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### **Attendance at the Hearing and Right to Counsel**

- (10) The applicant:
- (a) shall, unless the Chairperson otherwise orders, personally attend the entire hearing; and
  - (b) may appear with counsel.

### **Public Hearing**

(11) Every hearing shall be held in public unless the Committee determines, in the public interest, that a specific individual or the public generally may not be present at part or all of the hearing.

### **Transcript**

(12) All proceedings at a hearing shall be recorded by a Court Reporter and a person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend.

### **Onus and Burden of Proof**

(13) At a hearing the onus is on the applicant to satisfy the Committee that he or she has met the requirements of the *Act* or these Rules, as the case may be.

### **Procedure at Hearing**

(14) Subject to the *Act* and these Rules, the Committee may determine the practice and procedure to be followed at a hearing.

### **Decision of the Committee**

(15) The Committee's decision shall be by majority vote.

(16) When the Committee gives written reasons for its decision, it shall take all reasonable precautions to avoid including in those reasons any information before it that is confidential or subject to a solicitor and client privilege.

### **Costs**

(17) The Committee may order that the applicant or student-at-law pay costs to the Society, which may include part or all of one or more of the following costs actually incurred by the Society:

- (a) the cost of any enquiries or investigations ordered under these Rules;
- (b) the daily witness fee fixed by the tariff enacted pursuant to the Queen's Bench Rules, multiplied by the number of days the witness was required to remain in attendance at the hearing;
- (c) reasonable travel and living costs of a witness;
- (d) the Court Reporter's fee for attendance at the hearing;
- (e) the cost of a transcript of a hearing held under this Rule, if the Society would otherwise be liable for its cost;
- (f) the cost incurred by the Society in publishing the decision of the Committee or the Benchers, or both;
- (g) a Committee member attendance fee of:
  - (i) \$150 per half day of hearing for the first three days of hearings, plus
  - (ii) \$500 per half day of hearing for each subsequent day of hearing, multiplied by the number of Committee members in attendance.
- (h) reasonable fees of counsel retained to act for the Society or, in the case of staff counsel, an amount approximating that portion of the person's salary attributable to these proceedings:
- (i) reasonable disbursements of counsel for the Society; and
- (j) any other amount, arising out of the proceedings, for which the Society would otherwise be liable.

[next rule is Rule 240]

### **Benchers Review**

240. (1) An application for a review under section 23(4) or 24(3) of the *Act* shall be delivered to the Executive Director within 30 days after the action being reviewed was taken.

(2) Rule 230 applies to a review, with the necessary changes and so far as it is applicable.

(3) The Benchers may, after:

(a) considering the transcript from and exhibits filed at a hearing conducted under Rule 230;

(b) hearing the applicant; and

(c) considering any evidence that they may in their discretion permit the applicant to adduce,

confirm the decision, or approve the application, subject to any terms and conditions they consider appropriate.

(4) The Benchers may vary or remove any terms and conditions imposed under subrule (3).

## **H. Education**

### **Education Policy**

250. The Committee may make mandatory minimum education policy requirements (hereinafter called the "policy" in this part).

### **Non-Compliance with Policy**

251. The Executive Director may, with respect to any member who fails to comply with the policy,

(a) refer the member to Complaints Counsel;

(b) refuse to issue a practising certificate to the member;

(c) give notice that the member's practicing certificate will cease to be valid and the member will be suspended within 30 days unless the member complies with the policy.

252. A member who has been suspended due to non-compliance with the policy may apply to the Executive Director for reinstatement

(a) by certifying completion of the minimum education requirements;

(b) by submitting the fee required in Rule 871.

253. The Executive Director may approve the application for re-admission or refer the application to the committee.

[Rules 250 to 253 added May 1, 2009]

[next rule is Rule 299]

(3) The reinstatement fee payable by an inactive member who is applying for reinstatement as an active member is as set out in Schedule 1 following this Part.

(4) The reinstatement fee payable by a suspended or disqualified member who is applying for reinstatement as an active or inactive member is as set out in Schedule 1 following this Part.

(5) A member who is reinstated as an active member shall pay, in addition to the fees payable under subrule (1) to (3):

(a) one-twelfth of the liability insurance assessment payable under Rule 605, times the number of months remaining in the policy year, including the month that the person is reinstated; and

(b) one-twelfth of the annual fee payable under Rule 800 times the number of months remaining in the year, including the month that the person is admitted as a lawyer.

(6) A member who is reinstated as an inactive member shall pay, in addition to the fees payable under subrule (1) to (3), the annual inactive member fee as set out in Schedule 1 following this Part.

[Rule 850(4) amended April 14, 1994; Rule 850(5) added April 14, 1994]  
[Rule 850 amended April 18, 1996]

[next rule is Rule 860]

### **Certificate of Standing Fee**

860. The fee payable for issuance of a certificate of standing is as set out in Schedule 1 following this Part.

[next rule is Rule 870]

### **License and Permit Fees**

870. (1) The fee payable by an applicant under Rule 220(2)(b) for a permit to become a foreign legal consultant is as set out in Schedule 1 following this Part.

(2) The renewal fee payable by a foreign legal consultant under Rule 220(11)(c) is as set out in Schedule 1 following this Part.

[next rule is Rule 871]

### **Minimum Mandatory Education Fees**

871. (1) The fees payable by an applicant for approval of a remedial education plan are as set out in Schedule 1 following this part.

(2) The fees payable for an appeal of decisions authorized in the policy shall be as set out in Schedule 1 following this part.

(3) The reinstatement fee payable by a member suspended for failing to comply with minimum mandatory education requirements shall be as set out in Schedule 1 following this part.

[Rule 871 added May 1, 2009]

[next rule is Rule 880]

### **Refund of Fees**

880. (1) The Society shall, in the case of an active member who dies during the current year, refund one-twelfth of the current year's active member annual fee times the number of months remaining in the calendar year excluding the month that the member dies.

(2) The Society shall, upon being satisfied that an active member has during the current year become an inactive member for the purpose of parenting a newly born or newly adopted child refund one-twelfth of the current year's active member annual fee times the number of months remaining in the calendar year excluding the month that the member becomes an inactive member.

[Rule 880(1) amended April 14, 1994; Rule 880(2) amended December 10, 1992]

[next rule is Rule 890]

**Waiver of Rules**

890. A member shall pay, at the time of application for a variation, waiver or suspension of a Rule under Rule 1903, a rules waiver application fee as set out in Schedule 1 following this Part.

[next rule is Rule 900]

**Schedule 1**  
**LAW SOCIETY FEES AND ASSESSMENTS**

<b>A. Active Member Annual Fee</b> .....	<b>\$</b>
1. Practice fee .....	1,170
2. Special Fund assessment .....	145
3. Late payment fee .....	10/day
4. Electronic payment fee .....	100
<b>B. Inactive Member Fees</b>	
1. Inactive member annual fee .....	150
<b>C. Liability Insurance Assessment</b>	
1. Annual Assessment .....	300
2. Late payment fee .....	10/day
3. Insurance deductible reimbursement late payment fee .....	100
4. Loss prevention surcharge .....	500
<b>D. Student-at-Law Fees</b>	
1. Student-at-law application fee .....	100
2. Articling fee .....	100
3. Articling assignment fee .....	100
4. Bar Admission Program fee .....	2,200
5. Bar Examination re-read fee, per examination .....	50
6. Transfer examination fee .....	350
7. Transfer examination re-read fee .....	175
8. Transfer supplemental examination .....	175
<b>E. Admission as a Lawyer Fees</b>	
1. Lawyer admission application fee .....	100
2. Lawyer admission fee .....	100
3. Admission on transfer application fee .....	100
4. Admission on transfer fee (with articles) .....	100
5. Admission on transfer fee (no articles) .....	500
6. Law professor (transfer) admission application fee .....	100
7. Law professor (transfer) admission fee .....	100
8. Law professor admission application fee .....	100
9. Law professor admission fee .....	100
<b>F. Interjurisdictional Practice Permit</b>	
1. Interjurisdictional Practice Permit .....	100
<b>G. Reinstatement Fees</b>	
1. By former member, following disbarment or resignation .....	1,000
2. By former member, in all other cases .....	200
3. By inactive member becoming active member .....	100
4. By disqualified member becoming an active or inactive member .....	100 plus fee for year of default
<b>H. Certificate of Standing Fee</b> .....	100
<b>I. License and Permit Fees</b>	
1. Foreign legal consultant permit fee .....	500
2. Foreign legal consultant renewal fee .....	100
<b>J. Waiver of Rules</b>	
1. First application .....	50
2. Each subsequent application respecting the same Rule .....	100
<b>K. Professional Corporation</b>	
1. Application for registration of Professional Corporation .....	100
2. Application for registration of Limited Liability Partnership .....	100
3. Annual renewal for Professional Corporation .....	100

[Part K added September, 2001] [Part D(4) amended February 5, 2004] [Part C 4. added Oct., 2007] [Amended Dec. 7, 2007];  
[Part F amended December 5, 2008] [Part D(4) amended May 1, 2009]

**Note:** The federal goods and services tax applies to Law Society fees and assessments

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## PART 13

### Accounting

#### A. Definitions

##### Definitions

900. In this Part,

“**cash**” means coins referred to in section 7 of the *Currency Act*, notes issued by the Bank of Canada pursuant to the *Bank of Canada Act* that are intended for circulation in Canada and coins or bank notes of countries other than Canada;

“**client**” includes a person or unincorporated body on whose behalf a member receives funds in connection with the member’s practice of law;

“**currency**” includes current coins, government or bank notes of Canada or any other country;

“**firm**” means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in this Part is maintained;

“**funds**” means cash, currency, securities and negotiable instruments or other financial instruments or other financial instruments that indicate the person’s title or interest in them;

“**general account**” means an account in a savings institution maintained by a member into which is deposited funds received by the member in connection with the member’s practice of law, which are not trust funds;

“**member**” includes a member of the Law Society as defined in *The Legal Profession Act*;

“**mixed trust account**” means an account referred to in section 78(1) of the *Act*, into which is deposited money received or held in trust for or on account of clients generally;

“**money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders;

“**public body**” means:

- (a) a department or agent of Her Majesty in right of Canada or of a province;
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them, or
- (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization,

“**savings institution**” means:

- (a) the Bank of Canada;
- (b) a bank included in Schedule I or II to the *Bank Act (Canada)* which is insured by the Canada Deposit Insurance Corporation;
- (c) a credit union incorporated, continued or registered under the *Credit Union Act, 1985*; or
- (d) a trust company which:
  - (i) is incorporated under the *Trust Companies Act (Canada)*; or
  - (ii) has net assets in excess of \$10,000,000;

“**separate trust account**” means an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in Saskatchewan;

“**trust funds**” means any monies received by a lawyer, in his/her capacity as a lawyer, which are not intended to immediately become property of the lawyer and include:

- (a) funds from a client for services to be performed or for disbursements to be made on behalf of the client; or
- (b) funds which belong in part to a client and in part to the member, and it is not practicable to split the funds;
- (c) funds received from or held on behalf of a third party which relate to a transaction in which a client is involved, but does not include funds which are to be remitted to any government by way of taxes or employee payroll deductions.

[Rule 900(d) in *Trust Funds* deleted October, 2001]  
 [Rule 900 amended May, 2002 and October, 2002]  
 [Rule 900 amended February 10, 2005 and June, 2005]

## B. Delegation and Accountability

### Member Remains Personally Responsible

901. (1) A member who:

- (a) is authorized by the sole proprietorship, partnership or association through which the member practises law to open, maintain or deal with funds which are in a trust or general account; and
- (b) delegates to another person any of the duties or responsibilities assigned to that member under this Part

remains personally responsible to ensure that those duties and responsibilities are carried out.

(2) A firm of members, an association of members or a professional corporation may maintain a trust or general account in the name of the firm, association or professional corporation, however, the individual members practicing through the firm, association or professional corporation remain personally responsible to ensure compliance with these Rules.

(3) At least one signatory of any cheque drawn on a trust account must be a member.

