

## Draft Regulations

### Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

#### Chartered administrators

##### — Accounting trust accounts and indemnity fund of the Ordre

Notice is hereby given in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre des administrateurs agréés du Québec has adopted the “Regulation concerning the accounting trust accounts and indemnity fund of the Ordre des administrateurs agréés du Québec”.

This regulation, the text of which appears below, will be examined by the Office des professions du Québec in application of section 95 of the Professional Code. Afterwards, it will be submitted, with the Office’s recommendation, to the Government approval, with or without any modifications, upon the expiry of 45 days following this publication.

According to the Ordre des administrateurs agréés du Québec, the purpose of this regulation is to establish a complete regulation on the accounting trust accounts for the members of the Ordre, in conformity with section 89 of the Professional Code. This regulation supplements the rules establishing an indemnity fund that must be used to reimburse the sums of money or other securities that a member of the Ordre could use for purposes other than those for which they had been instructed to him in the course of his profession.

According to the Ordre des administrateurs agréés du Québec, the stipulations of the regulation concerning the accounting trust accounts will impose to the chartered administrator a few rare administrative constraints. However, in return, these stipulations will have the effect of increasing public protection. Finally, this regulation will have positive impacts towards the citizens in insuring them better compensation and faster settlement of their claims.

Further information regarding this regulation may be obtained by contacting Mr. Pierre Landry, General Director and Secretary of the Ordre des administrateurs agréés du Québec, at the following address: 680, Sherbrooke Est, bureau 640, Montréal (Québec) H3A 2M7; telephone number: (514) 499-0880; facsimile number: (514) 499-0892.

Any person who wishes to formulate comments regarding this regulation is asked to send them, before the expiry of the 45 day-period mentioned hereabove, to the Chairman of the Office des professions du Québec, 800, place D’Youville, 10<sup>e</sup> étage, Québec (Québec) G1R 5Z3. These comments will be forwarded by the Office to the Minister responsible of the application of laws governing professionals; they may also be forwarded to the professional order that made the regulation, for instance the Ordre des administrateurs agréés du Québec, as well as to interested persons, departments and organisations.

JEAN-K. SAMSON,  
*Chairman of the Office des professions du Québec*

### Regulation concerning the accounting of trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec

Professional Code  
(R.S.Q., c. C-26, s. 89)

#### CHAPTER I ACCOUNTING OF THE TRUST ACCOUNT

##### SECTION I GENERAL STIPULATIONS

1. In this regulation, the word “chartered administrator” means a person registered on the role of the Ordre des administrateurs agréés du Québec, whether this person exercises his profession alone or in a partnership.
2. Nothing in this regulation must be interpreted as excluding the use of computers in order to maintain the accounting of the trust account.
3. The chartered administrator must record and account all funds, securities and other goods which he receives in trust and used them only for the purpose for which they were entrusted.
4. The chartered administrator may not deposit, or leave on deposit, his own funds, securities or other personal goods in a trust account.
5. Once he has obtained a written authorization, the chartered administrator may withdraw his fees and disbursements from the funds which have been entrusted to him in trust.

6. The chartered administrator must advise, without delay, the secretary of the Ordre that he has filed a notice of intention to make a proposal to the administrator's creditors, that he has made an assignment of the administrator's property, or that a petition for a receiving order has been filed against him, in conformity with the Bankruptcy and Insolvency Act (R.S.C., 1985, c. B-3).

## SECTION II GENERAL TRUST ACCOUNT

7. The chartered administrator must, as soon as possible, deposit in a general trust account opened in his name in a financial institution authorized to receive such funds, securities or other goods which he has received in trust.

8. When the general trust account is opened, the chartered administrator must complete and submit to the financial institution where the account is opened, as well as to the secretary of the Ordre, the form provided for in Schedule 1 and keep a copy of it. This form must contain a statement under oath from the chartered administrator including notably an irrevocable authorization giving the right, without notice, to the syndic, the administrative committee or the professional inspection committee or one of its inspectors or investigators:

1° to request and obtain, at any time, from the financial institution depository of the account, all the informations and explanations deemed necessary or useful for the application of this regulation;

2° to take all measures necessary in order to block the funds or other securities in deposit, if any;

3° to dispose of the funds or other securities deposited for the purpose for which the chartered administrator exercising his profession alone received them, in the event of death, bankruptcy or the incapacity of the chartered administrator or the revocation of his license, his provisional, temporary or permanent disqualification or the limitation or suspension of the administrator's right to exercise in conformity with the Professional Code (R.S.Q., c. C-26).

