



## **Guidelines for Former Lawyers Whose Licences Have Been Revoked or Who Have Been Permitted to Surrender Their Licences**

### **General**

1. (1) In this Guideline,

- (a) “former lawyer” means a lawyer whose licence to practise law has been revoked or who has been permitted to surrender his or her licence;
- (b) “existing client” means:
  - i) person who is a client of a former lawyer when an order is made revoking the former lawyer’s licence or permitting the former to surrender his or her licence; or
  - ii) a person who becomes a client of the former lawyer after an order is made revoking the former lawyer’s licence or permitting the former lawyer to surrender his or her licence but before the order takes effect;
- (c) “former client” means a person who was a client of a former lawyer before an order is made revoking the former lawyer’s licence or permitting the former lawyer to surrender his or her licence but who was not a client when the order was made;
- (d) “prospective client” means a person who seeks to retain a former lawyer after an order is made revoking the former lawyer’s licence or permitting the former lawyer to surrender his or her licence but before the order takes effect.

(2) A former lawyer must cease practise as a result of the order revoking the former lawyer’s licence or permitting the former lawyer to surrender his or her licence. Former lawyers are also prohibited from providing legal services as defined by the *Law Society Act*, as only those persons licensed by the Law Society of Ontario (the “Law Society”) to provide legal services may do so.

### **Mandatory Activities**

2. (1) Before the effective date of the revocation or surrender of his or her licence, the former lawyer shall:

## **Advertising**

- (a) Remove any sign from his or her door, building, premises, window, building directory, property, vehicle or any other location designating it as a “law office” or designating the former lawyer as being able to practise law or to be a “barrister”, “solicitor”, “lawyer”, “Licensee of the Law Society of Ontario”, “Licensed by the Law Society of Ontario”, “notary public”, “commissioner for taking affidavits” or “commissioner of oaths” or similar words giving the impression, in English or any other language, that he or she is able to practise law.
- (b) Remove or cross-out the words or terms set out in 2(1)a) from all stationery, letterhead, business cards, forms, stamps, accounts, electronic mail forms, Internet sites and any other advertisements or publications bearing his or her name.
- (c) Disconnect his or her telephone and facsimile lines or arrange for a voice message to advise callers that his or her law practice is closed and provide callers with the name and number of another lawyer to call for information regarding their files.
- (d) Enable an “out of office” email notification advising that his or her law practice is closed and provided the name and telephone number of another lawyer to call for information regarding their files.

## **Notice to Clients**

- (e) Notify all existing clients, on whose matters the work will not be completed by the former lawyer before the order revoking the former lawyer’s licence or permitting the former lawyer to surrender his or her licence takes effect, of the order and that:
  - i) the former lawyer will be unable to complete the work,
  - ii) the client will need to retain another lawyer of the client’s choosing to complete the work;
  - iii) the former lawyer, subject to any rights that the former lawyer may have over the client’s file, will transfer the file to the lawyer, if any, retained by the client to the complete work or will return the file to the client; and
  - iv) notify every existing client and former client for whom the former lawyer performs or has performed the work described in subsection (k)(i), and the Law Society, of the name and contact information of the lawyer to whom the former lawyer has given possession of the clients’ documents and files.

***Compliance with clause (e)(i) to (iii) not required***

- (f) The former lawyer is not required to comply with the notice requirements mentioned in subclauses (e)(i) to (iii) if the only work remaining to be completed on the client's matter is work mentioned in subsections (h) or (i) but, in such a case, the former lawyer shall, before the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, notify the client of the name and contact information of the lawyer retained by the former lawyer to complete the work.

***Notice Requirements***

- (g) The former lawyer shall:
- i) notify all persons who contact the former lawyer's place of business of the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence; and
  - ii) notify any existing client or former client who contacts the former lawyer's place of business, and the Law Society, of the name and contact information of another lawyer who has given possession of the clients' documents and files.

***Notice requirements: prospective clients***

- (h) The former lawyer, at the time a prospective client seeks to retain the former lawyer, shall notify the prospective client of the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence.

***Work remaining on file: final report to client***

- (i) If, on the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, the only work remaining for the former lawyer to complete on a client's matter is a final report to the client, the former lawyer shall, before the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, retain another lawyer, who is authorized to do so, to review the client's file and to complete and send the final report to the client.

***Work remaining on file: fulfilment of undertakings***

- (j) If, on the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, the only work remaining for the former lawyer to complete on a client's matter is the fulfillment of one or more undertakings given by the former lawyer, the former lawyer shall retain another lawyer or person who is authorized to do so, to take all steps necessary to fulfil the undertakings.

***Additional requirements: preparation of will, power of attorney, corporate records***

(k) i) This section applies to a former lawyer who performs or has performed any of the following work for a client:

1. Preparation of a will.
2. Preparation of a power of attorney.
3. Preparation of, or preparation and continued maintenance of, corporate records.

***Requirement re: original documents***

ii) The former lawyer shall, before the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect:

1. return to the client all original documents; or
2. transfer the client's file, including all original documents, to another lawyer who is authorized to perform any requisite work, and inform the clients and the Law Society of the lawyer who has been given possession of the client's wills, documents and files.

**Real estate law: direction re Teranet access disk**

(l) The former lawyer who has access to the Teranet system shall, on or before the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, complete and file with the Law Society, in a form provided by the Law Society, a direction authorizing the Law Society to take all steps necessary to cancel former lawyer's Teranet access disk.