[next rule is Rule 909]

## C. Receipt of Trust Funds

### Cash Transactions

909. (1) A member shall not receive or accept from a person, cash in an aggregate amount of \$7,500 or more Canadian dollars in respect of any one client matter or transaction.

(2) For the purposes of this Rule, when a member receives or accepts cash in a foreign currency from a person the member shall be deemed to have received or accepted the cash converted into Canadian dollars at:

- (a) the official conversion rate of the Bank of Canada for the foreign currency as published in the Bank of Canada's Daily Noon Rates that is in effect at the time the member receives or accepts the cash, or
- (b) if the day on which the member receives or accepts cash is a holiday, the official conversion rate of the Bank of Canada in effect on the most recent business day preceding the day on which the member receives or accepts the cash.

(3) Paragraph 1 applies when a member engages on behalf of a client or gives instructions on behalf of a client in respect of the following activities:

- (a) receiving or paying funds;
- (b) purchasing or selling securities, real properties or business assets or entities;
- (c) transferring funds by any means.

(4) Despite paragraph 3, paragraph 1 does not apply when the member receives cash

- (a) from a financial institution or public body;
- (b) from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity;
- (c) pursuant to a court order, or to pay a fine or penalty, or
- (d) in an amount of \$7,500 or more for professional fees, disbursements, expenses or bail, provided that any refund out of such receipts is also made in cash.

(5) Every member, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain:

- (a) a book of original entry identifying the method by which money is received in trust for a client, and
- (b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.

(6) Every member who receives cash for a client shall maintain, in addition to existing financial recordkeeping requirements, a book of duplicate receipts, with each receipt identifying the date on which cash is received, the person from whom cash is received, the amount of cash received, the client for whom cash is received, any file number in respect of which cash is received and containing the signature authorized by the member who receives cash and of the person from whom cash is received.

(7) The financial records described in paragraphs 5 and 6 may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.

(8) The financial records described in paragraphs 5 and 6 shall be entered and posted so as to be current at all times.

(9) A member shall keep the financial records described in paragraphs 5 and 6 for at least the six year period immediately preceding the member's most recent fiscal year end.

[Rule 909 added February 10<sup>th</sup>, 2005]

[Rule 909 amended June, 2005; December, 2005]

[next rule is Rule 910]

### **Deposit of Trust Funds**

910. (1) Subject to subrule (2), a member who receives trust funds shall forthwith deposit the funds in trust either into:

- (a) a mixed trust account described in Rule 911; or
  - (b) a separate trust account described in Rule 912.
- (2) (a) A member who receives trust funds with written instructions as to where they are to be placed shall place the funds in accordance with appropriate instructions, but a member may not hold or invest monies on behalf of a client outside the Province of Saskatchewan unless the member's primary practice is outside of Saskatchewan, and the trust funds are handled in accordance with the Rules of the Law Society of the member's primary practice, and the monies are received pursuant to that practice.
- (b) Subsection (a) does not prevent a member from forwarding monies pursuant to a client's written instructions or obligations in furtherance of a specific transaction, where such monies are thereafter no longer held in trust on behalf of the client.
- (3) A member may receive funds in trust by credit card for retainers only provided:
- (a) trust funds are deposited forthwith to a mixed trust account described in Rule 911;
  - (b) associated services charges, fees and discounts are withdrawn from the member's general account;
  - (c) charge card sales slips are signed by the payor at the time of the transaction or, if this is not possible, a copy of the completed charge card sales slip containing the client's faxed signature is obtained prior to depositing and is retained on file;
  - (d) the client name and file number are recorded on the charge card sales slip;
  - (e) the word "trust" appears on the charge card sales slip; and
  - (f) the receipt is recorded in the trust deposit book and the charge card sales slip is attached to the deposit slip therein.
- (4) A member who receives trust funds which belong in part to a client and in part to a member shall:
- (a) deposit them into a separate trust account; and
  - (b) as soon as it is practicable to split the funds, withdraw the member's funds from the trust account.
- (5) Active members whose primary practice is outside Saskatchewan are not required to hold trust monies in Saskatchewan, however, must comply with the trust account rules in the jurisdiction in which they practice.
- (6) In this Rule:
- (a) the cities of Lloydminster, Alberta, and Flin Flon, Manitoba, are deemed to be in Saskatchewan and the deposit of trust monies in a savings institution located in those two cities is deemed compliance with Rule 911 and Rule 912;

- (b) Alberta or Manitoba credit unions located in Lloydminster, Alberta or Flin Flon, Manitoba, which are incorporated, continued or registered under the Alberta or Manitoba equivalent to *The Credit Union Act (1985)* are deemed to be savings institutions.

[Rule 910 amended June 8, 1994]  
[Rule 910(3) added June, 2004]

### **Mixed Trust Account**

911. (1) A mixed trust account referred to in Rule 910 shall be in a savings institution in Saskatchewan, and shall be:

- (a) an account which is readily available to be drawn upon by the member, and in respect of which the member receives cancelled cheques and bank statements each month;
  - (b) an account in respect of which the savings institution has agreed with the member to pay interest to the Law Foundation in accordance with subrule (2);
  - (c) kept in the name of:
    - (i) the individual member;
    - (ii) the firm of which the individual member is a partner; or
    - (iii) the member or firm by which the individual member is employed; and
  - (d) designated as a "trust" or "client" account on the records of the savings institution and of the member;
  - (e) insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.
- (2) A member who opens or maintains a mixed trust account shall:
- (a) instruct the savings institution in writing to remit to the Law Foundation at least quarterly the interest earned on the account; and
  - (b) if the account is opened or maintained at a bank or trust company, notify the institution in writing that the account is a trust account which will contain the funds of more than one client.

(3) Subject to subrule (4) and Rule 971(1), a member shall not deposit into a mixed trust account any funds which are not trust funds.

(4) A member shall pay out of his or her own funds any service fees or charges levied by the savings institution arising out of the operation of a mixed trust account, and for that purpose may maintain in a mixed trust account a sufficient amount of the member's own funds to meet reasonably anticipated service fees or charges.

[Rule 911(e) added February 6, 1997]

### **Separate Trust Account**

912. (1) A separate trust account referred to in Rule 910 shall be designated as a "trust" or "client" account on the records of the savings institution and of the member, and shall be:

- (a) kept in the name of:
    - (i) the individual member;
    - (ii) the firm of which the individual member is a partner; or
    - (iii) the member or firm by which the individual member is employed; or
  - (b) kept in the name of the trust; or
  - (c) identified by a number which, from an inspection of the member's books, records and accounts, will identify the client;
  - (d) unless otherwise directed in writing by the client, insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.
- (2) A member who opens or maintains a separate trust account shall instruct the savings institution in writing to deposit into the account when due the interest earned on the account.

(3) Subject to Rule 971(1), a member shall not deposit into a separate trust account any funds which are not trust funds.

[Rule 912(d) added February 6, 1997]

### **Written Record of Receipt and Disbursement of Trust Funds**

913. A member who:

- (a) receives monies in trust via cash or cheque or credit card made payable to the member which in the ordinary course of business upon receipt is paid to the client or to a third party on behalf of the client in the form in which it was received; or
- (b) disburses trust funds which were received with written instructions under Rule 910(2)

shall keep a written record of the transaction.

[next rule is Rule 920]

### **D. Receipt of Non-Trust Funds**

#### **Types of Funds which may be Deposited into a Member's General Account**

920. A member may deposit into a general account only those funds received in connection with the member's practice of law, which are not trust funds.

#### **Types of Transactions which must be Recorded in Non-Trust Books, Records and Accounts**

921. (1) A member shall record in the member's non-trust books, records and accounts:

- (a) funds received from the practice of law which belong entirely to the member or to other persons associated with the member in the practice of law;
- (b) funds which are a general retainer for which the member is not obligated either to account or to render legal services;
- (c) funds received by the member on account of fees for services already performed; and
- (d) funds received to reimburse the member for disbursements already made or expenses already incurred on behalf of a client.

(2) A member who receives funds under subrule (1) shall forthwith deliver a bill or issue a receipt for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.

(3) For the purposes of Rule 963(1)(c), a bill delivered or a receipt issued under subrule (2) constitutes a billing.

[next rule is Rule 930]

### **E. Balance in Trust Accounts**

#### **Maintaining a Sufficient Balance**

930. (1) A member shall at no time permit his or her mixed or separate trust account to be overdrawn.

(2) In this Rule, an account is overdrawn when, according to the member's books, records and accounts, the member holds less funds to the credit of each client or other person on whose behalf an account is maintained, than the member owes to that client or other person under that account.

[next rule is Rule 940]

## **F. Withdrawal of Funds from Trust**

### **Circumstances when Withdrawal is Permitted**

940. (1) A member shall not withdraw or authorize the withdrawal from a trust account of any trust funds unless there are sufficient funds held in that account to the credit of the client on whose behalf of the funds are withdrawn, and:

- (a) the funds are properly required for payment to or on behalf of a client;
- (b) the funds belong to the member;
- (c) the funds are properly payable to the member in respect of a liability of the client to the member for fees, disbursements or other expenses;
- (d) the withdrawal is to correct a deposit which was mistakenly made to the account;
- (e) the funds are being transferred from one mixed trust account to another mixed trust account, to a separate trust account in accordance with Rule 943, or to a mixed trust account in accordance with Rule 950;
- (f) the funds are unclaimed trust funds which are being paid to the Law Society in accordance with Part 16 of these Rules;
- (g) the withdrawal is in accordance with Rule 992; or
- (h) the withdrawal is authorized in writing by the Chairperson of the Finance Committee.

(2) A member shall, as soon as practicable after becoming entitled to funds held in the member's trust account, withdraw those funds from trust.

(3) A member shall not withdraw funds from his or her trust account without written confirmation from the financial institution in which the trust account is held that the funds held to the credit of the matter for which the withdrawal is made are sufficient to cover the withdrawal. Such written confirmation may be:

- (a) bank statements;
- (b) bank deposit slips which have been initialed by an employee of the financial institution;
- (c) a letter or facsimile message confirming that the financial institution has received the funds by means of electronic transfer.

[Rule 940(3) added October 27, 1994]

### **Withdrawal for Payment of Fees**

941. (1) A member who withdraws or authorizes the withdrawal of trust funds under Rule 940(1)(c), where the liability of the client to the member is for fees earned by the member, must first prepare a bill for those fees and, unless the client directs otherwise in writing, deliver the bill or other written notification to the client forthwith following the withdrawal.

- (2) A bill is delivered within the meaning of subrule (1) if it is:
  - (a) mailed by regular or registered mail to the client at the client's last known address;
  - (b) delivered personally to the client; or
  - (c) transmitted by electronic facsimile to the client.

### **Procedure for Withdrawing Funds from a Mixed or Separate Trust Account**

942. (1) Subject to subrule (2), a member who makes or authorizes the withdrawal or transfer of funds from a mixed or separate trust account:

- (a) shall effect the withdrawal or transfer by a cheque marked "trust";
- (b) shall not make the cheque payable to "cash" or "bearer"; and
- (c) shall, notwithstanding Rule 901 and subject to subrule (4), ensure that the cheque is signed by a member.

- (2) Money may be electronically transferred by a law firm subject to the following conditions:
  - (a) the withdrawal from trust must be greater than or equal to twenty-five million dollars;
  - (b) the transfer system used must be able to produce within one banking day of the transfer a confirmation from the financial institution showing the details on the transfer;
  - (c) the confirmation from the financial institution must be in hardcopy form and must contain the following details: date of transfer, source trust account information (account name, financial institution and account number), destination account

information (account name, financial institution and account number), authorizing lawyer reference and amount of the transfer;

- (d) the law firm must complete a \$25 Million Non-Cheque Transfer Requisition Form in Form T-8. The requesting lawyer and authorizing lawyer sections of Form TA-8 must be signed and dated by an active member of the firm;
- (e) the law firm must obtain the confirmation from the financial institution and within two banking days an active member of the firm:
  - (i) must write the name of the client and file number on the confirmation;
  - (ii) must sign and date the confirmation;
  - (iii) must agree the particulars from the confirmation to the \$25 Million Non-Cheque Transfer Requisition Form;
  - (iv) must verify that the money was properly transferred in accordance with the requisition; and
  - (v) must sign and date the verifying lawyer section of Form TA-8.