9. The chartered administrator must only withdraw from the general trust account:

1° the sums of money or other securities which must be given in to a client or to a third party in the client's name;

2° the sums of money required to reimburse the chartered administrator expenses spent in the name of a client;

3° the amount of his fees and disbursements effected, evidenced in writing and transmitted to the client, and accepted by him in writing;

4° the sums of money or other securities which have been deposited by error in the trust account;

5° the sums of money or other securities which have been transferred directly into a special trust account in conformity with Section III of this regulation.

10. In the event of the closure of a general trust account, the chartered administrator must advise, without delay, the secretary of the Ordre in conformity with the form provided for in Schedule 2.

## SECTION III SPECIAL TRUST ACCOUNT

11. Whenever requested by a client, the sums of money may be deposited or transferred into a special trust account by indicating the client's name for which the account has been opened. The articles 8, 9 and 10 apply to such account.

The chartered administrator may in addition hold in trust all investment, security or other guarantee which have been entrusted to him by a client.

## SECTION IV BOOKKEEPING CONCERNING THE TRUST ACCOUNT

12. The chartered administrator must maintain up to date a separate accounting record for all trust accounts.

13. The chartered administrator must keep up to date an accounting book or other permanent accounting register indicating separately, for each client for which the money has been received in trust, all amounts received and disbursements made as well as all remaining amounts which have not been disbursed.

14. Upon reception of an amount of money which the chartered administrator must deposit in a trust account, the chartered administrator must remit to the client an official receipt drafted in conformity with the form provided for in Schedule 3.

15. Official receipts must be consecutively numbered and made, at least, in duplicate. The duplicate copy of the receipt must be preserved by the chartered administrator.

16. Cheques and other payment orders drawn on a general or special trust account must contain the mention "trust account"; the cheques must be numbered.

17. The chartered administrator may not withdraw sums in cash from his general or special trust account.

18. The accounting of the trust account must be kept up to date and be conciliated monthly according to generally accepted accounting principles.

## **SECTION V**

### **TRUST ACCOUNT'S VERIFICATION**

19. Each year, prior to March 31<sup>st</sup>, the chartered administrator must remit to the secretary of the Ordre, in accordance with the form provided for in Schedule 4, a declaration under oath, attesting that all funds, securities and other goods which have been entrusted to him in trust during the preceding year have been deposited, recorded and used in conformity with this regulation.

A chartered administrator is not obliged to open and maintain a general trust account for the motive that he is a full time employee of a business or an organization and that he does not hold any sums of money or other securities. In this case, previous to March 31<sup>st</sup> of each year, he forwards to the secretary of the Ordre the form provided for in Schedule 4 duly completed.

20. The declaration provided for in section 19 must indicate notably:

1° the balance in all trust accounts as of December 31<sup>st</sup>;

2° a list of all special trust accounts opened and closed during the year;

3° a list indicating separately, for each client for which money was held in trust during the year, the balance held in trust for that client as of December 31<sup>st</sup>.

One declaration is sufficient for the chartered administrators which have a common trust account. The declaration must indicate the names of all the concerned chartered administrators.

## **CHAPTER II**

### **INDEMNITY FUND**

#### **SECTION I**

##### **CONSTITUTION OF FUND**

21. The Bureau establish an indemnity fund that must be used to repay the amounts of money or other securities used by a chartered administrator for purposes other than those for which they were entrusted to him in the course of his profession.

22. The fund shall be maintained for a minimum amount of \$100 000 consisting of:

1° the sums of money already allocated to this purpose at the date on which this regulation comes into force;

2° the sums of money that the Bureau allocates, when necessary;

3° the subscriptions fixed for such purpose;

4° the sums of money recovered from a chartered administrator in default under a subrogation or under section 159 of the Professional Code;

5° the interests and incomes yielded by the sums of money constituting the fund;

6° the sums of money which may be paid by an insurance company under a group insurance policy subscribed by the Ordre for all its members.

