

# Practice Rules Compliance Committee

## Annual Audits - Bankruptcy and Judgments

The Supreme Court of Canada in *Finney v Barreau du Quebec*, 2004 SCC 36 (CanLII) determined that the principal function of the regulator is to ensure the protection of the public. To further this objective the benchers have determined there will be more frequent audits in some circumstances.

Members with access to trust funds, and to whom one or more of the following circumstances apply, will be audited, at minimum, on an annual basis unless the Executive Committee determines otherwise.

- a) Members who are undischarged bankrupts or have been discharged from bankruptcy within the last two years.
- b) Members who have judgments registered against them in the amount of \$10,000 or greater, which judgments are outstanding for more than one year.

Members are reminded of their duty to report judgments and assignments in bankruptcy, pursuant to Law Society Rules 9.29 and 9.30, which prescribe:

### ***Law Society Rules Part IX - Discipline Rules***

#### ***Bankruptcy and insolvency***

*9.29 (1) Every member or student-at-law admitted as such by the Society shall immediately notify the Executive Director upon*

*(a) receipt of a petition under the Bankruptcy and Insolvency Act (R.S. 1985, C. B-3) in which the court is asked to make a receiving order with respect to the property of the member or student-at-law,*

*(b) the making by the member or student-at-law of an assignment under the Bankruptcy and Insolvency Act,*

*(c) the making by the member or student-at-law of a proposal under the Bankruptcy and Insolvency Act.*

*(2) The Executive Director may require the member or student-at-law to submit additional information for more complete examination outlining the circumstances relating to any of the matters referred to in subsection 9.29(1) and the member or student-at-law shall be obliged to respond fully to the Executive Director's request within seven days after receiving the request for further information.*

*(3) Upon occurrence of one or more of the events as set out in Rule 9.29(1) (b) or (c), or in the event that a receiving order is made against a member or student-at-law under the Bankruptcy and Insolvency Act then that member's entitlement to engage in the practice of law or that student-at-law's articles of clerkship is suspended pending a review by the Executive Committee.*

*(4) A member or student-at-law affected by Rule 9.29(3) may make an immediate written submission to the Executive Director and upon receipt of same the Executive Committee may, after ascertaining that the protection of the public will not be jeopardized, reinstate the member's entitlement to engage in the practice of law or the student-at-law's articles of clerkship, and attach such conditions to his or her practice of law or articles of clerkship as it deems reasonable for such protection.*

*(5) A member or student-at-law suspended pursuant to Rule 9.29(3) and who makes a written submission in accordance with Rule 9.29(4) shall be entitled to a hearing before the Executive Committee as soon as practicable and in no case longer than seven days from the date of his or her written submission, unless the member or student-at-law requests a longer period of time be extended for the hearing.*

### ***Judgment and orders***

*9.30 A member or student-at-law must notify the Executive Director immediately upon:*

*(1) a judgment becoming outstanding against him or her and remaining unsatisfied for a period of 30 days, whether or not an appeal from the judgment has been taken.*

*(2) a contempt order having been made against him or her,*

*or*

*(3) the making of an order for costs against him or her personally under Rule 55.14 of the Rules of Court.*

Issued: December 2007