(3) A member who withdraws or authorizes the withdrawal of trust funds for the payment of fees, disbursements or other expenses, or for payment to or on behalf of the client, shall effect the withdrawal by a cheque payable to the member's general account.

(4) The Executive Director may, on application, authorize in writing a person other than a member to sign a cheque drawn on the member's mixed or separate trust account, subject to any conditions, including bonding and signing authority, that the Executive Director considers appropriate.

(5) Subrule (1) does not apply to the interest earned on a mixed trust account which the member has instructed the savings institutions to pay to the Law Foundation under Rule 911(3).

[Rule 942(2) added February, 2003]

#### **Procedure for Transferring Funds to a Separate Trust Account**

943. A member who makes or authorizes the transfer of funds from a mixed trust account to a separate trust account shall ensure that:

- (a) the transfer is authorized in writing; and
- (b) the written authorization is signed by a member.

[next rule is Rule 950]

### **G. Withdrawal of Funds from a Separate Trust Account**

#### **Transfer of Funds to a Mixed Trust Account**

950. (1) A member who makes or authorizes the withdrawal of funds from a separate trust account in respect of which cancelled cheques and bank statements are not received from the savings institution monthly and kept in the member's records, shall do so by transferring the funds into the member's mixed trust account.

(2) Rules 940 to 943 apply to funds which have been transferred into a mixed trust account in accordance with subrule (1).

[next rule is Rule 960]

### **H. Books, Records and Accounts Required to be Maintained**

#### **Object of Maintaining Books, Records and Accounts**

960. (1) A member shall maintain an adequate accounting system, including the books, records and accounts described in this Part, in order to record all funds and other negotiable property received and disbursed in connection with the member's law practice.

(2) A member shall, at the written direction of the Executive Director, make such modifications to the member's accounting system as the Executive Director considers necessary.

### Form of Books, Records and Accounts

961. (1) A member's books, records and accounts shall be maintained in Saskatchewan, and shall be:

- (a) in legibly handwritten form, in ink or other duplicated or permanent form;
- (b) in printed form; or
- (c) subject to the approval in writing of the Executive Director, in an electronic form which can readily be transferred to printed form upon demand.

(2) The transactions recorded in a member's books, records and accounts shall be in chronological order, and in an easily-traceable form.

### Types of Trust Books, Records and Accounts Required to be Maintained

962. A member shall maintain at least the following trust books, records and accounts:

- (a) a **daily journal** or other book of original entry, which may be in synoptic form, recording:
  - (i) for all funds received in trust for each client, the date of receipt, the source of the funds and the identity of the client on whose behalf the trust funds are received;
  - (ii) for all funds disbursed out of trust for each client, the cheque or voucher number, the date of each disbursement, the name of each recipient and the identity of the client on whose behalf the trust funds are disbursed;
- (b) a **clients' trust ledger** recording separately for each client on whose behalf trust funds have been received, all such trust funds received and disbursed, and the unexpended balance;
- (c) a **transfer record** showing each transfer of funds between clients' trust ledgers, and:
  - (i) containing an explanation of the purpose for which each transfer is made; and
  - (ii) containing the member's written approval of the transfer;
- (d) the **monthly trust reconciliations** required to be prepared under Rule 970(1), and the detailed listings and reconciliations described in Rule 970(2);
- (e) a **negotiable valuable property record** showing all negotiable valuable property, other than money, held in trust from time to time for clients; and
- (f) all **supporting records**, including bank statements, pass books, cancelled cheques, detailed duplicate deposit slips or other records of all deposits, bank vouchers and similar documents and invoices.

### Types of Non-Trust Books, Records and Accounts Required to be Maintained

963. (1) A member shall maintain at least the following non-trust books, records and accounts:

- (a) a **daily journal** or other book of original entry, which may be in synoptic form, recording:
  - (i) for all non-trust funds received relating to the law practice, the date of receipt and the source of the funds; and
  - (ii) for all non-trust funds disbursed, the cheque or voucher number, the date of each disbursement and the name of each recipient;
- (b) an **accounts receivable ledger** or other suitable system to record, for each client, the member/client position on all non-trust transactions with respect to which a bill has been delivered or a disbursement made, and including:
  - (i) a record of all transfers from a trust account;
  - (ii) any other receipts from or on behalf of the client; and
  - (iii) the balance, if any, owed by the client;
- (c) copies of **billings** filed in chronological, alphabetical or numerical order, showing all fees charged or other billings made to clients, the dates such charges are made, and the identification of the clients charged; and
- (d) all **supporting records**, including bank statements, pass books, cancelled cheques, detailed duplicate deposit slips or other records of all deposits, bank vouchers and similar documents and invoices.

(2) The information required to be recorded on the accounts receivable ledger referred to in subrule (1)(b) may be recorded on the clients' trust ledger referred to in Rule 962(b), provided that the entries are clearly identified and are not combined with trust account information.

[Rule 963(1)(c) amended April 23, 1998]

### **Recording of Transactions in Books, Records and Accounts**

964. (1) A member shall record each trust transaction promptly, and in any event not more than 3 business days after the transaction.

(2) A member shall record each non-trust transaction promptly, and in any event not later than the month end of the month in which the transaction occurred.

[Rule 964(2) amended October 23, 1997]

### **Adding and Balancing Daily Journals**

965. (1) A member shall add and balance each trust daily journal at least monthly, and in any event not more than 20 days after the effective date of the trust reconciliation prepared in accordance with Rule 970.

(2) A member shall add and balance each non-trust daily journal at least monthly, and in any event not more than 20 days after the end of the month in which the transaction was required to be recorded.

[Rule 965(2) amended October 23, 1997]

### **Disclosure by Financial Institution**

966. (1) A member who maintains a trust account or trust accounts in any financial institution shall execute an authorization in Form TA-3 or its equivalent, permitting the institution to disclose to the Law Society any of the following:

- (a) an overdraft in that trust account;
- (b) the presentation of a cheque to the financial institution which if honoured would result in an overdraft;
- (c) any other circumstance which may indicate that the balance of the trust account may be insufficient to satisfy the legitimate claims against it.

(2) The authorization referred to in (a) above shall contain a release and waiver by the member of any claim whatever which the member may have as against the financial institution or any of its officers, agents or employees arising from such disclosure.

[Rule 966 added February 6, 1997]

[next rule is Rule 970]

## **I. Monthly Trust Reconciliations**

### **Preparation of Monthly Trust Reconciliation**

970. (1) A member shall prepare a monthly trust reconciliation of:

- (a) the total of all unexpended balances of funds held in trust for clients, as they appear in the clients' trust ledger; and
- (b) the total of trust fund balances held in all trust accounts, as they appear in the records of the savings institution

together with the reasons for any differences between the totals.

(2) The monthly trust reconciliation shall be supported by:

- (a) a detailed monthly listing showing the unexpended balance of trust funds held for each client and, in respect of each such amount, identifying the client for whom the trust funds are held;
- (b) a detailed monthly bank reconciliation for each mixed trust account;
- (c) a listing of balances of each separate trust account or savings, deposit, investment or similar form of account, identifying the client for whom each is held; and

(d) a listing of balances of all other trust funds received pursuant to Rule 910(2), identifying the client for whom each is held.

(3) The listings and reconciliations described in subrule (2) shall be retained as records supporting the monthly trust reconciliation.

(4) The trust reconciliation required under subrule (1) shall be made not more than 20 days after the end of the period to which it pertains.

#### **Duty on Member to Eliminate a Trust Shortage and to Report to the Society**

971. (1) A member who discovers a trust shortage shall forthwith pay funds into the account sufficient to eliminate the shortage.

(2) Where the trust shortage referred to in subrule (1) exceeds \$100, the member shall forthwith report the shortage, and the circumstances surrounding it, to the Executive Director in writing.

#### **Duty to Report to the Society an Inability to Deliver up Trust Funds when Due**

972. A member who discovers that he or she will be unable to deliver up when due any trust funds held by the member shall forthwith report that fact, and the reasons for it, to the Executive Director in writing.

[next rule is Rule 980]

### **J. Retention Period for Trust and Non-Trust Books, Records and Accounts**

#### **Retention Period**

980. (1) Subject to subrule (2), a member shall retain for at least 6 years all the books, records and accounts required to be maintained under this Part.

(2) Notwithstanding subrule (1), a member shall retain for at least 10 years the books, records and accounts referred to in Rule 962(a) and (b) and Rule 963(c), unless the Executive Director authorizes in writing a shorter retention period.

[Note: The *Income Tax Act*, s. 230, may require a member to retain certain records for a longer period of time than is required under Rule 980].

#### **Retention Location**

981. (1) Subject to subrules (2) and (3), a member shall retain:

- (a) at his or her chief place of practice in Saskatchewan the books, records and accounts referred to in Rule 980 pertaining to the most recent 5-year period; and
- (b) at a location in Saskatchewan the other books, records and accounts required to be retained under Rule 980.

(2) A member practising in Lloydminster, Alberta or Flin Flon, Manitoba shall retain:

- (a) at his or her chief place of practice in Lloydminster or Flin Flon, as the case may be, the books, records and accounts referred to in Rule 980 pertaining to the most recent 5-year period; and
- (b) at a location in Lloydminster or Flin Flon, as the case may be, the other books, records and accounts required to be retained under Rule 980.

(3) A member of the Society who practices law as a member of an interjurisdictional law firm shall ensure that, with respect to the firm's practice of law in Saskatchewan, the firm's books, records and accounts, wherever maintained, are available on demand by the Society or its designated agent.

[next rule is Rule 990]

### **K. Modification of Requirements**

#### **Executive Director's Modification**

990. (1) The Executive Director may, in writing, modify the requirements of Rules 962, 963 and 980 in respect of a member, having regard to the accounting and storage systems employed by that member, and the Executive Director may, in writing, cancel or amend the modification at any time.

(2) A member who receives a written modification from the Executive Director under subrule (1) shall retain it as long as the books, records and accounts to which it relates are retained.

## **L. Annual CDIC Report**

### **Filing Annual CDIC Report with Each Savings Institution**

991. A member who maintains a mixed trust account in a savings institution which is insured by the Canada Deposit Insurance Corporation ("CDIC") shall file an annual report for each such account with that institution in accordance with section 3(3) of the Schedule to the *Canada Deposit Insurance Corporation Act*, so that each client's funds, rather than the account itself, is insured up to the limit of CDIC insurance.

## **M. Member's Right to Claim Trust Funds**

### **Rules do not Deprive Member of Right to Claim Funds**

992. Nothing in this Part deprives a member of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against funds standing to the credit of a client in a trust account maintained by the member.

[next rule is Rule 995]

## **N. Inspection of a Member's Records**

### **Spot Audits**

995. (1) The auditor inspector employed by the Law Society is authorized to attend at the offices and branch offices of any member to review all of the member's books and records required to be kept pursuant to the *Act* and the Rules.

(2) Members are required to co-operate with the auditor inspector and to comply with all reasonable requests.

[Rule 995 added October 23, 1992]

[next rule is Rule 1000]

### **Person Designated to Make a Demand**

1000. (1) The person designated by the Benchers to make a demand under section 63(1) of the *Act* is the Executive Director.

### **Contents of Service of a Demand**

1001. A demand under section 63(1) of the *Act* shall:

- (a) be in writing, signed by the Executive Director;
- (b) state:
  - (i) the nature of the investigation in respect of which the demand is made;
  - (ii) which categories of the member's records or other property are to be produced;
  - (iii) the time by which and the person to whom the member's records or other property are to be produced; and
  - (iv) the text of sections 60 and 63 of the *Act*; and
- (c) be given personally to the member or served on the member in accordance with section 85 of the *Act*.

### **Production of a Member's Records or Other Property**

1002. A person to whom a member's records or other property are produced under section 63(1) of the *Act* shall, where practicable, conduct the investigation or inspection at the location at which the records or other property are produced.

