



# LAW SOCIETY OF SASKATCHEWAN

## MISSION STATEMENT

**To govern the legal profession by upholding high standards of competency and integrity, ensuring the independence of the profession, advancing the administration of justice, the profession and the rule of law, all in the public interest.**

### **I. *THE LEGAL PROFESSION ACT***

The Law Society accomplishes its mission, in part, through Rules under *The Legal Profession Act*.

Included in these Rules are:

Part 13 - Accounting

Part 14 - Annual Practice Certificate

Part 15 - Accountant's Report

Part 16 - Unclaimed Trust Funds

that set out the majority of the members' responsibilities regarding financial matters.

Keep in mind that monies held in trust can be compared to monies on deposit with a bank and therefore are required to:

1. Be safe.
2. Be precisely accounted for.

Adherence to requirements regarding handling and accounting for trust monies is considered very important and severe penalties can result if not followed (i.e. immediate suspension).

## II. LAMONTAGNE AFTERMATH

The Daniel Lamontagne fraud has placed increased emphasis on the members' responsibilities regarding financial matters particularly as they relate to trust activities.

As a result of this fraud, the Law Society, at the direction of its Benchers, has, among other things:

1. Expanded and augmented the Spot Audit Program through:
  - a. increased coordination between the Complaints Officer and the auditor;
  - b. increased follow up to insure corrective action has been taken.
2. Enhanced annual trust and financial reporting process.
3. Required financial deficiencies to be corrected within 2 weeks. If corrective action is not taken, the issue can result in the appointment of a Discipline Investigation Committee or **immediate suspension**.

The purpose of this introduction was to point out the importance placed on the members' financial responsibilities to the public and the profession by the Law Society and the Benchers.

- Segment in the Bar Course

- Increased Reporting
- Enhanced Audits
- Audit Selection probably based on Risk Profiling
- Severe Penalties

### **III. LOSS PREVENTION**

It follows that one of the main functions of the Law Society of Saskatchewan is loss prevention.

This is addressed by:

1. Spot audits of and annual reporting requirements for members in private practice.
2. Education and training.
3. Providing assistance and advice to members regarding financial matters/responsibilities/requirements.

### **IV. PURPOSE**

The purpose of this segment is to make you aware of the importance of financial/accounting matters relating to the practice of law and particularly trust accounts.

This is a responsibility that cannot and should not be delegated to others. The members must maintain control over financial processes (i.e. cheque signing) and be knowledgeable enough of requirements to provide guidance to staff carrying out certain functions.

For those going into private practice, more information will be required than I can present today.

- Request a Start Up Kit from the Law Society.
- Call me with any questions or for guidance.

## V. FINANCIAL CLASSIFICATIONS

|                   |   |                                |
|-------------------|---|--------------------------------|
| Revenues          | - | Increase in Economic Resources |
| Expenses          | - | Decrease in Economic Resources |
| Net Income (Loss) | - | Excess (Deficiency)            |

$$\text{Revenues} - \text{Expenses} = \text{Net Income (Loss)}$$

|             |   |                                   |
|-------------|---|-----------------------------------|
| Assets      | - | Economic Resources                |
| Liabilities | - | Debts/Obligations                 |
| Equity      | - | Excess of Assets over Liabilities |

$$\text{Assets} - \text{Liabilities} = \text{Equity}$$

## VI. DEBITS/CREDITS

|            |   |                |
|------------|---|----------------|
| DEFINITION | - | Debit - Left   |
|            | - | Credit - Right |

|              |   |   |
|--------------|---|---|
| DOUBLE ENTRY | - | Each transaction requires both a debit and a credit entry |
|              | - | Accuracy  |
|              | - | Books must “balance”                                      |
|              | - | Means debits must equal credits                           |

|                   | <u>Increase</u> | <u>Decrease</u> |
|-------------------|-----------------|-----------------|
| Assets            | Debit           | Credit          |
| Liabilities       | Credit          | Debit           |
| Revenue           | Credit          | Debit           |
| Expense           | Debit           | Credit          |
| Retained Earnings |                 |                 |
| Net Income/Equity | Credit          | Debit           |

## **VII. COMMENCING PRIVATE PRACTICE**

The member is required to complete either a:

1. Trust Account Commencement Report. or
2. Trust Account Exemption Form.

within 30 days of commencing practice.

