

SPOT AUDIT REVIEW PROGRAM

Creation of Spot Audit Review Program

1. The Law Society hereby establishes the Spot Audit Review Program to ensure that its members are in compliance with the Rules and other requirements respecting the keeping of ledgers, books, accounts, records, journals and other financial documents.
2. The purpose of the Spot Audit Review Program is to protect the public interest by ensuring a proper accounting of clients' trust funds held by members or a firm of members.

Procedure for Selection of Audits

3. By January 31st of each calendar year, the Chairperson of the Discipline Committee, with the assistance of the Executive Director, shall initiate the steps required to select those members or firms of members for the Spot Audit Review Program to ensure that members are complying with the Society's accounting requirements and handling trust funds appropriately.
4. The Spot Audit Review Program may include both random and targeted audits of members or firms of members.

(a) RANDOM AUDITS

The Executive Director, in the presence of at least two (2) witnesses, neither of whom may be a member or the relative or employee of a member or a firm of members that may be subject to the audit, will randomly select a minimum of three (3) members or firms of members operating trust accounts in the Northwest Territories. The number of members or firms of members randomly selected shall be determined by the Chairperson of the Discipline Committee from year to year. The number of random audits in a year shall be determined based on the assumption that one (1) in every five (5) members or firms is audited in a given year.

(b) TARGETED AUDITS

The Chairperson of the Discipline Committee may select members or firms of members operating trust accounts in the Northwest Territories for inclusion in the Spot Audit Review Program if the Chairperson is of the opinion that their inclusion is desirable in the public interest. In making an order under this section, the Chairperson may consider:

- (i) The length of time that the member or firm of members has operated a trust account recognizing that it may be desirable to audit newly established accounts;
 - (ii) The length of time since the member or firm of members was last audited;
 - (iii) Past issues or problems with trust accounts or compliance with the financial or recordkeeping Rules of the Law Society;
 - (iv) Factors that may increase the financial risk of the member or firm of members; and
 - (v) Other factors relevant to protecting the public interest
5. The Executive Director shall provide to the Chairperson of the Discipline Committee a final list of members and firms of members selected under s. 4(a) and (b). Upon receipt of the final list, the Chairperson shall, with the assistance of the Executive Director, issue orders directing an audit of the selected members and firms of members.

Section 47 Audits Not Affected

6. This policy does not apply to an audit ordered and conducted under s. 47 of the *Legal Profession Act*. For greater certainty, nothing in this policy limits, restricts or affects an audit described in that section.

Accountant To Do Audit and Provide Report

7. The Spot Audit Review Program shall be conducted by a chartered accountant or certified general accountant with forensic experience using a format recommended by the Chairperson of the Discipline Committee and approved by the Executive of the Law Society.
8. To the extent practicable, the same auditors shall conduct all of the audits ordered in any given year to ensure consistency and fairness.
9. At the conclusion of each audit, the auditors shall provide a complete report of their findings and opinions to the Chairperson of the Discipline Committee who shall consider the report and take any action the Chairperson deems necessary.

COMMENTARY

1. The Law Society recognizes that its role is to govern in the public interest and, as such, it is authorized to conduct audits of members from time to time. The Law Society further recognizes that the Commissioner of the Northwest Territories is empowered to direct an audit of the books of accounts of a member and notes that the Commissioner has never done so, presumably because this role is being fulfilled by the Society. [S.47 - Legal Profession Act]

These audits will also serve an educational purpose as they provide an opportunity for the auditor to offer advice or answer questions relating to trust matters.

2. The Law Society recognizes that the completion of all spot audits in any given year may not be practicable, however, the auditors shall do or attempt to do the spot audits on those members or firms of members who have been selected.