**Duty to Preserve Confidentiality**

1003. A person who, in the course of acting under section 63(4) of the *Act*, becomes privy to information, files or records that are confidential or are subject to solicitor and client privilege, has the same obligation respecting the disclosure of that information as the member from whom the information, files or records were obtained.

**Costs**

1004. (1) Where, as a result of section 10(t)(i) and proceedings under section 63 of the *Act*, the Chairperson of the Discipline Committee determines that the member has not complied with the Rules in this Part respecting the keeping of books, records and accounts, the Chairperson may order that the member pay, by the date specified in the order, part or all of the expense of the investigations.

(2) In subrule (1), "investigations" include:

- (a) the inspection of the member's books, records and accounts by the officers, auditors or agents of the Society or by any other person designated by the Benchers or appointed by the Chairperson of the Discipline Committee;
- (b) an application under section 63(2) of the *Act* and any appeal therefrom;
- (c) action taken under section 63(3) of the *Act*, and
- (d) the copying, transportation, retention and disposition of the member's records or other property.

(3) A member who has not paid the full amount owing under subrule (1) by the date fixed or extended by the Chairperson of the Discipline Committee is suspended from the practice of law until the amount owing is paid in full.

(4) The costs of any proceedings under section 63 of the *Act* which are not recovered from the member under subrule (1) shall, at the direction of the Chairperson of the Finance Committee, be recovered from the Special Fund.

[Rule 1004(1) amended December 10, 1992]

[next rule is Rule 1010]

**O. Bankruptcy of a Member****Definitions**

1010. In Rules 1010 to 1013, "a member who is the subject of bankruptcy proceedings" means a member who as defined by *The Bankruptcy and Insolvency Act*:

- (a) is bankrupt;
- (b) is an insolvent person;
- (c) commits an act of bankruptcy;
- (d) has made a proposal; or
- (e) has applied for a consolidation order

pursuant to *The Bankruptcy and Insolvency Act*, as amended.

[Rule 1010 amended September 17, 1993 and April 15, 1994]

**Duty to Report Bankruptcy to the Society**

1011. A member who is the subject of bankruptcy proceedings shall forthwith:

- (a) notify the Executive Director in writing of that fact; and
- (b) provide to the Executive Director such information and documents in the member's possession or control relating to the bankruptcy that the Executive Director reasonably requests.

### Practice Conditions

1012. (1) Subject to subrule (2), the following conditions apply to a member who is the subject of bankruptcy proceedings:

- (a) the member shall not be the sole signatory on any trust account while remaining an undischarged bankrupt; and
- (b) the additional signatory on any trust account shall be a member of the Law Society in good standing who is not the subject of bankruptcy proceedings.

(2) The Chairperson of the Discipline Committee may, by order in writing, relieve a member from compliance with subrule (1), subject to any conditions stated in the order which the Chairperson considers appropriate.

### Notification to the Membership

1013. There will be no notification to the membership that a member has become the subject of bankruptcy proceedings unless the Chairperson of the Discipline Committee is of the opinion that there is a significant reason to do so. In that event, the Chairperson shall direct the Executive Director to promptly notify the membership of:

- (a) the identity of the member who becomes the subject of bankruptcy proceedings;
- (b) any practice conditions imposed on the member under Rule 1012; and
- (c) the identity of a member who has ceased to be the subject of bankruptcy proceedings, where that member's identity was published under clause (a).

[Rule 1013 amended February 4 & 5, 1993]

[next rule is Rule 1020]

## P. Client Identification and Verification Requirements

### Definitions

1020. In this Part, “**electronic funds transfer**” means an electronic transmission of funds conducted by and received at a financial institution or a financial entity headquartered in and operating in a country that is a member of the Financial Action Task Force, where neither the sending nor the receiving account holders handle or transfer the funds, and where the transmission record contains a reference number, the date, transfer amount, currency and the names of the sending and receiving account holders and the conducting and receiving entities.

“**financial institution**” means

- (a) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada or a bank to which the *Bank Act* applies,
- (b) a cooperative credit society, savings and credit union or *caisse populaire* that is regulated by a provincial Act,
- (c) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),
- (d) a company to which the *Trust and Loan Companies Act* (Canada) applies,
- (e) a trust company or loan company regulated by a provincial Act,
- (f) a department or agent of Her Majesty in right of Canada or of a province where the department or agent accepts deposit liabilities in the course of providing financial services to the public; or
- (g) a subsidiary of the financial institution whose financial statements are consolidated with those of the financial institution.

“**funds**” means cash, currency, securities and negotiable instruments or other financial instruments that indicate the person's title or interest in them;

**“lawyer”** means, in the Province of Quebec, an advocate or a notary and, in any other province, a barrister or solicitor;

**“organization”** means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

**“proceedings”** means a legal action, application or other proceeding commenced before a court of any level, a statutory tribunal in Canada or an arbitration panel or arbitrator established pursuant to provincial, federal or foreign legislation and includes proceedings before foreign courts.

**“public body”** means

- (a) a department or agent of Her Majesty in right of Canada or of a province,
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them,
- (c) a local board of a municipality incorporated by or under an Act of a province or territory of Canada including any local board as defined in the *Municipal Act* (Ontario) [or equivalent legislation] or similar body incorporated under the law of another province or territory,
- (d) an organization that operates a public hospital authority and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* (Canada) or an agent of the organization,
- (e) a body incorporated by or under the law of an Act of a province or territory of Canada for a public purpose; or
- (f) a subsidiary of a public body whose financial statements are consolidated with those of the public body.

**“reporting issuer”** means an organization that is a reporting issuer within the meaning of the securities laws of any province or territory of Canada, or a corporation whose shares are traded on a stock exchange designated under section 262 of the Income Tax Act (Canada) and operates in a country that is a member of the Financial Action Task Force, and includes a subsidiary of that organization or corporation whose financial statements are consolidated with those of the organization or corporation.

**“securities dealer”** means a person or entity that is authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services.

### **Client Identity**

1021. (1) Subject to Rule 1021(3), a lawyer who is retained by a client to provide legal services must comply with the requirements of this Rule.

(2) A lawyer’s responsibilities under this Rule may be fulfilled by any member, associate or employee of the lawyer’s firm, wherever located.

(3) Rules 1022 through 1028 do not apply to

- (a) a lawyer when he or she provides legal services or engages in or gives instructions in respect of any of the activities described in Rule 1023 on behalf of his or her employer,
- (b) a lawyer
  - (i) who is engaged as an agent by the lawyer for a client to provide legal services to the client, or
  - (ii) to whom a matter for the provision of legal services is referred by the lawyer for a client, when the client’s lawyer has complied with sections Rules 1022 through 1028; or
- (c) a lawyer providing legal services as part of a duty counsel program sponsored by a non-profit organization, except where the lawyer engages in or gives instructions in respect of the receiving, paying or transferring of funds other than an electronic funds transfer.

1022. A lawyer who is retained by a client as described in Rule 1021(1) shall obtain and record the following information:

- (a) the client's full name,
- (b) the client's business address and business telephone number, if applicable,
- (c) if the client is an individual, the client's home address and home telephone number,
- (d) if the client is an organization, other than a financial institution, public body or reporting issuer, the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number, if applicable,
- (e) if the client is an individual, the client's occupation or occupations,
- (f) if the client is an organization,
  - (i) other than a financial institution, public body or a reporting issuer, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable, and
  - (ii) the name and position of and contact information for the individual(s) authorized to provide and giving instructions to the lawyer with respect to the matter for which the lawyer is retained.
- (g) if the client is acting for or representing a third party, information about the third party as set out in paragraphs (a) to (f) as applicable.

#### **Client Identity and Verification**

1023. Subject to Rule 1024, Rule 1025 applies where a lawyer who has been retained by a client to provide legal services engages in or gives instructions in respect of the receiving, paying or transferring of funds, other than an electronic funds transfer.

#### **Exemptions re: Certain Funds**

1024. (1) Rule 1025 does not apply where the client is a financial institution, public body or reporting issuer.

- (2) Rule 1025 does not apply in respect of funds,
  - (a) paid by or to a financial institution, public body or a reporting issuer;
  - (b) received by a lawyer from the trust account of another lawyer;
  - (c) received from a peace officer, law enforcement agency or other public official acting in their official capacity;
  - (d) paid or received pursuant to a court order or to pay a fine or penalty;
  - (e) paid or received as a settlement of any proceedings; or
  - (f) paid or received for professional fees, disbursements, expenses or bail.

1025. (1) When a lawyer is engaged in or gives instructions in respect of any of the activities described in Rule 1023, including non-face-to-face transactions, the lawyer shall take reasonable steps to verify the identity of the client, including the individual(s) described in Rule 1022 f (ii), and, where appropriate, the third party, using what the lawyer reasonably considers to be reliable, independent source documents, data or information.

#### **Examples of Independent Source Documents**

- (2) For the purposes of subsection (1), independent source documents may include:
  - (a) if the client or third party is an individual, valid original government issued identification, including a driver's licence, birth certificate, provincial or territorial health insurance card [if such use of the card is not prohibited by the applicable provincial or territorial law], passport or similar record;
  - (b) if the client or third party is an organization such as a corporation or society that is created or registered pursuant to legislative authority, a written confirmation from a government registry as to the existence, name and address of the organization, including the names of its directors, where applicable, such as
    - (i) a certificate of corporate status issued by a public body,
    - (ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation, or

- (iii) a copy of a similar record obtained from a public body that confirms the organization's existence; and
- (c) if the client or third party is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constituting documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

#### Identifying Directors, Shareholders and Owners

- (3) When a lawyer is engaged in or receives instructions in respect of any of the activities in Rule 1023 for a client or third party that is an organization referred to in subsection (2)(b) or (c), the lawyer shall make reasonable efforts to obtain, and if obtained, record,
  - (a) the name and occupation of all directors of the organization, other than an organization that is a securities dealer, and
  - (b) the name, address and occupation of all persons who own 25 per cent or more of the organization or of the shares of the organization.

#### Client Identity and Verification in Non-Face-to-Face Transactions

- (4) (a) When a lawyer engages in or receives instructions in respect of any of the activities in Rule 1023 for a client or third party who is an individual who is not physically present before the lawyer but is present elsewhere in Canada, the lawyer shall verify the client's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen one of the documents referred to in subsection (2)(a).
- (b) When a lawyer who engages in or receives instructions in respect of any of the activities in Rule 1023 for a client that is an organization is instructed by an individual described in 1022 f (ii) who is not physically present before the lawyer but is present elsewhere in Canada, the lawyer shall verify the individual's identity by obtaining an attestation from a commissioner of oaths in Canada, or a guarantor in Canada, that the commissioner or guarantor has seen one of the documents referred to in subsection (2)(a).
- (5) For the purpose of subsection (4), an attestation shall be produced on a legible photocopy of the document and shall include
  - (a) the name, profession and address of the person providing the attestation;
  - (b) the signature of the person providing the attestation; and
  - (c) the type and number of the identifying document provided by the client, third party or instructing individual(s).
- (6) For the purpose of subsection (4), a guarantor must be a person employed in one of the following occupations in Canada:
  - (a) dentist;
  - (b) medical doctor;
  - (c) chiropractor;
  - (d) judge;
  - (e) magistrate;
  - (f) lawyer;
  - (g) notary (in Quebec);
  - (h) notary public;
  - (i) optometrist;
  - (j) pharmacist;
  - (k) professional accountant (APA [Accredited Public Accountant], CA [Chartered Accountant], CGA [Certified General Accountant], CMA [Certified Management Accountant], PA [Public Accountant] or RPA [Registered Public Accountant]);
  - (l) professional engineer (P.Eng. [Professional Engineer, in a province other than Quebec] or Eng. [Engineer, in Quebec]);
  - (m) veterinarian;
  - (n) peace officer;

- (o) paralegal licensee in Ontario;
- (p) nurse; or
- (q) school principal.

