



# THE LAW SOCIETY OF BRITISH COLUMBIA

## ORDER (RULE 4-60)

**TO:** The Executive Director and Jessica E. Abells

**AND TO:** [REDACTED]

**FROM:** Barbara Stanley, KC  
Chair of the Discipline Committee

**RE:** [REDACTED]; **Administrative Penalty File No. PE20220012**

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 for the following reasons:

1. You are alleged to have breached Rule 3-59 (Cash Transactions). A breach of this Rule will have occurred where a lawyer:
  - a. receives cash funds,
  - b. in an aggregate amount greater than \$7,500 in respect of any one client matter,
  - c. the lawyer makes use of the cash, and
  - d. no exceptions as set out in Rules 3-59 apply.
  
2. Based on the information before me and by your own admission, the above elements have been met:
  - a. You acted for a client in a criminal matter and between November 5, 2020 and December 16, 2021 you received five cash payments from your client totalling \$29,350.00.
  - b. These cash payments were recorded as cash deposits in your client trust ledger as being for a retainer.

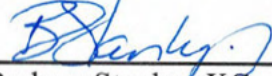
- c. On February 3, 2022 your firm issued and you signed a trust cheque for the unused portion of the retainer, being the sum of \$13,930.00.
  - d. The \$13,930.00 cheque was payable to a lawyer who was taking conduct of the file from you. The cheque was delivered to the lawyer with an accompanying letter dated February 17, 2022 addressed to the lawyer and signed by you.
  - e. Therefore, the unused portion of the retainer was not returned to the client in cash, as required by Rule 3-59(5).
  - f. On February 16, 2023 the Law Society issued a Notice of Penalty for breach of Rule 3-59, and levied the Administrative Penalty of \$5,000.00, payable by March 27, 2023, pursuant to Rule 4-59.
  - g. You filed a dispute on March 27, 2023 disputing the amount of the administrative penalty on the grounds that the amount of the penalty is too harsh, stating that you are semi-retired and the penalty is more than you earn in a month.
3. None of the exceptions set out in Rule 3-59 applies to the circumstances of this case.
  4. The amount of the penalty imposed is not disproportionate when weighed against the breach of Rule 3-59, the harm that the anti-money laundering rules are intended to prevent and to ensure protection of the public. The Law Society has made it a priority to educate lawyers in British Columbia about the rules that are intended to prevent potential money laundering and of lawyers' corresponding obligations.
  5. Canadian lawyers are exempt from other money laundering prevention programs and as a result, the Law Society's safeguards and lawyers' adherence to these rules have additional significance.
  6. The Law Society implemented both Rule 3-59 and Rule 4-59 as components of a systemic effort to prevent money laundering and to prevent lawyers from being willing or unwilling participants in money laundering schemes. This is for the protection of the public and to maintain the integrity of lawyers' use of their trust accounts.

7. In this review, I have the discretion to assess a different amount for the Administrative Penalty, however, such discretion should be exercised with care.
8. Administrative penalties must balance fairness with the need to ensure that the penalties represent more than the cost of doing business. Furthermore, no evidence of financial hardship or any other compelling reasons were provided to support reducing the amount of the penalty pursuant to Rule 4-60(2)(b).
9. The original Notice of Penalty was issued on February 16, 2023 and levied the Administrative Penalty of \$5,000.00 payable by March 27, 2023 and the dispute was filed March 27, 2023.
10. I direct that pursuant to Rule 4-60(2)(c) that you must pay the Administrative Penalty as originally assessed at \$5,000.00 by May 18, 2023.

Therefore, I order that:

The penalty is confirmed and must be paid in accordance with the original notice delivered under Rule 4-59 and is due by May 18, 2023.

Dated: April 18, 2023

  
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Barbara Stanley, KC  
Chair of the Discipline Committee