**Return of photo identification card**

(m) The former lawyer shall, on or before the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, return to the Law Society any photo identification card issued to her or him by the Law Society.

**Students**

(n) A former lawyer, who has accepted a person into service under articles of clerkship where the period of service includes any or all of the period after the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, shall, before the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect:

- i) notify the person of the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence and that the former lawyer will not be able to retain the person in service under articles of clerkship after the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect;
- ii) arrange for another lawyer, who is authorized and approved by the Law Society to do so, to accept the person into service under articles of clerkship after the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect; and
- iii) arrange with the Law Society for the person's service under articles of clerkship to be transferred from the former lawyer to the other lawyer effective the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect.

#### **Trust Accounts**

- (o) The former lawyer shall within thirty (30) days of the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect:
  - i) withdraw from every trust account kept in the name of the former lawyer, or in the name of the firm of licensees of which the former lawyer was a partner or by which the former lawyer was employed, and, as required, pay to the appropriate person:
    1. money properly required for payment to a person on behalf of a client;
    2. money required to reimburse the former lawyer for money properly expended, or for expenses properly incurred, on behalf of a client;
    3. money required for or toward payment of fees for services performed by the former lawyer; and
    4. all other money that belongs to the former lawyer or to a person other than a client;
  - ii) after complying with clause (i), withdraw from every trust account kept in the name of the former lawyer, or in the name of the firm of licensees of which the former lawyer was a partner or by which the former

lawyer was employed, all money belonging to a client and pay the money to:

1. the client;
2. another lawyer to whom the client has directed the former lawyer to make payment; or
3. another lawyer who has agreed with the former lawyer to accept payment in the event that the former lawyer is unable to comply with subclause 1 or 2; and

unless the client transfers their files to another lawyer in the firm of lawyers of which the former lawyer was a partner or by which the former lawyer was employed;

iii) after complying with clauses (i) and (ii):

1. close every trust account that was kept in the name of the former lawyer, and
2. cancel or cause to be cancelled the former lawyer's signing authority on every trust account that was kept in the name of the firm licensees of which the former lawyer was a partner or by which the former lawyer was employed.

### **Report to Society**

(p) The former lawyer shall, not later than thirty (30) days after the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, complete and file with the Law Society, in a form provided by the Law Society, a report confirming and providing details of the former lawyer's compliance with these Guidelines.

### **Permission to be exempt from requirement**

(q) The former lawyer may apply in writing to the Society for an exemption from or a modification of a requirement mentioned in this Guideline, and the Law Society may exempt the former lawyer from or modify the requirement, subject to such terms and conditions as the Law Society may impose.

### **Prohibited Activities**

3. (1) Subject to subsection 2(1)(o) and 4(1)(f), a former lawyer shall not, after the date on which the order revoking the former lawyer's license or permitting the former lawyer to surrender his or her licence takes effect, receive from or on behalf of a person or group of persons any money or other property and shall not

otherwise handle money or other property that is held in trust for a person or group of persons.

(2) Effective from the date the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, a former lawyer shall not:

- (a) Accept legal work for new clients;
- (b) Accept new legal work for existing clients;
- (c) Notarize documents pursuant to the *Notaries Act*, R.S.O. 1990, c. N.6, or commission affidavits or statutory declarations pursuant to the *Commissioners for taking Affidavits Act*, R.S.O. 1990, c. C.17;
- (d) Report to clients, other than to:
  - i) inform them of the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence; and
  - ii) deliver an account for services rendered in the period before the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence took effect;
- (e) Give to another licensee or receive on behalf of a client, other individual, corporation or other entity, any undertaking with respect to any legal matter;
- (f) Occupy or share office space with a lawyer in contravention of Subrule 7.6-1.1 of the *Rules of Professional Conduct* or a paralegal in contravention of Subrule 6.01(6) of the *Paralegal Rules of Conduct*;
- (g) Provide services to a lawyer, in relation to that lawyer's professional business in contravention of Subrule 7.6-1.1 of the *Rules of Professional Conduct* or to a paralegal in contravention of Subrule 6.01(6) of the *Paralegal Rules of Conduct*;
- (h) Act as an articling principal to a student in the Licensing Process or act as the supervising lawyer to a student in the Licensing Process; and
- (i) Accept any referrals from the Law Society Referral Service.

#### **Permitted Activities**

4. (1) After the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect, the former lawyer may only:

- (a) See clients for the limited purpose of assisting them in transferring their past or present legal work to another lawyer;
- (b) If requested by the client, suggest a referral to a particular lawyer to continue work on the client's file. The ultimate choice of who is retained rests with the client and not with the former lawyer;
- (c) Collect accounts receivable;
- (d) Render accounts for work completed before the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect;
- (e) Arrange with the lawyer whom the former lawyer has retained to complete outstanding reporting letters and undertakings for his or her remuneration; and
- (f) Receive from on behalf of a person or group of persons money:
  - i) in payment of fees for services performed by the former lawyer for the person or group prior to the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence took effect; or
  - ii) in reimbursement for money properly expended, or for expenses properly incurred, on behalf of the person or group prior to the date on which the order revoking the former lawyer's licence or permitting the former lawyer to surrender his or her licence takes effect.

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