#### Use of Agent

(7) A lawyer may, and where an individual client, third party or individual described in and in connection with subsection (2)(b), the individuals described in Rule 1022 (f) (ii) is not physically present and is outside of Canada, shall, rely on an agent to obtain the information described in subsection (2) to verify the person's identity, which may include, where applicable, an attestation described in this section, provided the lawyer and the agent have an agreement or arrangement in writing for this purpose.

(8) A lawyer who enters into an agreement or arrangement referred to in subsection (7) shall obtain from the agent the information obtained by the agent under that agreement or arrangement.

#### Timing of Verification for Individuals

(9) A lawyer shall verify the identity of

- (a) a client who is an individual, and
- (b) the individual(s) authorized to provide and giving instructions on behalf of an organization with respect to the matter for which the lawyer is retained, upon engaging in or giving instructions in respect of any of the activities described in Rule 1023.

(10) Where a lawyer has verified the identity of an individual, the lawyer is not required to subsequently verify that same identity if the lawyer recognizes that person.

#### Timing of Verification for Organizations

(11) A lawyer shall verify the identity of a client that is an organization within 60 days of engaging in or giving instructions in respect of any of the activities described in Rule 1023.

(12) Where the lawyer has verified the identity of a client that is an organization and obtained information pursuant to subsection 6(3), the lawyer is not required to subsequently verify that identity or obtain that information.

### **Record Keeping and Retention**

1026. (1) A lawyer shall obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of Rule 1025(1).

(2) The documents referred to in subsection (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.

(3) A lawyer shall retain a record of the information and any documents obtained for the purposes of Rules 1022 and 1025(3) and copies of all documents received for the purposes of Rule 1025(1) for the longer of

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing service to the client, and
- (b) a period of at least six years following completion of the work for which the lawyer was retained.

### **Application**

1027. Rules 1021 through 1026 do not apply to matters in respect of which a lawyer was retained before this Rule comes into force but they do apply to all matters for which he or she is retained after that time regardless of whether the client is a new or existing client.

### **Criminal Activity, Duty to Withdraw at Time of Taking Information**

1028. (1) If in the course of obtaining the information and taking the steps required in Rules 1022 and 1025(1) or (3), a lawyer knows or ought to know that he or she is or would be assisting a client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.

Application

(2) This section applies to all matters, including new matters for existing clients, for which a lawyer is retained after this Rule comes into force.

**Criminal Activity, Duty to Withdraw After Being Retained**

1029. (1) If while retained by a client, a lawyer knows or ought to know that he or she is or would be assisting the client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.

Application

(2) This section applies to all matters for which a lawyer was retained before this Rule comes into force and to all matters for which he or she is retained after that time.

[Rules 1020 – 1029 added May 1, 2009]

[next rule is Rule 1100]

## PART 14

### Annual Practice Certificate

#### Issuance of Annual Practice Certificate

1100. (1) The Executive Director shall, in respect of each practice year, issue a practicing certificate to an active member who, before the commencement of that practice year:

- (a) has paid the fees fixed under Rule 800;
- (b) has filed a completed Annual Practice Declaration in a form approved by the Benchers;
- (c) has complied with the *Act*, these Rules and all requirements made under them; and
- (d) is otherwise in good standing.

(2) An active member who is not eligible for a practicing certificate under subrule (1) becomes, effective January 1, a suspended member.

(3) A member who does not pay the administration fee and quarterly payments on December 1 and on March 1, June 1 and September 1 fixed under Rule 800(3) becomes effective January 1, March 2, or June 2 or September 2, a suspended member.

[Rule amended February 5, 2001]

#### Disqualified Member

1101. (1) A member who fails to pay fees as an active or inactive member is disqualified from the rights and privileges accorded to membership of any kind and must apply for reinstatement pursuant to Rule 212.

(2) Notwithstanding the above any member of the Society who is subject of an investigation by an Investigation Committee, Complaints Counsel or has been named in a formal complaint which has not yet been before a Hearing Committee remains subject of any outstanding discipline matters regarding him or her.

[Rule 1101(1) amended March 27, 1992; Rule 1101(3) added April 15, 1994; Rule 1101(2) amended June 9, 1994]

[Rule 1101(3) amended September, 2006]

[Rule 1101(1) amended; (2) deleted then renumbered and amended December 7, 2007]

#### Notification

1102. The Executive Director shall, promptly after each January 1:

- (a) notify all members who have become disqualified members of that fact, the consequences flowing from their being disqualified members and the procedure to be followed in becoming an inactive member or seeking reinstatement as an active member;
- (b) give notification to those persons who have become disqualified members to:
  - (i) the Chief Justice of Saskatchewan;
  - (ii) the Chief Justice of the Saskatchewan Court of Queen's Bench;
  - (iii) the Chief Judge of the Provincial Court of Saskatchewan;
  - (iv) the Minister of Justice for Saskatchewan; and
  - (v) the Master of Titles; and
- (c) cause a notice to be published in the *Saskatchewan Gazette*, identifying those persons who have become disqualified members.

[Rule 1102(a) amended, (b) removed and replaced; (c) amended December 7, 2007]

#### Liability Insurance Coverage

1103. A member who becomes disqualified under Rule 1100(2) and who is reinstated as an active member prior to March 1 of the current practice year is deemed to have been insured, while a disqualified member, for errors or omissions occurring before the member became or while the member was disqualified.

[Rules 1100, 1101, 1102 and 1103 amended February 6, 1997]; [Rule 1103 amended December 7, 2007]

**Designated Contact Person**

1104. Where a member is, or is held out to be:

- (a) an employee, associate or partner of a law firm; or
- (b) an employee of a person or entity that is not a member of the Law Society of Saskatchewan, hereinafter referred to as the employer;

the member shall promptly advise the Society:

- (i) of the name and address of the law firm or employer from which he or she derives his or her income, or part thereof, by virtue of his or her having a current practising certificate;
- (ii) of the name and address of at least one person designated by the law firm or employer to receive such information as the Society, in its sole discretion, deems advisable to provide to the law firm or employer relating to the member's involvement with the Society including, without limitation:
  - (1) Discipline Committee investigations and rulings;
  - (2) Professional Standards Committee investigations;
  - (3) professional liability insurance reports, claims or processes;
  - (4) Special Fund reports, claims or processes;
  - (5) failure to pay monies owing to the Society;
  - (6) complaints against the member;
  - (7) general correspondence from the administration office.

[Rule 1104 added June 9, 1994]

[next rule is Rule 1200]

## Part 15

### Accountant's Report

#### Definitions

1200. In this Part, "fiscal period" means the time period, not exceeding 12 months, for which the accounts of a member have been or ordinarily are made up; "firm" means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in Part 13 is maintained; "member" includes a member of the Society, a firm and an association of members who carry on the practice of law together other than as a firm.

#### Filing of Report on Commencement of Practice

1201. (1) A member shall, within 30 days after commencing to practise law, or within 30 days after ceasing to practise law with a firm covered by an Accountant's Report, deliver to the Executive Director:

- (a) Trust Account Commencement Report, in Form TA-1 approved by the Benchers;
- (b) an Exemption Report, in Form TA-7 approved by the Benchers, that the member is exempt from compliance with subrule (a) on the basis that the member does not:
  - (i) provide legal services to the public; or
  - (ii) receive or handle trust funds within the course of his or her practice.

[Rule 1201(2) added April 15, 1994]  
 [Rule 1201(1)(c) amended April 27, 1995]  
 [Rule 1201 amended May, 2002]

#### Change in Fiscal Period

1202. A member who changes the fiscal period shown in the Trust Account Commencement Report or the Annual Practice Declaration filed most recently with the Executive Director shall, within 30 days of the change, notify the Executive Director in writing of the member's new fiscal period.

[Rule 1202 amended May, 2002]

#### Filing of Annual Accountant's Report

1203. (1) A member shall, within 3 months after each fiscal period of the member's practice:

- (a) deliver to the Executive Director:
  - (i) an Annual Practice Declaration, in a form approved by the Benchers; and
  - (ii) a Power of Attorney, in a form approved by the Benchers; and
- (b) cause his or her accountant to deliver to the Executive Director an Accountant's Report, in a form approved by the Benchers, unless exempt under Rule 1204.

(2) A member shall, within 3 months after termination of practice or termination of the existence of the firm or association in or with which the member formerly practised:

- (a) deliver to the Executive Director an Annual Practice Declaration; and
- (b) cause his or her accountant to deliver to the Executive Director an Accountant's Report.

(3) A member whose practice termination as described in subrule (2) coincides with the end of the fiscal period is not required to comply with subrule (2).

(4) The Executive Director may approve a member's written request that his or her Accountant's Report cover a time period of less than 12 months.

[Rule 1203(1)(a) amended February, 2003]

#### Exemption from Filing an Accountant's Report

1204. (1) A member who satisfies the Executive Director that he or she, during the most recent completed fiscal period or during the partial fiscal period immediately preceding termination of practice:

- (a) has not received any funds in trust;

- (b) has not withdrawn any funds held in trust;
- (c) has complied with Part 13 of these Rules; and
- (d) within the time referred to in Rule 1203(1), has delivered to the Executive Director a statutory declaration in a form approved by the Executive Director

is exempt from the filing of the documents referred to in Rule 1203(1) for that time period.

(2) The Law Society of Saskatchewan may establish criteria upon which it may exempt a member from the filing of documents referred to in Rule 1203 (1)(b).

[Rule 1204(1) amended; (2) added December 7, 2007]

### **Late Filing of Accountant's Report**

1205. (1) A member who does not comply with Rule 1201 is in breach of these Rules and is liable to an assessment of \$100 per month.

(2) A member who does not comply with Rule 1203:

- (a) is in breach of these Rules and is liable to an assessment of \$100 for the first month and \$400 for every subsequent month, multiplied by the number of partners in respect of whom the Accountant's Report applies; and
- (b) shall, when the member delivers the Accountant's Report, include a copy of listings and reconciliations referred to in Rule 970(2) for each month subsequent to the period to which the Accountant's Report applies.

(3) A member who does not comply with Rule 1203(1) within 4 months after the end of the fiscal period shall, unless the Executive Director authorizes in writing to the contrary, deliver to the Executive Director by the end of each month until Rule 1203(1) is complied with, the monthly trust reconciliation referred to in Rule 970(1).

[Rule 1205(1) and (2)(a) amended February 7, 2008]

### **Credentials to Complete Accountant's Report**

1206. (1) An Accountant's Report shall be completed and signed by:

- (a) a person who is:
  - (i) a chartered accountant registered as a member in good standing of the Institute of Chartered Accountants of Saskatchewan and in public practice;
  - (ii) a Certified General Accountant registered as a member in good standing of the Association of Certified General Accountants of Saskatchewan and in public practice; or
  - (iii) a Certified Management Accountant registered as a member in good standing of the Association of Certified Management Accountants of Saskatchewan and in public practice;
- (b) a person without the credentials referred to in subrule (a), if the member satisfies the Executive Director that:
  - (i) no person so qualified is reasonably available; and
  - (ii) the person proposed by the member has adequate accounting credentials.

(2) The Executive Director may at any time require a member, whose Accountant's Report was completed and signed by a person described in subrule (1)(b), to deliver a new Accountant's Report by a person who has the credentials specified by the Executive Director.

### **Instructions Respecting Minimum Standards**

1207. An Accountant's Report shall be completed in accordance with the minimum standards published by the Benchers.

### **Prohibited from the Practice of Law**

1208. (1) The Executive Director shall not issue to a member who is in breach of Rules 1203 or 1205(2)(b) or (3) a practising certificate.

(2) The practising certificate of a member who is in breach of Rules 1203 or 1205(2)(b) or (3) ceases to be valid 7 days after the Executive Director delivers to the member a written notification to that effect.

- (3) A member prohibited from the practice of law under subrule (1) or (2) who:
- (a) complies with Rules 1203 or 1205 within 5 months after the fiscal period or termination of practice referred to in Rule 1203(1); and
  - (b) pays to the Society any fees, assessments, fines, costs or other amounts owing to the Society

is deemed to be insured, during the period of prohibition, for errors or omissions arising before or during the prohibition.

