

10. Commissioners are bound by discretion regarding any matter brought to their knowledge in the performance of their duties and must refrain from disclosing any information of a confidential nature.

11. Commissioners are bound by deliberative secrecy.

12. Commissions must act with reserve and prudence in public.

DIVISION III SITUATIONS AND ACTIVITIES INCOMPATIBLE WITH THE PERFORMANCE OF DUTIES

13. Commissioners must be politically neutral and not engage in any activity or partisan political participation at the federal, provincial, municipal or school level.

14. Commissioners must refrain from pursuing an activity or placing themselves in a situation likely to undermine the dignity of their office or discredit the Commission.

15. Commissioners must refrain from becoming involved in any cause or participating in any lobby whose objectives or activities are related to matters that come within the jurisdiction of the Commission.

16. The following are incompatible with the performance of a commissioner's duties:

(1) soliciting or collecting donations, except in the case of community, school, religious or family activities that do not compromise other duties imposed by this Code, or associating the status of commissioner to those activities; and

(2) taking part in charities or organizations likely to be involved in matters before the Commission.

DIVISION IV ACTIVITIES PERMITTED

17. Full-time commissioners may exercise functions in relation to their professional competence without charge insofar as the functions do not compromise their impartiality or the effective performance of their duties. They must so inform the president.

DIVISION V PART-TIME COMMISSIONERS

18. Part-time commissioners may not act as the attorney or representative of a party before the Commission or a body whose decisions may be contested before or revised by the Commission. In addition, part-time

commissioners may not give legal advice in fields within the jurisdiction of the Commission, insofar as their impartiality or the effective performance of their duties could be compromised.

19. This Code comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

7855

Draft Regulation

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

Advocates

- Accounting and trust accounts of lawyers
- Amendments

Notice is hereby given, pursuant to sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "By-law to amend the By-law respecting accounting and trust accounts of lawyers" adopted by the General Council of the Barreau du Québec at its meeting of September 27, 2006, may be submitted to the Government, who may approve it with or without amendment at the expiration of 45 days from the date of publication hereof.

The purpose of the amendment is to limit and provide a framework for client cash transactions by lawyers.

According to the Barreau, the Regulation has no impact on business enterprises, including SMEs.

For more information, you may contact Ms. Claire Moffet, advocate at the Research and Legislation Department of the Barreau du Québec, 445, boulevard Saint-Laurent, Montréal (Québec) H2Y 3T8; telephone number: 514 954-3499, ext. 3163; fax number: 514 954-3463.

Please send any comments you may have before the said expiration of 45 days to the President of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The Office will forward them to the Minister responsible for the application of the laws respecting the professions and may also submit them to the professional order that adopted the Regulation and to the interested persons, ministries, and agencies.

GAÉTAN LEMOYNE,
*President of the Office des
professions du Québec*

By-law amending the By-law respecting accounting and trust accounts of lawyers *

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

1. The By-law respecting accounting and trust accounts of lawyers is amended by adding, at the end of section 1.01, the following paragraph:

(g) “cash”: coins provided for under section 7 of the Currency Act (R.S.C. 1985, c. C-52) and notes issued by the Bank of Canada under the Bank of Canada Act (R.S.C. 1985, c. B-2) and intended for circulation in Canada, as well as coins or bank notes from countries other than Canada.

2. Section 2.01, of this by-law is amended:

1° by adding the words at the end of paragraph *a* “or not, with the indication that it was received in cash, where applicable”;

2° by adding, at the end of paragraph *b* the words “or not, with the indication that this payment was made in cash, if applicable”.

3. Section 2.02 of this by-law is amended:

1° by replacing, in paragraph *d*, the words “all unexpended funds held” by the words “all unexpected sums of money held”;

2° by adding the following after paragraph *e*:

“(f) a list, book or other record indicating the cash transactions.”;

3° by adding at the end the following:

“They may be kept by any manner, but those that are handwritten must be in ink.”

4. This by-law is amended by inserting, after Division III, the following:

“§1. *Deposit and Withdrawal of Money*”.

5. This by-law is amended by inserting, after section 3.09, the following subsection:

“§2. *Amount in cash*

3.10 Where a lawyer engages in one of the activities mentioned below on behalf of a client, or gives instructions in respect of one of these activities on behalf of a client:

(a) the receipt or payment of any sum of money;

(b) the transfer of funds;

(c) the purchase or sale of deeds, property or assets of any company;

he may only receive or accept from a person or a client a maximum amount in cash of \$7,500 in respect of any record or transaction.

3.11 Section 3.10 does not apply when a lawyer receives cash:

(a) from a financial institution;

(b) from a department or an agent of Her Majesty in right of Canada or a province;

(c) from a local or territorial community governed by the Cities and Towns Act (R.S.Q., c.), the Municipal Code (R.S.Q., c. C-27.1), the Act respecting municipal organization of certain territories (R.S.Q., c. O-8), the Act respecting territorial organization (R.S.Q., c. O-9), or by any order, letters patent or particular statute, as well as their agent;

(d) under a court order or to pay a fine or penalty;

(e) for the payment of professional fees, a disbursement, an expense or a bond.

