

ORDER (RULE 4-60)

TO: The Executive Director and Helen Huzzey
AND TO: [REDACTED]
FROM: Michèle Ross
Chair of the Discipline Committee
RE: [REDACTED], Administrative Penalty File No. PE20240018

Pursuant to Rule 4-60 of Law Society Rules 2015 (the “Rules”), I am satisfied that the breach alleged in the above matter has been established on a balance of probabilities and I am also satisfied that the penalty originally assessed should be upheld.

The Rule Breached

1. [REDACTED] is alleged to have breached Rule 3-107 (*Record keeping and retention*). A breach of this Rule occurs when a lawyer fails to obtain and retain a copy of every document used to verify the identity of the client for the purpose of Rule 3-102(1) [*Requirement to verify client identity*].
2. Based on the information before me and by [REDACTED]’s own admission, the above elements have been met:
 - a. [REDACTED] represented [REDACTED] (“[REDACTED]”) and [REDACTED] (“[REDACTED]”) in client matter # [REDACTED] in the purchase of a residential property in West Vancouver for \$3,225,000.00.
 - b. A financial transaction took place on September 1, 2022 when [REDACTED]’s firm received a bank draft for \$3,111,701.43 with the payor noted as “[REDACTED]” which funds were deposited into trust.
 - c. A second financial transaction took place on September 2, 2022 when [REDACTED] signed trust cheques which authorized funds to be paid to the realtor, the strata plan and the seller.
 - d. Contrary to Rule 3-107, [REDACTED] did not retain a copy of documents used to verify the identity of [REDACTED].

3. The Executive Director has also identified that [REDACTED] did not obtain and record [REDACTED]'s occupation, the address and telephone number of [REDACTED]'s place of work as required by Rule 3-100(1)(b), which is admitted by [REDACTED]. The focus of the Notice of Administrative Penalty is that on a balance of probabilities, [REDACTED] breached Rule 3-107. My decision below focusses on and confirms the breach of Rule 3-107.

The Facts

4. The property, located at [REDACTED], West Vancouver, BC, was purchased in [REDACTED]'s name, however, [REDACTED] was the instructing individual and provided the funds for the purchase.
5. The completion date for the purchase was September 1, 2022, as noted on the Contract of Purchase and Sale.
6. A financial transaction for the purpose of the client identification and verification rules took place on September 1, 2022, when [REDACTED]'s firm deposited a bank draft for \$3,111,701.43 into trust. The bank draft noted the payer as "[REDACTED]".
7. On September 2, 2022, [REDACTED] signed trust cheques which authorized the following payments from trust:
 - (a) Cheque no. 1631 for \$48,265.88, paid to [REDACTED] as realtor commission.
 - (b) Cheque no. 1632 for \$3,677.16, paid to [REDACTED] as special levy.
 - (c) Cheque no. 1633 for \$2,423.21 in payment of account.
 - (d) Cheque no. 1634 for \$3,136,926.39, paid to [REDACTED] in Trust as purchase proceeds.
8. [REDACTED] acknowledged that on August 31, 2022, they met with the clients in person and viewed government-issued identification for both [REDACTED] and [REDACTED]. They retained copies of the relevant verification documents for [REDACTED]; however, they did not retain copies of [REDACTED]'s identification documents.
9. In their response to the Law Society dated July 22, 2024, [REDACTED] indicated that they did not make copies of [REDACTED]'s passport or driver's license, as they did not appreciate that copies of her identification documents were also necessary and that they thought copies were only needed for the person who would be registered on title.

10. In response to the Law Society's inquiries about [REDACTED]'s occupation, [REDACTED] indicated:

As far as I recall, she has businesses in Hong Kong, which she is unwilling to wind down for now. She is mindful of taxation of worldwide income should she become a Canadian PR and tax resident.

Submissions:

11. [REDACTED] filed a dispute under Rule 4-60 for a review of the administrative penalty. They have made the following points in their submissions:
- (a) Because this is their first breach, and it is for failing to make copies of the instructing wife's identification and obtaining her occupation and address, the penalty amount is very high and punitive.
 - (b) They were expecting and hoping that the Law Society would treat this as an educational or a reminder moment, and not impose a substantial penalty, or any penalty at all.

Discussion and Determination:

Law Society Rules

12. The applicable Rule is Rule 3-107, which in 2022 read as follows:

Record keeping and retention

- 3-107 (1) A lawyer must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of Rule 3-102 (1) [*Requirement to verify client identity*].
- (2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.
- (3) A lawyer must retain a record of the information, with applicable dates, and any documents obtained or produced for the purposes of
- (a) Rule 3-100 [*Requirement to identify client*],
 - (b) Rule 3-103 [*Requirement to identify directors, shareholders and owners*],
 - (c) Rule 3-102 (2) [*Requirement to verify client identity*], or
 - (d) Rule 3-104 [*Use of an agent for client verification*].