#### **Monthly Reports**

1220. (1) A member shall deliver to The Law Society of Saskatchewan, on a monthly basis, any of the books, records and accounts described in Part 13 if required by:

- (a) Rule 1201, Trust Account Commencement Report;
- (b) any penalty or requirement assessed under sections 53(3) or 55(2) of the *Act*; or
- (c) The Law Society of Saskatchewan, at its discretion.

(2) The books, records and accounts to be delivered under subrule (1) shall be delivered not more than 20 days after the end of the period to which they pertain, unless otherwise permitted in writing by the Law Society of Saskatchewan.

#### **Late Filing of Monthly Reports**

1225. A member who does not comply with Rule 1220 is in breach of these Rules and is liable to an assessment of \$100 per month multiplied by the number of partners.

#### **Appeal of Late Filing Assessment**

1230. A member assessed a penalty pursuant to Rule 1205(1), 1205(2)(a), or 1225 may appeal the penalty in writing to the Executive Director within 15 days of the member's receipt of the assessment.

[Rules 1220, 1225 and 1230 added February 7, 2008]

[next rule is Rule 1300]

## Part 16

### Unclaimed Trust Funds

[Rule 1300 "committee" definition deleted December 7, 2007]

#### Payment of Unclaimed Trust Funds to the Society

1301. (1) Subject to subrule (2), a member who has held funds in his or her trust account for more than 3 years and who is unable to pay the funds to the person who is entitled to them, shall pay those funds to the Society under section 14 of the *Act*, unless the member has previously received written direction from the client to hold the funds for a longer period of time or has previously received written permission from the Society to continue to hold the funds for a specific period, provided that the member advises the Executive Director in writing of:

- (a) the full name and last known mailing address of each person on whose behalf the funds were held;
- (b) the exact amount being paid to the Society in respect of each person; and
- (c) the efforts made by the member to locate each such person.

(2) Where the member intends to pay to the Society under subrule (1) more than \$500 in respect of any one person the member shall, in addition to the information described in subrule (1), advise the Executive Director in writing of:

- (a) any unfulfilled undertakings given by the member in relation to the funds; and
- (b) the details of the transaction in respect of which the funds were deposited with the member.

(3) A member who cannot provide all of the information described in subrule (1) or (2) may, with the consent of the Executive Director, pay the funds to the Society under section 14 of the *Act* provided that the member:

- (a) advises the Executive Director in writing of:
  - (i) such information described in subrule (1) or (2) as the member does have; and
  - (ii) the reasons why the member does not have the other information described in subrule (1) or (2); and
- (b) delivers to the Executive Director copies of all records within the member's power or possession that relate to the ownership and source of the funds.

(4) Notwithstanding anything in this Rule, where a member holds funds in his or her trust account for a period of one year on behalf of any single person which funds total an amount of less than \$10, those funds shall be paid to the person or to the Society.

[Rule 1301(1) amended, 1301(4) added October 27, 1994]  
 [Rule 1301(1) and (4) amended December 7, 2007]

#### Procedure for Investigation of Claims

1302. (1) A person or his or her legal representative who claims entitlement to funds held by the Society under section 14 of the *Act* may make a claim in writing to the Society.

(2) A claimant shall provide the Society with information and documents relating to the claim which the Society reasonably requires.

(3) In order to determine the validity of a claim, the Society may make or authorize such inquiries or further investigations as it considers desirable.

[Rule 1302(1), (2) and (3) amended December 7, 2007]

#### Procedure for Adjudication of Claims

1303. (1) The Executive Director may:

- (a) approve or reject a claim based on the information received under Rule 1302; or
- (b) appoint a hearing committee to conduct an oral hearing to determine the validity of the claim.

(2) Where an oral hearing is ordered:

- (a) the Society shall notify the claimant in writing of the date, time and place of the hearing;
- (b) a notice referred to in (a) shall be served in accordance with section 85 of the *Act* and, unless the claimant consents in writing to a shorter time, not less than 30 days before the date set for the commencement of the hearing;
- (c) the hearing shall be conducted in private unless the hearing committee determines, in the public interest, that a specific individual or the public generally may be present for part or all of the hearing;
- (d) the hearing committee may determine, subject to the *Act* and these Rules, the practice and procedure to be followed at the hearing;
- (e) any witness who is competent to do so shall, before testifying, take an oath or make a solemn affirmation;
- (f) if the hearing committee decides that the proceedings at a hearing shall be recorded by a Court Reporter, a person may obtain, at his or her expense, a transcript of any part of the hearing which he or she was entitled to attend; and
- (g) the hearing committee may:
  - (i) make such inquiries of a witness as it considers desirable; and
  - (ii) accept any evidence that it considers appropriate, and is not bound by the rules of law concerning evidence.

(3) Following the hearing of the evidence and submissions, the hearing committee shall determine whether the claimant is entitled to the funds held in trust by the Society.

(4) Where a claim is approved under subrule (1)(a) or (3), the amount owing to the claimant shall be determined by the Executive Director or the hearing committee, as the case may be, and the Executive Director shall pay that amount to the claimant out of the trust account referred to in section 14(2)(a) of the *Act*.

[Rule 1303(1) and (b), (2)(a), (c), (d), (f) and (g), (3) and (4) amended December 7, 2007]

[next rule is Rule 1400]

## Part 17

### Forms of Practice

#### Registrar

1400. The Executive Director is designated as the "Registrar" as defined in *The Professional Corporations Act*.

#### Approval for Incorporation

1401. (1) Any member or members who intend to incorporate a Professional Corporation for the practice of law in Saskatchewan shall first forward to the Executive Director the proposed articles of incorporation.

(2) If the Executive Director is satisfied that:

- (a) the proposed name of the corporation complies with the provisions of Part 19 of these Rules and is not so similar to other Professional Corporate names as to be misleading or confusing; and
- (b) the voting shares will be legally and beneficially owned by practicing members of the Law Society; and
- (c) the directors will be members of the Law Society

then he/she may provide his/her consent to the incorporation.

#### Application for Permit

1402. (1) A member may apply to the Law Society on behalf of a corporation for a permit pursuant to section 8 of *The Professional Corporations Act* by providing to the Executive Director:

- (a) a completed Form C-1;
- (b) a copy of the articles of incorporation including any amendments;
- (c) a current certificate of status issued pursuant to *The Business Corporations Act* **OR** a certificate of incorporation, showing that the corporation was incorporated less than 60 days prior to the application having been received by the Law Society;
- (d) the fee prescribed by the Benchers in Schedule 1; and
- (e) any other information required by the Executive Director.

(2) Subject to subrule (3), the Executive Director may issue a permit to a corporation which complies with the requirements of the provision of *The Professional Corporations Act*, *The Legal Profession Act (1990)* and these Rules.

(3) A permit shall be in Form C-2 and may contain any conditions that the Executive Director thinks appropriate.

(4) A permit shall, unless sooner revoked, expire on December 31 of the year for which it was issued.

[Rule 1402(1)(c) amended October, 2002]

#### Renewal of Permit

1403. (1) A corporation wishing to have its permit renewed for the following calendar year shall forward to the Executive Director:

- (a) Form C-3;
- (b) Certificate of Status **OR** a written certification signed by the member that the corporation remains in good standing; and
- (c) The renewal fee approved by the Benchers in Schedule 1.

[Rule 1403(1) amended April, 2003]

#### Revocation of Permit

1404. (1) The Executive Director may revoke the permit of any Professional Corporation which fails to meet the requirements set out in *The Professional Corporations Act* or these Rules or fails to comply with any term or condition contained in the permit.

(2) A permit shall be immediately revoked where only one member of the Law Society provides legal services in the name of the Professional Corporation and that person dies or is disbarred or is suspended from the practice of law or ceases to be a member.

(3) The Executive Director shall notify the corporation by registered mail of the revocation of its permit.

### **Changes in the Corporate Structure**

1405. (1) A Professional Corporation shall notify the Executive Director in writing within 10 days of any change in its corporate structure, ownership or directors.

- (2) Upon receipt of a notice pursuant to subrule (1), the Executive Director may:
- (a) continue the permit;
  - (b) amend the permit to add or delete any terms or conditions; or
  - (c) revoke the permit.

### **Corporate Register**

1406. (1) The Executive Director shall maintain a corporate register containing the name and address of each Professional Corporation to which a permit is issued and the name and address of each Professional Corporation to which a permit is issued.

(2) The information contained in the corporate register shall be available to the public and the corporate register shall be open for inspection by the public at the Law Society Office during office hours.

### **Review of the Executive Director's Decision**

1407. (1) A decision by the Executive Director under this Part may be reviewed on the application of an aggrieved person by giving notice in writing to the Law Society that he/she wishes the matter reviewed by the Benchers.

(2) The Benchers may designate a review panel composed of Benchers to consider the application for review and report to the Benchers with recommendations.

(3) The application for review may state that the applicant wishes to appear personally before the Benchers and in such circumstance the applicant shall be given an opportunity to speak to the matter at the next Convocation of Benchers.

(4) The Executive Director shall advise the applicant in writing of the results of the review under this Rule.

### **Professional Responsibility of Members**

1408. All members who are directors of a Professional Corporation are responsible for the activities of the corporation and may be subject to discipline for any breach of the Rules or *Code of Professional Conduct* by the Corporation.

[Rules 1400 – 1408 added September, 2001]

### **Limited Liability Partnerships (LLP)**

1450. A law firm which intends to apply to the Corporations Branch to be registered as an LLP shall forward to the Executive Director a copy of the proposed application, the prescribed fee under Schedule 1, and any other information necessary to process the application.

1451. The Executive Director shall, upon receiving the material mentioned in Rule 1450, review the status of each partner listed in the application and provide the law firm with a certificate in Form C-4 certifying that each proposed partner in the LLP is or is not entitled to practice law in Saskatchewan, and shall include any conditions or limitations on his or her practice.

1452. A law firm which is registered as an LLP in another jurisdiction which intends to apply to the Corporations Branch to be registered in Saskatchewan as an LLP shall forward to the Executive Director the prescribed fee under Schedule 1, a copy of the proposed application, and any other information the Executive Director may require to process the application.

1453. (1) The Executive Director, upon receiving the material mentioned in Rule 1452, shall review the application and if satisfied that:

- (a) the proposed LLP will engage only in the practice of law;

- (b) there are one or more partners in the proposed LLP who are eligible to practice law in Saskatchewan;
- (c) each member of the LLP who is eligible to practice law in Saskatchewan has professional liability insurance which is substantially equivalent to that provided by SLIA; and
- (d) the proposed LLP has made adequate arrangements to ensure that it will comply with Parts XIII and XIX of the Rules

he/she may provide a certificate in Form C-5 certifying that the proposed LLP and its Saskatchewan partners meet the eligibility requirements of *The Legal Profession Act (1990)* and the Law Society Rules.

1454. The Executive Director shall keep a register of all LLP's carrying on the practice of law in the Province of Saskatchewan, including the names and addresses of all partners, and any limitations on the practice of the LLP.

1455. Upon registration, an LLP shall immediately give notice to all its existing clients advising of its registration and explaining in general terms the potential changes in liability to the partners.

1456. An LLP shall report immediately any changes in its partnership to the Executive Director.

1457. All members of The Law Society of Saskatchewan who are partners in an LLP are responsible to ensure that the LLP, and any persons practicing through it, comply with *The Partnership Act*, *The Legal Profession Act (1990)* and the Rules of The Law Society of Saskatchewan.

[Rules 1450 – 1457 added May, 2001]

[next rule is Rule 1500]

## Part 18

### Contingent Fee Agreements

#### Definitions

1500. In this Part

“**contingent fee agreement**” means an agreement which provides that a member’s remuneration for services to be provided for or on behalf of a client is contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided;

“**retainer agreement**” means an agreement which provides that a member is retained by a client to act on the client’s behalf for one or more matters or generally for a specified period of time for a fee paid by the client in advance of any services performed by the lawyer, but does not apply to money paid to a member in trust which is intended to be drawn upon to pay fees and disbursements in accordance with Part 13 of these Rules.

