

## GUIDELINES FOR SUSPENDED LAWYERS

1. These guidelines are for lawyers who have been suspended under the *Legal Profession Act* (“Act”) or the Law Society Rules (“Rules”).

### I. Practice of Law Prohibited

2. Suspended lawyers are not permitted to engage in the practice of law. The “practice of law” is defined in section 1(1) of the Act and includes appearing as counsel, drafting or revising certain documents, negotiating or settling a claim or demand for damages, and giving legal advice.
3. The prohibition against practising law applies regardless of whether the legal services are performed for or in expectation of a fee, gain, or reward, direct or indirect, from the person for whom the act is performed.
4. During the period of suspension, a suspended lawyer must not do any act or perform any services that fall within the scope of the practice of law, including:
  - a. Performing any legal services for a client, whether for a fee or on a pro bono basis.
  - b. Agreeing to act for a new client or agreeing to perform new legal services for an existing client.
  - c. Notarizing documents, commissioning affidavits or statutory declarations, signing orders, or affixing their Juricert signature to a document.
  - d. Acting as authorized representative on any immigration matters.
  - e. Communicating with clients except to: (i) inform them of the suspension; (ii) refer them to another practicing lawyer; (iii) deliver their client file to them or to new counsel; or (iv) deliver a statement of account for legal services performed prior to the commencement of the suspension.
  - f. Advising or suggesting to a practising lawyer or other legal professional the next steps to be taken on a client matter. However, the suspended lawyer may advise of the legal work performed on the client’s matter prior to the suspension.
  - g. Accepting trust funds or client valuables.

- h. Signing trust cheques, authorizing electronic transfers from the trust account, or authorizing other forms of trust withdrawals.
- i. Supervising law firm staff. It is recommended that suspended lawyers not attend their law office (including via any digital platforms) during business hours to avoid the perception that the suspended lawyer is entitled to engage in the practice of law.
- j. Entering into an employment relationship, partnership or association in any capacity (including sharing office space) with a practising lawyer related to the practice of law, unless approved by the Law Society, in keeping with rule 6.1-4 of the *Code of Professional Conduct for British Columbia*. These requests should be delivered in writing to the Manager, Professional Conduct.

## II. Required Action When Suspended

### ***Cease Marketing Activities***

- 5. A suspended lawyer is not permitted to engage in any marketing activity<sup>1</sup> or otherwise hold themselves out in a manner that could reasonably mislead the public into believing they are entitled to practice law.
- 6. If there is advance notice of the suspension, the suspended lawyer should take necessary steps, prior to the commencement of the suspension, to have all marketing activities ceased during the period of suspension, including:
  - a. Removing or disabling any public display, sign, or advertisement in print or online, which would give the impression that the lawyer is permitted to engage in the practice of law. This should include removing any identification of the suspended lawyer as a barrister, solicitor, lawyer, advocate, counsel, notary, or any similar description, in any language. This may require firm letterhead and email signatures to be amended.
  - b. Ceasing marketing or advertising of legal services by the suspended lawyer, and their law firm if a sole practitioner, in a newspaper, other print or online media.
  - c. Removing or disabling any online presence suggesting that the suspended lawyer is a practising lawyer during the period of the suspension. Alternatively, the suspended lawyer may include a prominent notice of the suspension on each online webpage, with the effective dates of the suspension. The suspended lawyer's profiles for websites such

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<sup>1</sup> Rule 4.2-4 of the *Code of Professional Conduct for British Columbia* defines a "marketing activity" to include "any publication or communication in the nature of an advertisement, promotional activity or material, letterhead, business card, listing in a directory, a public appearance or any other means by which professional legal services are promoted or clients are solicited".

as Instagram, LinkedIn, Twitter, WhatsApp, WeChat and Facebook should be disabled or amended to remove the suspended lawyer's occupation and any suggestion that the suspended lawyer is entitled to practice law during the period of the suspension, or amended to include reference to the suspension and its effective dates.

- d. Disabling websites or webpages for the suspended lawyer's practice, or alternatively amending the webpages that refer to the suspended lawyer with a prominent notice of the suspension and its effective dates. If the suspended lawyer is included on a law firm's website that also refers to practising lawyers, any webpages that pertain to the suspended lawyer should be disabled and the suspended lawyer's name removed from the list of practising lawyers. Alternatively, the webpages may be amended to include a prominent notice of the suspension and its effective dates.

### ***Providing Effective Notice to Clients of the Suspension***

7. During the period of suspension, it is important that the suspended lawyer's clients not be under the impression that the lawyer is able to practice law. The suspended lawyer must advise any clients or prospective clients of their status as a suspended lawyer, in accordance with Law Society Rule 4-47(3). If requested by the client, the suspended lawyer may suggest the name of a practising lawyer to the client to handle the client's matter during the suspension. The decision to retain a new lawyer rests with the client.
8. It may be that a locum or custodian is required to take possession or control over all or part of the law practice during the suspension period. For assistance with the management of the law practice during the suspension, contact the Director of Custodianships, Michael Rhodes, at MRhodes@lsbc.org.

### ***Obligations to Cooperate with the Law Society***

9. A suspended lawyer must fully cooperate with the Law Society in keeping with their professional obligations, including rule 7.1-1 of the *Code of Professional Conduct for British Columbia*. The suspended lawyer must also continue to cooperate with any complaint investigation as required by Rule 3-5(7) of the Rules. A suspended status does not relieve a lawyer from their professional responsibility.

## **III. Permitted Activities**

10. There are limited activities that a suspended lawyer may perform. During the term of the suspension, the suspended lawyer may do the following:
  - a. Administratively close client files, provided that the suspended lawyer does not perform any legal services related to those files during the period of suspension.

- b. Sign cheques from the general account, including to pay practice debts. A suspended lawyer is not permitted to sign trust cheques.
- c. Render accounts for legal services that were performed before the commencement of the suspension, provided that the bill and the cover letter do not state or imply that the suspended lawyer is qualified or entitled to practice law.
- d. Enter into contracts with suppliers for non-legal business services.
- e. Prepare or maintain the books, records and accounts of the law firm, including completing monthly trust reconciliations.
- f. Review emails, provided that the suspended lawyer does not perform any legal services or reply in a manner that suggests they are entitled to practice law.
- g. Review law-related publications and subscriptions.
- h. Take continuing professional development courses.

#### **IV. Contact**

- 11. It is important that a suspended lawyer understand their obligations and the restrictions arising from the suspension. Contact the Chief Legal Officer, Tara McPhail, at [TMcPhail@lsbc.org](mailto:TMcPhail@lsbc.org), if you have questions.