#### **SECTION II**

##### **MANAGEMENT OF THE FUND**

23. The Bureau is authorized to conclude any group insurance or reinsurance contract for the fund and to pay the premiums out of the fund.

24. The accounting of the fund shall be separate from the accounting of the Ordre.

25. The administrative committee shall manage the fund.

The sums of money constituting the fund shall be invested by the administrative committee in the following manner:

1° the part of the sums of money which the administrative committee anticipates using in the short term shall be deposited with a financial institution;

2° the other part of the sums of money shall be invested in accordance with article 1339 of the Quebec Civil Code.

#### **SECTION III**

##### **CLAIMS MADE TO THE FUND**

26. A claim must be forwarded to the secretary of the Ordre at its head office.

27. A claim must:

1° be a written statement under oath;

2° state the facts in support thereof;

3° indicate the amounts claimed with the evidence supporting it.

28. The secretary shall enter the claim on the agenda for the first meeting of the Bureau or of the administrative committee which follows the reception such claim.

29. A claim concerning a chartered administrator may be filed, whether or not there has been a decision of the disciplinary committee, the professional tribunal or any other competent court regarding this chartered administrator.

30. In order for a claim to be receivable, it must be file within the year from which the claimant became aware that sums of money or other securities have been used for purposes other than those for which they have been entrusted to the chartered administrator in the course of his profession.

31. The Bureau may extend the delay provided for in article 30 if the claimant demonstrates that, for a cause which does not depend of his own will, the claimant could not file its claim within the required time.

32. The administrative committee may designate a person to hold an inquiry and submit to the administrative committee a report concerning the claim.

33. Upon a written request of the administrative committee or of the designated person, the claimant or the chartered administrator concerned must:

1° submit all the details and documents relating to a claim;

2° produce all pertinent evidence.

#### SECTION IV INDEMNITY

34. The Bureau, upon a recommendation of the administrative committee, shall decide whether to allow the claim in whole, or in part and, as the case may be, shall fix the indemnity payable. The Bureau's decision shall be final.

35. The maximum indemnity payable from the indemnity fund for the period covering the financial year of the Ordre is limited to \$20,000.00 for the total amount of claims concerning a chartered administrator until its temporary disentanglement from the role of the Ordre or

the one is provided for at section 156, paragraph 2, of the Professional Code.

However, if the assets of the fund are inferior to \$100,000.00 when the indemnity is claimed, the aforementioned maximum indemnity is reduced to 10 % of the value of the fund.

When the administrative committee has reasons to believe that claims exceeding the maximum indemnity may be claimed from the fund concerning the same chartered administrator, the administrative committee must, if the circumstances allows it, prepare an inventory of the sums of money entrusted in trust to this chartered administrator and advise in writing the persons likely to file a claim.

When the total of the claims accepted by the Bureau exceeds the maximum indemnity provided for in this section, the indemnity is divided on a prorata basis according to the amounts of these claims.

36. Before receiving the indemnity set by the Bureau, the claimant must sign a discharge in favour of the Ordre with subrogation in all the claimant's rights in its claim against the chartered administrator up to the amount of the indemnity.

37. This regulation replaces the Regulation respecting the indemnity fund of the Corporation Professionnelle des administrateurs agréés du Québec (R.R.Q., 1981, c. C-26, r. 12).

38. This regulation comes into force on the fifteenth (15th) day which follows the date of its publication in the *Gazette Officielle du Québec*.

#### SCHEDULE 1

(a. 8)

#### OF A GENERAL TRUST ACCOUNT DECLARATION CONCERNING THE OPENING

TO: \_\_\_\_\_  
(Name and address of the financial institution)

I, the undersigned, \_\_\_\_\_,  
having my professional domicile at the following address:

\_\_\_\_\_  
\_\_\_\_\_

declare the following:

1. the general trust account bearing number: \_\_\_\_\_ has been opened in your institution in the name of:

\_\_\_\_\_  
(Place) (Date)

\_\_\_\_\_ “in trust”;

\_\_\_\_\_  
(Chartered administrator)

2. this account is constituted of amounts of money, securities and other goods which have been entrusted to me in the exercise of my profession;

Declared under oath before me

At: \_\_\_\_\_

3. this account is governed by the Professional Code (R.S.Q., c. C-26) and by the Regulation concerning the accounting of trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec (hereinafter the “Regulation”);

This: \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Oaths  
District of \_\_\_\_\_

4. in conformity with your records, the person(s) for whom the name and signature appear hereunder, is (are) authorized to sign all documents concerning the day to day operations of this account:

Note: In accordance to the article 8 of the Regulation, a copy of this form must be forwarded to the secretary of the Ordre des administrateurs agréés du Québec as soon as the trust account is opened and one copy must be kept by the chartered administrator.