[Rule 1500 amended April 15, 1994]

#### Contents of Contingent Fee Agreements

1501. (1) Every contingent fee agreement entered into by a member shall be in writing.
- (2) A member who enters into a contingent fee agreement shall ensure that the agreement:
- (a) is fair and the member’s remuneration provided for in the agreement is reasonable, under the circumstances existing at the time the contract is entered into;
  - (b) states that any party to the agreement may apply to the Court under section 64(3) of the *Act* for a determination as to whether or not the agreement is fair and reasonable;
  - (c) does not purport to exclude the member’s liability for negligence;
  - (d) does not purport to require the member’s consent before a client’s cause may be abandoned, discontinued or settled; or
  - (e) does not purport to prevent the client from changing solicitors before the conclusion of the retainer.
- (3) Every contingent fee agreement shall be signed by each party to it, and the member shall deliver a copy of the agreement to each such party.

#### Prohibited Agreements

1502. A member shall not enter into a contingent fee agreement:
- (a) for services which relate to a child custody or access matter; or
  - (b) for services which relate to a matrimonial dispute, unless the form and content of the agreement have been approved by the Court.

#### Fees Payable under Contingent Fee Agreements

1503. A member who prepares a bill for fees earned and disbursements and other expenses charged under a contingent fee agreement shall ensure that the total remuneration payable to the client:
- (a) does not exceed the remuneration provided for in the agreement; and
  - (b) regardless of the remuneration provided for in the agreement, is reasonable under the circumstances existing at the time the bill is prepared.

#### Retainer Agreements

1504. (1) Every retainer agreement entered into by a member shall be in writing.
- (2) A member who enters into a retainer agreement shall ensure that the agreement:
- (a) specifies in clear and unequivocal language the term of the agreement, whether or not any further fees or disbursements will be charged, what specific matters if any are covered by the agreement;
  - (b) does not mislead clients in any way with respect to the services covered by the agreement;

(c) subject to subsection (3) below, specifies that money received by the member under the terms of the retainer agreement becomes the property of the member immediately upon receipt.

(3) A member may agree with the client as part of a retainer agreement that money paid to the member pursuant to the agreement will be repaid under specified circumstances.

[Rule 1504 amended April 15, 1994]

**Application of this Part**

1505. This Part applies only to agreements entered into on or after the date on which the individual sections come into effect.

[Rule 1505 added April 15, 1994]

[next rule is Rule 1600]

## Part 19

### Marketing of Legal Services

#### Definitions

1600. In this Part,

“**advertisement**” means the use of paid space or time in a public medium or the use of a publication such as a brochure or handbill regardless of whether the member or firm contributes any money or services to the cost of the publication, production or distribution, to communicate with the general public or a segment thereof, for the purpose of promoting professional services or enhancing the image of the member or firm.

“**interjurisdictional law firm**” means a sole proprietorship, partnership or any other arrangement to carry on the business of the practice of law together, in which:

- (a) the firm carries on the practice of law in Saskatchewan and in one or more other Canadian or foreign jurisdictions; and
- (b) not all the lawyers in an office of the firm outside of Saskatchewan are members of the Society;

“**marketing activity**” includes:

- (a) an advertisement;
- (b) any publication or communication in any medium with any client, prospective client or the public generally in the nature of an advertisement, promotional activity or material, a listing in a legal directory, a public appearance or any other means by which professional legal services are promoted; and
- (c) contact with a prospective client initiated by a member.

“**weakened state**” means a physical, emotional or mental condition which may render a prospective client unduly vulnerable to persuasion or importuning by a lawyer and shall, without limiting the generality of the foregoing, be deemed to include the state of any prospective client who is an alleged victim of physical and/or sexual abuse.

[Rule 1600 “advertisement” amended December 9, 1993]

[Rule 1600 “weakened state” added June 10, 1999]

#### General Principles

1601. (1) Subject to these Rules, a member may initiate contact with a potential client.
- (2) Any marketing activity undertaken or authorized by a member must be not be:
- (a) false;
  - (b) inaccurate;
  - (c) reasonably capable of misleading the recipient or intended recipient; or
  - (d) undignified, in bad taste, offensive or otherwise inimical to the best interests of the public or the members, or tending to harm the standing of the legal profession.

[Rule amended February 5, 2001]

#### Specific Prohibitions

1602. A marketing activity violates subrule 1601(2) if it:
- (a) is calculated or likely to take advantage of the weakened state, either physical or emotional, of the recipient;
  - (b) is likely to create in the mind of the recipient or intended recipient an unjustified expectation about the results which the member may achieve;
  - (c) implies that the member can obtain results:
    - (i) not achievable by other members;
    - (ii) by improperly influencing a court or other public body or official; or
    - (iii) by any other improper means;
  - (d) compares either directly, indirectly or by innuendo, the member’s services or ability with that of any other member; or
  - (e) shows the member as being associated in the practice of law with:

- (i) a judge, Attorney General, Minister of Justice, master, registrar or local registrar, sheriff, deputy sheriff, registrar or deputy registrar of land titles or other officer or official; or
- (ii) a person other than:
  - (A) a member of the Society; or
  - (B) a member of an interjurisdictional law firm.

1602.1(1) No member shall initiate contact with a prospective client who is in a weakened state for the purpose of soliciting the prospective client's legal work except by mail or advertisement. A member shall be allowed to attend any meetings arranged by a non-member or non-members to provide information to a group of such prospective clients, but may only attend by invitation from the prospective clients or persons arranging the meeting not connected to the member.

(2) Any correspondence, brochure or informational package sent to or intended to be provided to prospective clients shall state in bold letters at the bottom of every page "Advertising material. This is a commercial solicitation".

(3) Any correspondence sent to a named prospective client in physical and sexual abuse cases must be marked personal and confidential and state how the member obtained the identity of the prospective client.

(4) Draft fee agreements may be included in marketing materials sent to prospective clients but must be marked "Draft Only. Do not sign". Fee agreements may only be entered into after there has been a meeting between lawyer and client.

[Rule 1602.1 added June 10, 1999]

### **Public Representations**

1603. A member shall not:

- (a) comment publicly on the probable outcome of a legal proceeding in which he or she acts;
- (b) in the endorsement or promotion of any property, investment or service for sale to the public, trade on his or her professional status or reputation resulting from membership in the Society; or
- (c) state publicly that he or she speaks on behalf of the legal profession unless the member has been expressly authorized to state the official position of the legal profession.

### **Disclosure of Client's Identity**

1604. A member shall not, in any marketing activity, disclose a present or former client's identity unless:

- (a) the member is satisfied that disclosure is not contrary to the client's interest; and
- (b) the client expressly or impliedly consents to the disclosure.

### **Former Judges and Members of Administrative Tribunals**

1605. (1) A member who was formerly a judge shall not:

- (a) continue to use the title "Judge" or any similar title which alludes to his or her former judicial status; and
- (b) shall not trade on his or her former judicial status.

(2) A member who formerly served in an adjudicative capacity on an administrative tribunal shall not:

- (a) continue to use any title which alludes to his or her former status on the tribunal; and
- (b) shall not trade on his or her former status as a member of the tribunal.

### **Firm Name**

1606. A member shall not use a firm name which violates subrule 1601(2)(c) or (d).

### **Letterhead**

1607. A member shall not, on his or her firm's letterhead or in any other marketing activity, list a person who is not an active member of the Society in good standing, except where that person:

- (a) is appropriately designated as:
  - (i) an inactive member;
  - (ii) a retired member;
  - (iii) a deceased member;
  - (iv) a student-at-law; or
  - (v) a foreign legal consultant; or
- (b) is a member of an interjurisdictional law firm.

[Rule 1607 amended March 27, 1992 and December 6, 1996]

1607.1 Notwithstanding any other rule, a member who has been suspended pursuant to section 45, section 52 or section 55 of *The Legal Profession Act, 1990*, or pursuant to Rule 420 or Rule 470, shall not be listed on any firm's letterhead or in any other marketing activity unless the suspension is for a period of less than 30 days.

[Rule 1607.1 added June 5, 1997]

### **Interjurisdictional Law Firms**

1608. A member of the Society who is a member of an interjurisdictional law firm shall ensure that, whenever the firm on its letterhead or in any other marketing activity enumerates the members of the firm, he or she is identified as being qualified to practise law in Saskatchewan.

### **Law Firms with Multiple Offices**

1609. A law firm having multiple offices which enumerates on its letterhead or in any other marketing activity the members of the firm must show the office in which each enumerated member principally practises.

### **Referral Fees**

1610. (1) A member shall not:
- (a) pay any remuneration to a person, other than a member of the Society in good standing, in exchange for that person referring a client to the member; or
  - (b) act for a client where, to the member's knowledge, a person other than a member of the Society in good standing was paid any remuneration by the client in exchange for being referred to the member.
- (2) A member acting for a client who was referred to the member by another member may pay that other member remuneration for the referral only if, at the commencement of the retainer, the member fully discloses the remuneration to the client and the client consents in writing to its payment.

### **Fees**

1611. (1) A member who, in any advertisement, includes a statement of fees for a specific legal service or an hourly rate of charge:
- (a) shall, in the case of a statement of fees for a specified legal service, ensure that the statement sufficiently describes the fees and services so as to enable the recipient or intended recipient to understand the nature and extent of the work to be performed and the cost to the client; and that the statement clearly specifies whether or not disbursements are included in that cost;
  - (b) during the currency of the advertisement shall agree to perform the services at the stated fee or rate for any person unless excused by circumstances such as conflict with the interests of another client or other reasonable and proper grounds; and
  - (c) shall not in the advertisement compare the fees or rate charged by the member with the fees or rate charged by another member.
- (2) Unless otherwise stated in the advertisement, the currency of a fee advertisement shall be deemed to be 90 days after the date of publication.

### **Preferred Areas of Practice**

1612. (1) A member shall not state in any marketing activity a preference for practice in any one or more fields of law unless he or she provides a statutory declaration not less than annually to the Executive Director which indicates that the member:

- (a) has been engaged in the practice of law for at least 3 years;
- (b) regularly practises in each field of law in respect of which he or she wishes to state a preference; and
- (c) has, during the most recent 3 year period that the member has practised, devoted at least 20% of his or her time to practising in each field of law in respect of which the member wishes to state a preference.

(2) A member who does not qualify to state a preferred area of practice under subrule (1) may, if it is accurate, state a preference for general practice.

[Rule 1612 amended December 6, 1996]

[Rule 1613 Lawyer Referral Service deleted December 7, 2007]

### **Restrictions on Practice**

1614. A member who restricts his or her practice may, upon delivering an annual written undertaking to the Executive Director, state in any marketing activity the fields of law to which the practice is restricted.

### **Specialization**

1615. (1) Subject to subrule (2) and (3), a member:

- (a) shall not use the title "specialist", "expert", "leader" or any similar designation suggesting a recognized special status or accreditation on any letterhead or business card or in any other marketing activity; and
- (b) shall take all reasonable steps to discourage use, in relation to the member by another person, of the title "specialist", "expert", "leader" or any similar designation suggesting a recognized special status or accreditation in any marketing activity.

(2) A member who is approved as a mediator under Part 9 of these Rules may so state in any marketing activity.

(3) Notwithstanding subrule (1), a member or a law firm may be identified as a leading practitioner or law firm in any publication which relies on input from independent parties and is approved by the Ethics Committee and a member or a law firm may be listed under the category of legal ratings in the Martindale Hubbell publication.

[Rule 1615(3) added April 22, 1999]

### **Sharing Premises with Non-Lawyers**

1616. A member may share premises, facilities and staff with a person who is not a member of the Society, provided that:

- (a) the non-member's reputation or activities do not jeopardize the integrity of the profession;
- (b) the business of the member and the non-member are kept entirely separate; and
- (c) clients of the member are not confused as to the person with whom they are dealing.