This provides the Law Society with basic information (i.e. firm name, address, etc.) and a declaration that trust funds will or will not be received, as the case may be.

If trust monies will be handled, the Commencement Report requires that the first 6 months of trust reconciliations be submitted for review.

One of the member's first decisions should be the selection of an appropriate financial system.

The member will also have to decide who will:

1. Record daily financial transactions.
2. Perform month end accounting procedures.

Should this be done by the member or by his/her staff?

## **VIII. MANUAL V. COMPUTERIZED SYSTEMS**

Whether a system is manual or computerized, the difference is in the process, not in the records themselves. Both require:

1. Receipts.
2. Deposit Slips.
3. Cheques.
4. Client Trust Ledgers, etc.

It is necessary to understand basic manual accounting requirements/principles to evaluate accuracy and adequacy of computer output.

There are still many manual systems in place.

No matter what system is selected, the member is well advised to pay strict attention to all requirements to prevent small problems from becoming big ones (i.e. daily recording of transactions).

## **IX. FINANCIAL SYSTEM OPTIONS**

Members going into private practice must decide what type of financial system is best for them. No matter what system is selected, be it manual or computerized or a combination thereof, the member is responsible for meeting financial requirements as set out in the Rules of the Law Society of Saskatchewan. Some factors which should be considered in making the decision include:

1. Anticipated practice volume and the timing of that volume (i.e. future conversion cost factors).

2. Members' accounting expertise.
3. One-time cost of the system.
4. Ongoing cost of the system. This includes consideration of the members' time and/or staff time required to maintain or "use" the system (i.e. time required to "write up" the books).
5. Financial requirements of The Law Society of Saskatchewan;
6. Other financial or management information required by or that will be used by the member.

The system choices available to the member include:

### **Manual**

- Low Initial Cost
- Suited for Low Volumes
- High Time Commitment
- Higher Level of Accounting Expertise Required
- Financial/Management Information Limited
- Possible Future Conversion Costs

### **One Write System**

- Relatively Low Start Up Costs
- Suited for Low and Low/Medium Volumes
- High Ongoing Cost of Supplies
- Higher Level of Accounting Expertise

- Takes Less Time than Pure Manual System
- Financial/Management Information Limited
- Possible Future Conversion Costs

### **Proprietary Computer Programs**

- ESI Law
- PC Law

The above programs have been approved by the Law Society of Saskatchewan for use by its members.

- Higher Initial Cost
- Require Limited Accounting Expertise
- Ongoing Costs are Reasonable
- Meets Financial Requirements of the Law Society of Saskatchewan Rules
- Good Financial Information Provided
- Good Management Information Provided
- Suited for All Volumes, Particularly Medium and High Volume Firms
- Lowest Ongoing Time Commitment Requirement
- Require Some Computer Expertise

A listing of accounting records produced from a computerized system along with printing frequency and suggested filings is attached as **Appendix A**.

Copies of sales information received from both ESI Law and PC Law are available from the Law Society of Saskatchewan. The reader must keep in mind that this is sales information and must be treated accordingly.

There are other proprietary systems on the market which have not been reviewed by the Law Society and, accordingly, have not been listed as meeting the Rules.

In conclusion, the member would be well advised to enlist the services of a professional accountant (CA, CMA or CGA) in selecting the most appropriate system. That accountant will then be available to assist in system setup and to act as an ongoing financial resource for the firm when and if required. It should be noted that the services of a professional accountant will be required annually to complete the Accountant's Report (Form TA-5) for submission to the Law Society of Saskatchewan.

## **X. DEFINITIONS**

### **“Trust Funds”**

1. Defined in Rule 900.
2. Monies received for:
  - a. services **to be** performed;
  - b. disbursements **to be** made.
3. Includes:
  - a. monies received from a third party on behalf of a client;
  - b. funds belonging in part to a client and in part to a member (not practical to split).

### **Remember:**

- Does not include payroll deductions, GST, etc. (These are trust funds but not client trust funds.)
- Member is **personally** responsible for shortages in client trust funds and the member must eliminate any shortage.
- Report shortage over \$100 **in writing** to the Executive Director, Law Society of Saskatchewan.