\_\_\_\_\_  
(Name) (Signature)

**SCHEDULE 2**  
(a. 10)

\_\_\_\_\_  
(Name) (Signature)

**NOTICE OF THE CLOSURE OF A GENERAL TRUST ACCOUNT**

5. in conformity with paragraphs 1° and 2° of article 8 of the Regulation, this declaration constitutes an irrevocable authorization, giving the right to the syndic, the administrative committee, the committee of professional inspection (or one of its inspectors or investigators) of the Ordre des administrateurs agréés du Québec, to request and obtain at all times from your institution all the informations and explanations deemed necessary or useful in order to audit the accounting of the trust account or, as the case may be, to take all measures necessary to block the funds, securities or other goods which have been deposited;

Secretary of the Ordre des administrateurs agréés du Québec

\_\_\_\_\_  
(Address of the secretary)

6. in conformity with paragraph 3° of article 8 of the Regulation, if I exercise alone the profession of chartered administrator, this declaration constitutes an irrevocable authorization to the syndic, the administrative committee or the committee of professional inspection of the Ordre des administrateurs agréés du Québec to dispose of the funds, securities or other goods deposited if I die, go bankrupt, become incapable, am provisionally, temporary or permanently disentitled from the Ordre des administrateurs agréés du Québec or if my right to exercise is limited or suspended in conformity with the Professional Code.

I, the undersigned, \_\_\_\_\_, chartered administrator, advise you, in conformity with article 10 of the Regulation concerning the accounting of trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec, that the general trust account bearing:

number: \_\_\_\_\_

opened the: \_\_\_\_\_

with: \_\_\_\_\_

(Name of financial institution)

had been closed on: \_\_\_\_\_

Signed at \_\_\_\_\_ on \_\_\_\_\_

\_\_\_\_\_ adm.a.

Name of the firm:

\_\_\_\_\_  
 \_\_\_\_\_

Address:

\_\_\_\_\_  
 \_\_\_\_\_

Telephone:

\_\_\_\_\_  
 \_\_\_\_\_

Facsimile:

\_\_\_\_\_  
 \_\_\_\_\_

Declared under oath before me

At: \_\_\_\_\_

This: \_\_\_\_\_

\_\_\_\_\_  
 Commissioner of Oaths

District of \_\_\_\_\_

### SCHEDULE 3

(a. 14)

#### OFFICIAL RECEIPT OF THE CLIENT

**Logo of the firm, name and address or: logo of the  
 O.A.A.Q., name of firm and address**

#### OFFICIAL RECEIPT

N° \_\_\_\_\_

Received from \_\_\_\_\_

the sum of \_\_\_\_\_

cash                       certified cheque       non certified cheque

postal money order       bank money order       other (specify)

\_\_\_\_\_

in file: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

chartered administrator

This receipt is issued in conformity with article 14 of the Regulation concerning the accounting of trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec.

### SCHEDULE 4

(a. 19)

#### ANNUAL DECLARATION CONCERNING THE BOOKS, REGISTERS AND ACCOUNTS

YEAR: \_\_\_\_\_

Note: Each year, prior to March 31<sup>th</sup>, the chartered administrator must remit to the secretary of the Ordre, in accordance with this form, a declaration under oath, attesting that all funds, securities and other goods which have been entrusted to him in trust during the preceding year have been deposited, recorded and used in conformity with this regulation.

A chartered administrator is not obliged to open and maintain a general trust account for the motive that he is a full time employee of a business or an organization and that he does not hold any sums of money or other securities.

I, the undersigned \_\_\_\_\_, chartered administrator, registered on the role of the Ordre des administrateurs agréés du Québec since \_\_\_\_\_, declare the following:

**1.1** The Regulation concerning the accounting of the trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec does not require that I maintain nor administer a trust account for one or the other of the following reasons:

I am a full time employee of a business or an organization and I do not detain some sums of money or other securities.

