way to the Supreme Court of Canada," Khuong told *The Lawyers Weekly*. "But I said to myself I am bigger than that, and I must take a decision that takes into account everyone and not just my personal interests."

Khuong's resignation seemingly ends a summer-long dispute that paralyzed the Barreau while drawing severe criticism from members of Quebec's legal community, who assert that the episode undermined the credibility and reputation of the bar and the legal profession. Indeed, four former Quebec premiers, each of them lawyers, took the unusual step of co-writing a letter stating that the president of the legal society should live up to the highest ethical standards.

"All this for this?" Stéphane Beaulac, a law professor at the Université de Montréal, wondered rhetorically. "Her resignation was exactly what the board of directors sought when the allegations were first revealed. Instead, we had this psychodrama that tarnished Khuong's reputation as well as the profession and the bar. This should have been handled differently."

Khuong, a prominent Quebec City lawyer, was elected president of the Barreau in May with 63 per cent of the vote. She was suspended by the Barreau board July 1, after confidential information was leaked to the media that she had been arrested on suspicion of shoplifting two pairs of jeans in Laval.

Khuong, who maintains her innocence, was never charged. However, under the counsel of her lawyer, she accepted an offer of non-judicial treatment to avoid the media coverage that likely would have taken place during a trial, particularly since she is well known in the province and is married to former provincial justice minister Marc Bellemare. Under the non-judicial program for minor offences, a record of the alleged infraction is held for five years in a confidential registry accessible only by Crown prosecutors. The slate is wiped clean after five years if the person is not charged with another offence.

More than 100,000 Quebecers have resorted to the program since its inception in 1995 but the Khuong case marks the first instance of a confidentiality breach, and she said she is determined to find out the source of the leak. Only three organizations -- Laval police, the Quebec Ministry of Justice, and the retailer Maison Simons -- had access to her file, asserted Khuong. She has ruled out the Laval police because they have a "watertight process."

"I will continue to take steps to find out the source of the leak and when I know they will be held accountable," said Khuong. "Not for personal vengeance but the exercise must be made to restore the citizen's confidence in non-judicial treatment, because it is a program that allows the courts to devote time to more complex issues[...]I have a very good idea of where the leak comes from. It's not just a leak. It was someone who had several reasons not to have me there (as president)."

Khuong's suspension led to an embarrassing public dispute that degenerated into a costly legal battle at a time when the professional corporation has been encouraging the public to resort to alternative dispute resolution, particularly with the onset of a new Code of Civil Procedure coming in January, which compels parties to find alternative ways to resolve disputes before taking them to court. Khuong sued the bar for \$95,000 while demanding to be reinstated to her position as president, and the Quebec bar countered with its own lawsuit demanding \$90,000 before the matter was ultimately resolved with former Quebec Superior Court Chief Justice Francois Rolland acting as a mediator.

"For the past two months, if you take a look at the Barreau's website nothing was done -- it was total paralysis," said Khuong. "All decisions were about my case. I said to myself that I cannot allow the professional corporation in this state and that I must do something about this impasse."

Other considerations came into play, beginning with the expenses associated with the lawsuit, acknowledged Khuong, who estimates she has spent approximately \$500,000 in legal and public-relations fees. She believes it would have cost her an additional \$500,000 to hear the month-long case, as 22 witnesses were expected to testify. She added that the saga proved to be hard on her two teenagers. Of equal importance was the assurance she received from the Quebec bar and the new batonniere that "an effort would be made to apply" her electoral program, she said.

Her program was largely based on slashing Barreau expenses, including reducing the salary of the president from \$300,800 to \$185,000, lowering membership fees which now hover around \$3,000, decreasing professional liability insurance coverage from \$10 million to \$2 million, and cutting

expenses and perks at the Barreau itself. As well, Khuong wanted to make justice more accessible and was intent on lobbying the provincial government to introduce tax credits for legal fees. She also proposed crediting pro bono work towards the legal society's compulsory continuous training program. In short, Khuong wanted to shake up the Barreau.

"There needs to be a cultural change," she said. "We need to examine expenditures to see what can be cut and refocus the Barreau on its real mission, which is the protection of the public. International travel on business class for spouses should be a thing of the past because members cannot afford to pay it. Fiscal austerity should be done at all levels. The exercise I wanted to conduct would have been a real diet."

Claudia Prémont, nominated by the board of directors to replace Khuong and endorsed by Khuong herself, said she supports her predecessor's agenda.

"There are many ideas that are part of Khuong's program with which I am very comfortable," Prémont said. "Besides, following the settlement agreement there was a joint declaration and the bar is committed to go forward with Khuong's program, and with due regard to members who voted for her as president."

Khuong said she will be keeping a watchful eye on developments, warning that if she is unsatisfied she'll seek another term. However, that could prove harder to do following her settling of accounts on a popular French-language television show, where she alleged that the Barreau had closed its eyes to some batonniers' problems with tax authorities, while suggesting another needed a chauffeur because he no longer had a driving licence. She also suggested that former Quebec premier Pierre Marc Johnson, one of the signatories of the letter, would be better off reimbursing taxpayers \$200,000 in legal fees incurred by his spouse, ex-president of the Tribunal administratif du Québec (TAQ) Hélène de Kovachich, suspended for six months for using TAQ's budget to pay the legal fees of her lawyer on a personal matter. Khuong also suggested in the television show that "you'd be surprised by the number and names of people" that took part in the non-judicial program for minor offences.

"I was not very nice with everybody," Khuong told *The Lawyers Weekly* with a chuckle. "It's as if there are double standards, depending on who is the president. I gave a couple of examples of situations that took place at the Barreau for which there was no problem and the batonniers were able to keep their jobs. As far as I'm concerned, they did not want me there. So it's clear that any grounds were good."

Beaulac was far from impressed by her comments on the show, and believes they may even constitute grounds for an investigation for infringing the Quebec code of professional conduct of lawyers.

"It was surreal," said Beaulac. "What stands out in my mind is that her counter-attacks were exaggerated, vicious, and tarnished reputations through insinuations. It goes completely against the

grain of the reasons she offered for her resignation -- that is, for the good of the professional corporation."