**“Savings Institutions”**

1. Defined in Rule 900.
2. Bank of Canada, bank included in *Bank Act*, credit unions and trust companies.
3. Pay attention to deposit insurance.

**Remember:**

- All trust funds received must be deposited with a savings institution in Saskatchewan unless written instructions to the contrary are received from the client.

**XI. TRUST RECORDS REQUIRED (RULE 962)****Trust Journal**

1. Chronological listing of trust activities.
2. Records all trust receipts and disbursements.
3. Identifies client, source/payee, date, etc.

**Clients Trust Ledger**

1. Receipts/disbursements and balance **by client.**
2. Separate card for each client.

**Transfer Record**

1. Records transfers between trust clients.
2. Record of purpose of transfer and members **written** approval required.
3. Record can be:
  - a. a journal; or
  - b. a file of transfer memos.

### Monthly Trust Reconciliations

1. Total of balances per client trust ledger = money in bank.
2. 3 way reconciliation: balances per client trust ledger = balance per bank (according to bank) = balance per bank (according to books).
3. Bank statements etc. (i.e. passbooks, letter) required for invested funds.
4. Reconciliation within 20 days of month end.
5. Member should review for:
  - a. outstanding deposits;
  - b. stale-dated cheques;
  - c. debit trust balances;
  - d. inactive trust accounts

Once this is complete, the member should sign and date the reconciliation. An example of a trust reconciliation is provided as **Appendix B**.

### Negotiable Valuable Property Record

1. Listing required - pertinent information.

## XII. GENERAL RECORDS REQUIRED

1. General Journal.
2. Billing Journal.
3. Copies of statements of account; or
4. A journal showing accounts rendered (chronological order).

**Remember: A copy of the statement should also be on file.**

An example of a statement of account is provided as **Appendix C**.

5. Accounts Receivable System.

**Tip: Review for Credit Balances.**

### **XIII. BANK ACCOUNTS**

#### **Trust Bank Accounts**

1. Mixed Trust Account(s) - Trust Chequing Account
2. Separate Interest Bearing Trust Account(s) (SIBA)
3. Monies (fees) transferred to general account as earned.

#### **General Account**

1. Deposit of fees earned.
2. Office operations.

#### **Personal Account**

1. Personal Funds

### **XIV. MIXED TRUST BANK ACCOUNTS (TRUST CHEQUING ACCOUNT)**

Bank account used to hold trust monies for a number of clients.

Usually used for smaller amounts and/or for short periods of time.

Interest earned is remitted direct to Law Foundation by bank.

- Member is required to instruct bank to do this.
- T5 for interest earned is forwarded to Law Foundation.

All trust monies received or disbursed should go through this account.

- Deposits for a “Separate Interest Bearing Trust Account (SIBA)” are deposited to the mixed trust and transferred by cheque or other means to Interest Bearing Trust Account.

- Disbursements from the SIBA go only to the mixed trust where amounts are disbursed by cheque.

Cheques are written from the trust account to the general account **only** when services have been provided **and only** based on a prepared billing. A copy of the billing **must be** provided to the client “**forthwith**” unless the client has instructed otherwise in writing.

Mixed trust accounts shall not be overdrawn (Rule 930). This applies to **individual client accounts** as well as to the bank account in total.

## **XV. SEPARATE INTEREST BEARING TRUST BANK ACCOUNTS**

Bank account used to hold trust monies for an individual client.

- Savings Account
- GIC's

Interest accrues to client.

- Recorded monthly.
- Interest (T5) is client's responsibility for tax purposes.

Generally used for larger sums/longer periods and/or in times of high interest rates.

Monies should be **received only** from the mixed trust and be **paid only** to the mixed trust.

Transfer to and from the mixed trust must be based on written instructions signed by the member or a cheque signed by the member.

Normal deposit insurance rules apply (i.e. \$60,000. for banks).

Bank statement/passbook etc. should be marked “trust” with client's name or client number.

Bank statement/passbook etc. update required monthly.

## **XVI. GENERAL (OFFICE) BANK ACCOUNT**

Deposit of funds **earned** from the practice of law:

- Includes amounts for:
  - Services **already** performed
  - Disbursements **already** made
  - Expenses **already** paid.
- Includes retainers **only if** there is no obligation to provide services or account to client.