### **Carrying on Another Business or Occupation**

1617. A member shall not carry on any business or occupation other than the practice of law in such a way that:

- (a) a person might reasonably:
  - (i) find it difficult to determine whether in any matter the member is acting in his or her capacity as a member; or

- (ii) expect that in carrying on the other business or occupation, the member will exercise professional legal judgment or skill for the protection of that person; and
- (b) there is a significant risk that the interests of the member and of a client may, in a matter in which the member acts for the client, conflict.

### **Member's Duties**

1618. (1) A member shall retain for one year after delivery, publication or broadcast of any marketing activity, advertisement or brochure, and shall provide to the Executive Director on request:

- (a) a copy of any publication;
- (b) a recording of any broadcast made by use of any electronic media, including radio, television and microwave transmission;
- (c) a written record of when and where the publication or broadcast was made; and
- (d) a copy of any other marketing activity.

(2) It is the duty of any member, when called upon by the Society to do so, to verify the statements made in his or her marketing activity.

[Rule amended February 5, 2001]

### **Violation of Marketing Provisions**

1619. (1) Members whose marketing activities are in violation of Rules 1607, 1612 and 1615(1)(a) may elect to:

- (a) pay a fine of \$500 for each publication; or
- (b) have the matter referred to the Chairperson of the Discipline Committee to determine if hearing as to whether the member is guilty of conduct unbecoming a lawyer is required.

(2) Notwithstanding subrule (1), the Executive Director may, in his or her discretion, disallow the payment option and refer the matter to the Chairperson of the Discipline Committee.

[Rule 1619 added December 6, 1996]

### **Collaborative Law**

1620. A lawyer may not, in any marketing activity, describe him or herself as being qualified to practice collaborative law unless he or she has successfully completed a course approved by the Admissions & Education Committee.

[Rule 1620 added April, 2003]

[next rule is Rule 1650]

## Part 19A

### Prepaid Legal Services

#### Definitions

1650. In this Part,  
 “**plan**” means an agreement or arrangement whereby a lawyer agrees to provide legal services to a plan member according to the terms of the plan.  
 “**plan sponsor**” means any person or persons including trade unions, associations, corporations, etc.  
 “**plan member**” means any person who is eligible to receive legal services from a lawyer by virtue of and pursuant to the terms of a plan.

#### No Participation Fee

1651. No lawyer may participate in a plan which requires that the lawyer provide any fee or consideration of any kind directly or indirectly to the plan sponsor as a condition of the lawyer's participation in the plan.

#### Agreement with the Plan Sponsor

1652. Prior to participating in a plan, every lawyer shall execute with the plan sponsor a written agreement containing the following provisions or their equivalent:

- (a) a stated recognition by the plan sponsor that there is no solicitor/client relationship between the plan sponsor and the lawyer. The plan member, in all cases, is the client; and

Agreement that:

- (b) after referral by the plan sponsor of a plan member to a lawyer, the plan sponsor shall not communicate with the plan member concerning the matters upon which the plan member is seeking legal advice;
- (c) the plan sponsor shall not purport to direct the lawyer with respect to the conduct of the plan member's affairs or in any way attempt to influence the plan member or the lawyer, respecting legal matters. Specifically, and without limiting the generality of the foregoing, monies paid into trust by or on behalf of a client are not subject to direction by the plan sponsor;
- (d) all information received by the lawyer in the course of his or her representation of a plan member shall be confidential and, subject to (e) below, shall not be communicated to the plan sponsor;
- (e) the lawyer may release information to the plan sponsor which, in the opinion of the lawyer, is necessary for the purposes of billing or paying of fees or for statistical purposes, upon execution by the plan member of a written authorization for such release. It shall not be a requirement of participation in the plan by any plan member that any information other than the above shall be released to the plan sponsor;
- (f) the lawyer may withdraw from representation of the plan member where it is appropriate to do so having regard to *The Code of Professional Conduct* of the Law Society of Saskatchewan;
- (g) any complaints against a lawyer involving professional conduct by either the plan member or the plan sponsor will be referred to the Law Society of Saskatchewan;
- (h) in case of any dispute with respect to a lawyer's fees, the taxation provisions of *The Legal Profession Act, 1990* are available in all cases.

#### Duties Regarding Conflicts of Interest

1653. A lawyer shall not participate in a plan which interferes with the lawyer's duties and obligations with respect to conflicts of interest as defined by *The Code of Professional Conduct* of the Law Society of Saskatchewan.

**Duties Regarding Plan's Advertising**

1654. A lawyer may only participate in the plan if the plan's advertising and promotional material conforms to the Law Society's advertising Rules and *The Code of Professional Conduct*.

**Duties Regarding Unauthorized Practice**

1655. A lawyer shall not participate in a plan which attempts to limit his or her duty to report unauthorized practice to the Law Society of Saskatchewan.

**Acceptance of Responsibilities**

1656. A lawyer shall ensure that every plan sponsor is aware of and accepts the lawyer's responsibilities pursuant to *The Code of Professional Conduct* of the Law Society of Saskatchewan and the Rules relating to prepaid legal service plans.

**Prohibition**

1657. A lawyer shall not participate in a plan which attempts to circumvent any of the provisions of this Part.

[Rule 1650 to Rule 1657 added January 28, 1994 effective April 15, 1994]

[next rule is Rule 1700]

## **Part 20**

### **Institution of Proceedings**

#### **Summary Offences**

1700. The Executive Director, or any other person authorized by the Executive Committee in a specific case, may act as informant in proceedings instituted under the *Summary Offences Procedure Act*.

#### **Injunction**

1701. The Executive Director, or any other person authorized by the Executive Committee in a specific case, may authorize the initiation of proceedings for an injunction under section 82 of the *Act*.

[next rule is Rule 1800]

## Part 21

### Withdrawal from Practice

#### Disposition of Files, Trust Monies and Other Documents and Valuables

1800. (1) Subject to subrule (4), a member who intends to withdraw from the practice of law in Saskatchewan shall, before the withdrawal occurs, advise the Executive Director in writing of his or her intended disposition of all:

- (a) open and closed files;
- (b) wills and wills indices;
- (c) titles and other important documents and records;
- (d) other valuables; and
- (e) trust accounts and trust funds

which relate to the member's practice and are within the member's possession or power.

(2) Subject to subrule (4), a member who has withdrawn from the practice of law in Saskatchewan shall, within 3 months after the withdrawal occurs, confirm to the Executive Director in writing that:

- (a) the documents and property referred to in subrule 1(a) to (d) have been disposed of, and any way in which the disposition differs from that reported under subrule (1); and
- (b) all trust accounts referred to in subrule (1)(e) have been closed and that:
  - (i) all the balances have been:
    - (A) remitted to the clients or other persons on whose behalf they were held; or
    - (B) transferred to another member with written instructions concerning the conditions attaching to them; and
  - (ii) any interest earned on a mixed trust account has been remitted to the Law Foundation in accordance with Part 13 of these Rules.

(3) The Executive Director may, upon application in writing by the member or former member, extend the time limit referred to in subrule (2).

(4) A member who withdraws from a law firm in circumstances where the firm will continue in existence and will continue to have possession and power over the documents, property and accounts described in subrule (1), is not required to comply with subrule (1) or (2).

[next rule is Rule 1900]

## Part 22

### Repeal and Commencement of Rules

#### Repeal of Former Rules and Bylaws

1900. The Law Society Rules and Bylaws which were in effect immediately before the *Act* comes into force are repealed as of the date on which the *Act* comes into force.

#### Commencement of these Rules

1901. These Rules come into effect on the day on which the *Act* comes into force.

#### Transitional

1902. (1) Rules 17, 19 and 21(1) of these Rules do not apply to the 1991 election of Benchers.

(2) For the purposes of the 1991 election of Benchers, the words "Rule 21" in Rule 23 of these Rules shall be interpreted to mean "The Rules of the Law Society of Saskatchewan which were in effect immediately prior to October 1, 1991".

#### Waiver of Rule

1903. The Benchers may, by a decision of 2/3 of the Benchers present and entitled to vote, vary, waive or suspend any Rule other than subrule 92(3) or subrule 470(6).

[Rule 1903 amended April 22, 1999]

## **Schedule 2**

### 1. Electoral Divisions – See Rule 15(2)

#### **REGINA CITY ELECTORAL DIVISION**

That part of the Province of Saskatchewan from time to time comprising of the City of Regina.

#### **SOUTH EAST ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at intersection of the north boundary of township eighteen and the east boundary of the province; thence southerly along the east boundary of the province to the south boundary of the province; thence westerly along the south boundary of the province to the dividing line between ranges twenty and twenty-one, west of the second meridian; thence northerly along the said dividing line between ranges twenty and twenty-one to the north boundary of township eighteen; thence easterly along the north boundary of township eighteen to the point of commencement. Excluding that part from time to time comprising of the City of Regina.

#### **EAST CENTRAL ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at the intersection of the east boundary of the province and the north boundary of township eighteen; thence westerly along the north boundary of township eighteen to the dividing line between ranges twenty and twenty-one, west of the second meridian; thence northerly along the said dividing line between ranges twenty and twenty-one to the north boundary of township thirty-five; thence easterly along the north boundary of township thirty-five to the east boundary of the province; thence southerly along the east boundary of the province to the point of commencement.

#### **CENTRAL ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at the intersection of the dividing line between ranges twenty and twenty-one, west of the second meridian and the south boundary of the province; thence westerly along the south boundary of the province to the dividing line between ranges five and six, west of the third meridian; thence northerly along the said dividing line between ranges five and six to the north boundary of township thirty-five; thence easterly along the north boundary of township thirty-five to the dividing line between ranges twenty and twenty-one, west of the second meridian; thence southerly along the said dividing line between ranges twenty and twenty-one to the point of commencement.

#### **SOUTH WEST ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at the intersection of the dividing line between ranges five and six, west of the third meridian and the south boundary of the province; thence westerly along the south boundary of the province to the west boundary of the province; thence northerly along the west boundary of the province to the north boundary of the township thirty-six; thence easterly along the north boundary of township thirty-six to the dividing line between ranges six and seven, west of the third meridian; thence southerly along the said dividing line between ranges six and seven to the north boundary of township thirty-five; thence easterly along the north boundary of township thirty-five to the dividing line between ranges five and six, west of the third meridian; thence southerly along the said dividing line between ranges five and six to the point of commencement.

### **NORTH EAST ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at the intersection of the east boundary of the province and the north boundary of township thirty-five; thence westerly along the north boundary of township thirty-five to the dividing line between ranges six and seven, west of the third meridian; thence northerly along the said dividing line between ranges six and seven to the north boundary of township fifty-seven; thence easterly along the north boundary of township fifty-seven to the west boundary of Prince Albert National Park; thence northerly and easterly along the west and north boundaries of Prince Albert National Park to the meridian through the one hundred and sixth degree of West longitude; thence northerly along the said meridian of longitude to the north boundary of the province; thence easterly along the north boundary of the province to the east boundary of the province; thence southerly along the east boundary of the province to the point of commencement. Excluding those parts from time to time comprising of the City of Saskatoon and the City of Prince Albert.

### **SASKATOON CITY ELECTORAL DIVISION**

That part of the Province of Saskatchewan from time to time comprising of the City of Saskatoon.

### **PRINCE ALBERT CITY ELECTORAL DIVISION**

That part of the Province of Saskatchewan from time to time comprising of the City of Prince Albert.

### **NORTH WEST ELECTORAL DIVISION**

That part of the Province of Saskatchewan that is bounded as follows: commencing at the intersection of the dividing line between ranges six and seven, west of the third meridian and the north boundary of township thirty-six; thence westerly along the north boundary of township thirty-six to the west boundary of the province; thence northerly along the west boundary of the province to the north boundary of the province; thence easterly along the north boundary of the province to the meridian through the one hundred and sixth degree of west longitude; thence southerly along the said meridian of longitude to the north boundary of Prince Albert National Park; thence westerly and southerly along the north and west boundaries of Prince Albert National Park to the north boundary of township fifty-seven; thence westerly along the north boundary of township fifty-seven to the dividing line between ranges six and seven, west of the third meridian; thence southerly along the said dividing line between ranges six and seven to the point of commencement.