I am allowed to fill only one declaration for the chartered administrators who have in common one trust account, on condition that the declaration indicates the name of all the chartered administrators; the declaration provided for at article 19 will be completed by the following chartered administrator:

\_\_\_\_\_  
 (Name of the chartered administrator)

**1.2** Since my last declaration dated \_\_\_\_\_, I have had no responsibility concerning sums of money, securities or other goods in trust.

**1.3** If my professional situation is modified, I agree to open, if need be, a trust account and to inform to secretary of the Ordre immediately.

⇒ If you have indicated one or the other situations hereabove, proceed directly to points 3.1 and 3.2 with the signature of this declaration.

**2.1** I exercise my profession:

- alone under my personal name;
- in a general partnerships under the name of: \_\_\_\_\_ with the following chartered administrators:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**2.2** These books, registers and accounts are audited by a chartered accountant:

- yes  no

**2.3** Between January 1<sup>st</sup> \_\_\_\_\_ and December 31<sup>st</sup> \_\_\_\_\_, my (our) general trust account was held to the following financial institution:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

**2.4** This account was maintained under the following NAME: \_\_\_\_\_

**2.5** This account was maintained under the following NUMBER: \_\_\_\_\_

**2.6** As of December 31<sup>st</sup> \_\_\_\_\_, the balance of this account was the following: \$ \_\_\_\_\_

**TOTAL REVENUES AND DISBURSEMENTS FOR EACH MONTH AND CONCILIATION DATED DECEMBER 31**

**Year:** \_\_\_\_\_

	<b>Revenues</b>	<b>Disbursements</b>
January	_____	_____
February	_____	_____
March	_____	_____
April	_____	_____
May	_____	_____
June	_____	_____
July	_____	_____
August	_____	_____
September	_____	_____
October	_____	_____
November	_____	_____
December	_____	_____
<b>TOTAL</b>	_____	_____

**LIST OF ALL SPECIAL TRUST ACCOUNTS OPENED AND CLOSED DURING THE YEAR (a. 20, paragraph 2°)**

Number of the account	Financial institution	Date	
		Opened	Closed
_____	_____	_____	_____
_____	_____	_____	_____

LIST OF THE BALANCES AS OF DECEMBER 31  
OF THE CLIENTS ACCOUNTS HELD IN TRUST  
DURING THE YEAR

(a. 20, paragraph 1(3))

Name of client	Date		Balance as of December 31
	Opened	Closed	
_____	_____	_____	_____
_____	_____	_____	_____

**2.7** During the same period, I (we) have held the following securities:

(Describe these securities in question: (i.e.: term deposit certificate, bond, etc.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2.8** During the same period, I (we) have held the following goods in trust:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2.9** Since my last declaration, I have respected at all times the Regulation concerning the accounting of trust accounts and on the indemnity fund of the Ordre des administrateurs agréés du Québec.

**2.10** I authorize the syndic of the Ordre des administrateurs agréés du Québec, the professional inspection committee or all other persons designated by him, to inspect this (these) account (s) and to obtain from the financial institution all information that they may require.

**2.11** If I must change firm or business, or move in whatsoever manner, change financial institution or open a new trust account, I agree to notify the secretary of the Ordre immediately.

**3.1** The address and telephone number of my professional domicile are:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3.2** The address and telephone number of my personal domicile are:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Signature of the chartered administrator)\*

\* If required, indicate the names of the chartered administrators who hold in common a general trust account:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Declared under oath before me

At: \_\_\_\_\_

This: \_\_\_\_\_

Commissioner of Oaths

District of \_\_\_\_\_

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## Draft Rules

An Act respecting lotteries, publicity contests and amusement machines  
(R.S.Q., c. L-6)

### Video lottery machines

— Rules

— Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Rules to amend the Rules concerning video lottery machines, made by the Régie des alcools, des courses et des jeux and whose text appears below, may be approved by the Government upon the expiry of 45 days following this publication.

The draft Rules propose to replace very specific descriptive standards by principles and to amend certain rules pertaining to the location of the machines in establishments, while assuring the integrity of the game and the public's safety.