Monies must be received from trust only for services rendered or disbursements made **and** be based on a **prepared** billing.

Account is used to pay costs associated with the practice of law:

- Equipment
- Rent
- Salaries, etc.

Personal expenses should not be paid from this account. Write a cheque or transfer amounts to personal account and make payments from there.

## **XVII. PERSONAL BANK ACCOUNT**

Monies received from General (Office) bank account or other personal sources.

Used to handle personal transactions.

## **XVIII. TRUST ACCOUNT OPERATIONS**

### **Receipts**

- Deposit “forthwith” (daily).
- Must be deposited before funds are paid out (cheque clearing).

### **Payments**

- Prenumbered cheques.
- Cheques must be:
  - labelled “trust”.
  - signed by a member.
- Cheques must **not** be:
  - payable to “cash” or “bearer”.
  - post-dated.
- Request bank return any certified cheques for your records.
- Photocopies of cheques are not acceptable.

### **Bank Statements**

- Marked “trust”.

### **Service Charges**

- Charge to general account **or**
- Maintain \$100 fund for this purpose and replenish as required.

### **Reconciliation**

- 20<sup>th</sup> of the month following.
- Sign and date reconciliation.

**Trust Records**

- Update daily.
- Consider electronic confirmation of account status (prevents errors/overdrafts) .

**Record Retention (Rule 980)**

- 6 years - all records.
- 10 years - daily journal, subledger and billings.

**Note: Tax Department rules may differ.**

**Unclaimed Trust Funds (Rule 1301)**

- Must be outstanding more than 3 years.
- Unable to pay person (i.e. cannot locate).
- Remit to Law Society of Saskatchewan with supporting information.

**Closing Trust Account**

- Funds must be paid to:
  - persons entitled to them **or**
  - another law firm **or**
  - another trust account at your firm **or**
  - the Law Society **or**
  - court pursuant to court order.

**GST/PST**

- To be charged on services rendered.
- Publications available.
- Suggest keeping 2 accounts for GST:
  - GST collections.
  - GST paid when purchasing goods and services.
- GST penalties imposed by Act:
  - No bargaining.

- Suggest requesting audit early on if commencing practice.

## **XIX. TIPS**

- Create a Month End Check List
- Create a Monthly Reconciliation Package:
  - Bank Reconciliation.
  - Trust Listing.
  - Copies of Bank Statement and GIC's.
- Organize Bank Statements and Reconciliations by Bank Account.
- Keep Cheques and Bank Statements Together.
- Colour Code Cheques (General v. Trust).
- Retain Voided Cheques.
- Maintain One Ledger Card per Matter.
- Maintain Separate Ledger Cards for Client Interest-Bearing Accounts.
- Maintain GIC Statements in a Separate Folder rather than in Client File (Copy in File).
- Review Ledger Card Before Disbursing Funds to ensure Sufficient Funds are on Hand.

## **XX. REPORTING - LAW SOCIETY**

- TA-1 - Accountants Commencement Report
- TA-2 - Power of Attorney
  - Provides Power of Attorney to Law Society of Saskatchewan for all trust accounts.
- TA-3 - Annual Practice Declaration
- TA-5 - Report of Accountant
  - Completed by CA, CMA or CGA.
  - Required within 3 months of year end.

- TA-6 - Exemption Declaration
- TA-7 - Trust Account Exemption

## APPENDIX A

### ACCOUNTING RECORDS FOR A COMPUTERIZED SYSTEM

| Book/Record                     | Printing Frequency  | Suggested Filing System                                  |
|---------------------------------|---------------------|--|
| Trust Journal                   | Monthly             | Separate journal or shannon file.                        |
| Trust Ledger Cards              | Before File Closing | One copy in file. One copy in closed ledger card binder. |
| Trust Transfer Journal          | Monthly             | Separate journal or shannon file.                        |
| General Journal                 | Monthly             | Separate journal or shannon file.                        |
| Billing Journal                 | Monthly             | Separate journal or shannon file.                        |
| Accounts Receivable             | Monthly             | Separate journal or shannon file.                        |
| Trust Account Reconciliations   | Monthly             | Separate file for each bank account.                     |
| General Account Reconciliations | Monthly             | Separate file for each bank account.                     |