(4) The lawyer must retain information and documents referred to in subrule (3) 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 services to the client, and

(b) a period of at least 6 years following completion of the work for which the lawyer was retained.

13. [REDACTED] submits that considering this is their first breach and it is for failing to make copies of the instructing wife's identification and obtaining her occupation and address, they are of the view the penalty amount is high and punitive. Further, they were hoping and expecting that the Law Society would treat this as an educational or reminder moment and not impose a substantial penalty or a penalty at all.
14. I have considered [REDACTED]'s submissions.
15. The facts of the breach have been established by the Law Society and have been admitted by [REDACTED].
16. [REDACTED] took proper steps to view both [REDACTED] and [REDACTED]'s government-issued identification. They took proper steps to retain a copy of [REDACTED]'s identification. In communications with [REDACTED] on July 7, 2022, July 18, 2022 and August 30, 2022, they referenced the Law Society's requirements that lawyers must verify client's source of funds, and their due diligence which was required to ensure there is no money laundering. They ought to have known it was necessary to retain a copy of [REDACTED]'s identification to properly comply with the requirements of the client identification and verification process given that [REDACTED] was also a "client" as defined by Rule 3-98.
17. [REDACTED] submits that they have no prior administrative penalty record and that this should be considered as a basis to not impose a substantial penalty or a penalty at all.
18. In this review, I do have the discretion to assess a different amount for the Administrative Penalty, however, such discretion should be exercised with care.
19. The Law Society's "Administrative Penalties – Penalty Schedule" outlines a penalty of up to \$3,000 for a first contravention of the client identification and verification rules (where a lawyer met with the client in person on all referred matters). I find that the penalty of \$3,000 in these circumstances is appropriate given that [REDACTED] complied with the requirements for [REDACTED] and

ought to have known the requirements also applied to [REDACTED]. There are no mitigating circumstances for not complying with Rule 3-107.

20. Absence of a prior record does not necessarily operate to reduce or avoid a penalty. To allow lawyers relief from an administrative penalty simply because it is their first contravention would result in the administrative penalty process governed by Rule 4-59 being entirely ineffective.
21. Administrative penalties and the penalty amount determined by the Law Society must balance fairness against the need to ensure that administrative penalties serve their purpose in protecting the public and represent more than a cost of doing business.
22. Further, the amount of the penalty imposed is not disproportionate when weighed against the breach of “Division 11 – Client Identification and Verification” including Rule 3-107, the harm that the anti-money laundering rules are intended to prevent, and to ensure future compliance for protection of the public. This is the overriding consideration when determining the amount of the administrative penalty.
23. In light of the importance of the client identification and verification rules and the need for lawyers in British Columbia to adhere to the Law Society’s Rules, I find that the penalty in this matter is not punitive and is reasonable in the circumstances.
24. The Law Society implemented “Division 11 – Client Identification and Verification” as components of a systemic effort to prevent money laundering and to assist lawyers in complying with their anti-money laundering obligations and manage the risk of becoming involved with bad actors seeking to use legal services to assist them in dishonest, criminal or fraudulent schemes. This is for the protection of the public and to maintain the integrity of lawyers’ use of their trust accounts.
25. The Law Society has made it a priority to educate lawyers in British Columbia about the rules that are intended to prevent potential fraud and money laundering and to notify the profession of lawyers’ corresponding obligations, especially the client identification and verification rules.
26. Canadian lawyers are exempt from other money laundering prevention programs and as a result, the Law Society’s safeguards and lawyers’ compliance with an adherence to these rules have additional significance.

27. There is no evidence that [REDACTED] has taken steps to prevent a reoccurrence of this issue in the future.
28. Lawyers are expected to know and understand the Rules.
29. The original Notice of Penalty was issued on January 31, 2025 and levied the Administrative Penalty amount of \$3,000 payable by March 11, 2025. The dispute was filed February 20, 2025.
30. I direct, pursuant to Rule 4-60(2) that [REDACTED] must pay the Administrative Penalty as originally assessed at \$3,000 by August 1, 2025.

Order

Therefore, I order that:

The Administrative Penalty is confirmed and must be paid in accordance with the original notice delivered under Rule 4-59, expect that the Administrative Penalty is due by August 5, 2025.

DATED May 27, 2025.



Michèle Ross
Chair of the Discipline Committee