

Trust Safety – Why the Change?

Part 5 – Duties of a Law Firm

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Revised Part 5 Rules of the Law Society of Alberta - Duties of a Law Firm

MISSION STATEMENT OF THE LAW SOCIETY

To serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession.

VISION STATEMENT OF THE LAW SOCIETY

The Law Society of Alberta will be recognized as a model for protecting the public interest and preserving the fundamental principles of justice through a self-regulated, independent and trusted legal profession.

Some of the key points from both statements, of which I have blended together where appropriate include:

1. Serving and protecting the public interest
2. High standard of legal services and professional conduct
3. Preserving the fundamental principles of justice
4. Governance and regulation of a self-regulated, independent and trusted legal profession

The legal profession, despite the numerous lawyer jokes, is highly trusted and attached is an Ipsos Reid poll that was released in May 2010. The poll commissioned by the Law Society, was conducted in December 2009. The results showed that 78% of those surveyed were satisfied with the services provided by their lawyer, with 53% very satisfied with the services. Only 3% were very dissatisfied.

We want to increase the number of those satisfied with the legal profession but of course it would be impossible to satisfy everyone who uses the services of a lawyer. Part of it is expectation management but that is another topic.

My presentation today will touch upon a few of the key items listed in the combined Mission and Vision statements principally, serving and protecting the public interest and ensuring that the legal profession is fully trusted by the public.

The Law Society of Alberta has implemented a new Trust Safety program effective January 1, 2011 including revising the Part 5 Rules of the Law Society of Alberta. This new program will be among the most advanced integrated strategies employed in the regulation of legal professions in the world. This new regulatory structure for the safety of trust property addresses concerns about rising threats posed to funds held by lawyers in their trust accounts.

KEY PREMISES

This program is based upon the following premises, in summary:

1. Alberta lawyers are committed to ensuring the safety of trust property for which they are responsible and recognize that there must be clear lines of accountability for trust property
2. Competent and ethical lawyers are not trained as accountants. The regulator has a role in providing clear guidance and direction to ensure the proper creation and maintenance of accounting systems and procedures.
3. Not every lawyer may have the interest or capacity to create and maintain safe and effective accounting procedures. In those cases, lawyers should have an option to continue to practice while making arrangements with lawyers who have appropriate systems to safeguard trust property.
4. New risks to the safety of trust property are constantly emerging.

These premises have evolved over the last 10 years as Benchers have considered different initiatives to support lawyers to competently serve the public. In 2008, the Benchers specifically turned their attention to accounting and audit strategies which resulted in the program recommendations.

PROGRAM ELEMENTS

The program itself consists of the following elements:

1. Ensuring adequacy of initial procedures and systems for trust accounts.
2. Creating and supporting the position of the designated responsible lawyer from each law firm.
3. Broad audit authority.
4. Conducting timely and effective audits.
5. Remediation and enforcement.
6. Continued excellence in risk management.