## APPENDIX B

### TRUST RECONCILIATION EXAMPLE

| <b>BROWN &amp; COMPANY<br/>BANK<br/>Dec. 31/02</b> |   |                                       |               |                               |
|--|---|---------------------------------------|---------------|-------------------------------|
| <b>TRUST ASSETS</b>                                |   |                                       |               |                               |
| <b>Bank Reconciliation - Regular Trust</b>         |   |                                       |               |                               |
|  |   |                                       |               | 40,000.00                     |
|  | Balance per bank statement @ Dec. 31/02               |                                       |               |                               |
|  | Add: Outstanding Deposit                              |                                       |               |                               |
|  | Dec. 31/02  | Mrs. Green                            | 1,100.00      | 1,100.00                      |
|  | Less: Outstanding Cheques                             |                                       |               |                               |
|  | Dec. 15/02  | #100                                  | ABC Co.       | 650.00                        |
|  | Dec. 30/02  | #122                                  | Black & Black | 10,500.00                     |
|  |   |                                       |               | (11,150.00)                   |
|  | Add/Deduct Adjustments:                               |                                       |               |                               |
|  |   | Add: Bank Service Charge (Dec. 31/02) |               | 50.00                         |
|  |   |                                       |               | 30,000.00                     |
|  | <b>Separate Interest Bearing Trust Account (SIBA)</b> |                                       |               |                               |
|  | Smith   | 10,300                                | 1354687-15    | 3,000.00                      |
|  | <b>Total Trust Assets @ Dec. 31/02</b>                |                                       |               | <b>33,000.00</b> <sup>1</sup> |
| <b>CONTROL ACCOUNT</b>                             |   |                                       |               |                               |
|  | Beginning Balance (Nov. 30/02)                        |                                       |               | 50,000.00                     |
|  | Add: Current Month Receipts (Dec./02)                 |                                       |               | 121,000.00                    |
|  | Less: Current Month Cheques (Dec./02)                 |                                       |               | 138,000.00                    |
|  | Ending Balance (Dec. 31/02)                           |                                       |               | <b>33,000.00</b> <sup>2</sup> |
| <b>TRUST LIABILITIES</b>                           |   |                                       |               |                               |
| <b>Regular Trust</b>                               |   |                                       |               |                               |
|  | Patty White   | 10,123                                |               | (500.00)                      |
|  | Joe Green   | 10,305                                |               | 13,000.00                     |
|  | Jim Black   | 10,315                                |               | 17,500.00                     |
|  |   |                                       |               | 30,000.00                     |
|  | <b>Separate Interest Bearing Trust Account (SIBA)</b> |                                       |               |                               |
|  | Jane Smith  | 10,300                                |               | 3,000.00                      |
|  | <b>Total Trust Liabilities @ Dec. 31/02</b>           |                                       |               | <b>33,000.00</b> <sup>3</sup> |
| Prepared By: _____ Date: _____                     |   |                                       |               |                               |
| Reviewed and Approved By: _____ Date: _____        |   |                                       |               |                               |

**Note: 1 = 2 = 3**

**APPENDIX C**

**SAMPLE ACCOUNT**

|                                  |                          |
|----------------------------------|--------------------------|
| <b>Joe Doe</b>                   |                          |
| <i>Barrister &amp; Solicitor</i> |                          |
| <b>Statement of Account</b>      |                          |
| <b>To: ABC Company</b>           | <b>November 10, 2002</b> |
|                                  | <b>Invoice #1001</b>     |

**Fees for Professional Services:**

To preparation of Notice of Address  
To preparation of Notice of Directors

**Fees for Professional Services: 450.00**

**Other Fees (or Other Charges)**

Photocopies (30 pages @ 25¢ per page) 7.50  
Faxes (10 pages @ 25¢ per page) 2.50

**Total Fees (or Total Fees and Other Charges): 460.00**

**Disbursements:**

Courier 19.25  
Registration Fee 100.00

**Total Disbursements: 119.25**

**Total Fees and Disbursements: 579.25**

**GST 39.20**

**PST 27.60**

**Total Account: 646.05**

**Transferred from Trust: (500.00)**

**Total Due and Owing: 146.05**