



# 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. PE20230001**

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. You are alleged to have breached Rules 3-102 and 3-104 (Client Identification and Verification) as follows:
  - (a) You represented [REDACTED] (“[REDACTED]”), a client who was in Texas, USA, regarding the settlement of a civil matter concerning the proceeds of sale of a family home located in British Columbia. You met with [REDACTED] via video conference and collected copies of their USA Passport, USA Social Security Card, Canadian Permanent Resident Card (expired in 2012), and Texas Driver’s License; and
  - (b) Contrary to Rules 3-102 and 3-104 you did not confirm with the referring lawyer from British Columbia who referred the client to you, whether he had verified [REDACTED]’s identity in accordance with Rule 3-102, nor did you retain an agent in Texas to verify [REDACTED]’s identity required for a non-face-to-face financial transaction, in accordance with these Rules.

## Facts and Determination

2. Based on the information before me and by your own admission, the above elements have been met:
  - (a) A financial transaction took place on June 10, 2020, when the firm received the settlement funds in the amount of \$103,887.50 into the firm's trust account, rendering this a financial transaction to which Rule 3-102 applies;
  - (b) This was a non-face-to-face financial transaction as your client was in Texas, USA and you met with the client via video conference to verify the client's identity and review the client's various identity documents, and not in-person; and
  - (c) As a result of the non-face-to-face financial transaction, you were required to either confirm that the referring lawyer had verified the client's identity in accordance with the Rules or to retain an agent and enter into an agency agreement with an agent in Texas in order to comply with the Rules.
  
3. You have filed a dispute under Rule 4-60 for a review of the penalty and you are seeking to reduce the amount of the penalty based on financial hardship. You have made the following submissions:
  - (a) You had just opened your own law practice at the time of breach, after having worked for [REDACTED] for 7 years previously;
  - (b) You are a sole practitioner and have no support staff other than your accountant;
  - (c) You were not aware of Rule 3-104, having never had an out of country client before this;
  - (d) The breach occurred during the Covid-19 pandemic, and it became difficult for your clients to pay their fees. You had to write off \$7,000.00 in bad debt; and

- (e) You now provide at least two hundred hours of pro bono work per year, mostly in residential housing tenancy evictions, and you invoiced about \$45,000.00 last year.
4. In this review, I have the discretion to assess a different amount for the Administrative Penalty, however, such discretion should be exercised with care. Administrative penalties must balance fairness with the need to ensure that the penalties represent more than the cost of doing business.
  5. I am mindful of your submissions, that at the time of the breach you were a sole practitioner, had recently opened a new law practice (after working for [REDACTED] for 7 years), and you were struggling financially in part due to the Covid-19 pandemic. However, the penalty amount was determined by the Law Society to balance and establish fairness against the need to ensure that administrative penalties serve their purpose in protecting the public. As such, these are not compelling reasons that support reducing the amount of the penalty pursuant to Rule 4-60(2)(b).
  6. The amount of the penalty imposed is not disproportionate when weighed against the breach of Rules 3-102 and 3-104, the harm that the anti-money laundering rules are intended to prevent and to ensure protection of the public. This is the overriding consideration when determining the amount of an administrative penalty.
  7. 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, especially the client identification and verification rules and the cash rules.
  8. Canadian lawyers are exempt from other money laundering prevention programs and, as a result, the Law Society's safeguards, and lawyers' compliance with and adherence to these rules have additional significance.
  9. The Law Society implemented both Rule 3-102 and Rule 3-104 as components of a systemic effort to prevent money laundering and to prevent lawyers from being willing or

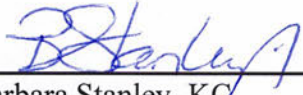
unwilling participants in money laundering schemes. This is for the protection of the public and to maintain the integrity of lawyers' use of their trust accounts.

10. The original Notice of Penalty was issued on March 13, 2023, and levied the Administrative Penalty of \$5,000.00 payable by April 12, 2023. The dispute was filed April 11, 2023.
11. I direct that pursuant to Rule 4-60(2)(c) you must pay the Administrative Penalty as originally assessed at \$5,000.00 by July 29, 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 July 29, 2023.

Dated: May 29, 2023

  
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Barbara Stanley, KC  
Chair of the Discipline Committee