

Code of Professional Conduct, published by The Canadian Bar Association, 1987

Volume 57, numéro 4, 1990

URI : <https://id.erudit.org/iderudit/1104724ar>

DOI : <https://doi.org/10.7202/1104724ar>

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Éditeur(s)

HEC Montréal

ISSN

0004-6027 (imprimé)

2817-3465 (numérique)

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Citer ce compte rendu

(1990). Compte rendu de [Code of Professional Conduct, published by The Canadian Bar Association, 1987]. *Assurances*, 57(4), 606–609.
<https://doi.org/10.7202/1104724ar>

Documents

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606 In January 1984, a resolution was adopted to review the 1974 *Code of Professional Conduct*. “In adopting the 1987 *Code of Professional Conduct*, the Canadian Bar Association brings forward the changes that reflect the realities of practising law in today’s society,” said his President, Jean Bazin, Q.C.

The rules that follow are intended to serve as a guide and are to be understood and applied in the light of their primary concern for the protection of the public interest.

The Code contains nineteen chapters :

“Chapter I – Integrity

“RULE – The lawyer must discharge with integrity all duties owed to clients, the court, other members of the profession and the public.

“Chapter II – Competence and Quality of Service

“RULE – (a) The lawyer owes the client a duty to be competent to perform any legal services undertaken on the client’s behalf.

“(b) The lawyer should serve the client in a conscientious, diligent and efficient manner so as to provide a quality of service at least equal to that which lawyers generally would expect of a competent lawyer in a like situation.

“Chapter III – Advising Clients

“RULE – The lawyer must be both honest and candid when advising clients.

“Chapter IV – Confidential Information

“RULE – The lawyer has a duty to hold in strict confidence all information concerning the business and affairs of the client acquired in the course of the professional relationship, and should not divulge such information unless disclosure is expressly or im-

pliedly authorized by the client, required by law or otherwise permitted or required by this Code.

“Chapter V – Impartiality and Conflict of Interest Between Clients

“RULE – The lawyer shall not advise or represent both sides of a dispute and, save after adequate disclosure to and with the consent of the clients or prospective clients concerned, shall not act or continue to act in a matter when there is or is likely to be a conflicting interest.

“Chapter VI – Conflict of Interest Between Lawyer and Client

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“RULE – (a) The lawyer should not enter into a business transaction with the client or knowingly give to or acquire from the client an ownership, security or other pecuniary interest unless :

(i) the transaction is a fair and reasonable one and its terms are fully disclosed to the client in writing in a manner that is reasonably understood by the client ;

(ii) the client is given a reasonable opportunity to seek independent legal advice about the transaction, the onus being on the lawyer to prove that the client’s interests were protected by such independent advice ; and

(iii) the client consents in writing to the transaction.

“(b) The lawyer shall not enter into or continue a business transaction with the client if :

(i) the client expects or might reasonably be assumed to expect that the lawyer is protecting the client’s interests ;

(ii) there is a significant risk that the interests of the lawyer and the client may differ.

“(c) The lawyer shall not act for the client where the lawyer’s duty to the client and the personal interests of the lawyer or an associate are in conflict.

“(d) The lawyer shall not prepare an instrument giving the lawyer or an associate a substantial gift from the client, including a testamentary gift.

“Chapter VII – Outside Interests and the Practice of Law

“RULE – The lawyer who engages in another profession, business or occupation concurrently with the practice of law must not al-

low such outside interest to jeopardize the lawyer's professional integrity, independence or competence.

“Chapter VIII – Preservation of Clients’ Property

“RULE – The lawyer owes a duty to the client to observe all relevant laws and rules respecting the preservation and safekeeping of the client's property entrusted to the lawyer. Where there are no such laws or rules, or the lawyer is in any doubt, the lawyer should take the same care of such property as a careful and prudent owner would when dealing with property of like description.

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“Chapter IX – The Lawyer as Advocate

“RULE – When acting as an advocate, the lawyer must treat the tribunal with courtesy and respect and must represent the client resolutely, honourably and within the limits of the law.

“Chapter X – The Lawyer in Public Office

“RULE – The lawyer who holds public office should, in the discharge of official duties, adhere to standards of conduct as high as those that these rules require of a lawyer engaged in the practice of law.

“Chapter XI – Fees

“RULE – The lawyer shall not

(a) stipulate for, charge or accept any fee that is not fully disclosed, fair and reasonable ;

(b) appropriate any funds of the client held in trust or otherwise under the lawyer's control for or on account of fees without the express authority of the client, save as permitted by the rules of the governing body.

“Chapter XII – Withdrawal

“RULE – The lawyer owes a duty to the client not to withdraw services except for good cause and upon notice appropriate in the circumstances.

“Chapter XIII – The Lawyer and the Administration of Justice

“RULE – The lawyer should encourage public respect for and try to improve the administration of justice.

“Chapter XIV – Advertising, Solicitation and Making Legal Services Available

“RULE – Lawyers should make legal services available to the public in an efficient and convenient manner that will command respect and confidence, and by means that are compatible with the integrity, independence and effectiveness of the profession.

“Chapter XV – Responsibility to the Profession Generally

“RULE – The lawyer should assist in maintaining the integrity of the profession and should participate in its activities.

“Chapter XVI – Responsibility to Lawyers Individually

“RULE – The lawyer’s conduct toward other lawyers should be characterized by courtesy and good faith.

“Chapter XVII – Practice by Unauthorized Persons

“RULE – The lawyer should assist in preventing the unauthorized practice of law.

“Chapter XVIII – Public Appearances and Public Statements by Lawyers

“RULE – The lawyer who engages in public appearances and public statements should do so in conformity with the principles of the Code.

“Chapter XIX – Avoiding Questionable Conduct

“RULE – The lawyer should observe the rules of professional conduct set out in the Code in the spirit as well as in the letter.