3.12 A lawyer who is required to reimburse an amount that he has received in cash pursuant to paragraph (e) of section 3.11 must make this reimbursement in cash.

In such a case, the lawyer obtains from the person to whom he surrenders the amount reimbursed a receipt bearing the signature of that person together with the following information:

(a) the name of the client;

(b) the name of the person receiving the money;

* The Regulation respecting accounting and trust accounts of lawyers (R.R.Q., c. B-1, r.3), was last amended by the regulation made by Order in Council 1700-97 dated 17 December 1997 (1997, G.O. 2, 8171). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2006, updated to 1 September 2006.

(c) the sum reimbursed;

(d) the date of the reimbursement;

(e) the file number related thereto.

3.13 For the purposes of section 3.10, an amount in foreign exchange is deemed to have been received or accepted at its value in Canadian dollars, at the official conversion rate published in the Daily Digest of exchange rates of the Bank of Canada.

The rate applied is the one in force at noon on the day on which the amount is received or accepted or, in the case of a legal holiday of the preceding business day.

3.14 The lawyer must surrender to the person from whom he receives an amount in cash a receipt of which he keeps a duplicate, and which indicates:

(a) the date on which the amount is received;

(b) the name of the person from whom it originates;

(c) the amount received;

(d) the name of the client for whom it is received;

(e) the file number related thereto.

This receipt must be signed by the lawyer who has received the said amount, or by the person authorized by the latter to receive it.

3.15 The lawyer who receives an amount in cash of \$7,500 or over pursuant to section 3.11 must, within 30 days of its receipt, send to the syndic a declaration indicating the amount received, the corresponding receipt number with, in each case, an indication of the exception provided for under section 3.11, which allowed him to accept that amount in cash.”

6. Schedule I of this by-law is replaced by the following:

“ANNEXE I

(a. 4.02)

ANNUAL DECLARATION RESPECTING BOOKS, REGISTERS AND ACCOUNTS

Year _____

By-Law respecting accounting and trust accounts of advocates (R.R.Q., c. B-1, r.3)

Regulation respecting the fund for legal studies of the Barreau du Québec (R.R.Q., c. B-1, r.5)

An Act respecting the Barreau du Québec (R.S.Q., c. B-1)

I, _____, a member of the Barreau du Québec

Section of _____ and entered on the Roll since _____, declare as follows:

1.1 The By-law respecting accounting and trust accounts of advocates does not require that I keep a separate account and, as such, I do not keep a separate account, for do I have responsibility for money in trust, because:

(a) I am employed full time as an advocate in the law office of

(name of office)

(b) or as _____

in/for _____
(name of organization)

(c) _____
(indicate circumstances justifying this statement)

1.2 Since my last declaration, I have not engaged in the private practice of law nor have I been responsible for any money in trust.

1.3 If I practice law outside the scope of my employment, I undertake to open a trust account, if need be, and to notify the syndic immediately.

2.1 I practice

(a) alone yes (____) no (____)

(b) in nominal partnership with _____
under the name of _____

(c) in real partnership with _____
under the name of _____

2.2 I (we) keep separate accounts for money collected for clients or received from clients for payment to third persons or as advances for fees and disbursements, by means of appropriate registers, I (we) have trust account(s) where that money is deposited.

These books, registers and accounts are () are not () verified by a chartered accountant

2.3 From _____ to _____
(Specify according to the instructions of the syndic)
my trust account(s) was (were)

at _____
(name and adress of the banking institution)

2.4 This (these) account(s) bore the following NAME(S): _____

2.5 This (these) account(s) bore the following NUMBER(S): _____

2.6 On _____ the following amounts were on deposit in this or
(date) (Specify according to the instructions of the syndic)

these accounts: _____
(total amount in each account)

2.7 Between _____ and _____ I (we)
(Specify according to the instructions of the syndic)

held in trust the following deposit certificates:

Certificate No.	Amount	Issue date	Maturity date	Depositary institution

2.8 Between _____ and _____ I (we)
 (Specify according to the instructions of the syndic)
 held in trust other valuable property as follows:

2.9 Since my last declaration, I have at all times complied with the sections of the Act and of the By-law respecting accounting and accounts of advocates.

2.10 More specifically, I (we) complied with section 3.15 of the By-law respecting accounting and trust accounts of lawyers and filed the declaration(s) with the syndic for each amount of \$7,500 or over received in cash, with a mention of the exception provided for under section 3.11, which allows the acceptance of such amount.

2.11 I authorize the syndic of the Barreau du Québec, or any person designated by him, to inspect this or these accounts and to obtain all information he may require from the banking institution.

2.12 If I must change firms, move in any way, change banks or open a new trust account, I undertake to notify the syndic immediately.

Sworn before me at _____

 (Advocate's name in block letters)

this _____ day of _____

 (Advocate's signature)

 (Commissioner of oaths)

Office address:

Tel.: _____

Home address:

Tel.: _____

N.B. All members entered on the Roll of the Order must complete this annual declaration. If necessary, give additional information on an attached sheet.”.

7. This by-law becomes effective on the fifteenth day after its date of publication in the *Gazette officielle du Québec*.