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Audit program finds some problems are common

Spot audits of members' practices are a useful tool for detecting book-keeping inadequacies and helping lawyers meet their accounting obligations, a recent Convocation report on the new auditing program indicates.

Lawyers practising in Ontario must maintain books and records which meet the minimum standard set by Regulation 708, sections 13 to 18. Compliance with the requirements of the regulation is monitored through the annual Private Practitioner's Report (PPR) and the spot audit program.

A total of 300 spot audits have been conducted since the inception of a pilot project in April 1998. The pre-arranged audits are conducted by four chartered accounting firms retained by the Law Society. About one-third of the lawyers audited to date were selected from those members who failed to file a PPR. The remainder were selected at random from the entire membership.

The audits concentrate on law firms' current records, but also include periods already reported in the PPR. At the completion of each audit, the findings are discussed with the member and a personalized evaluation of the maintenance of their books and records is left with the member.

The auditors' reports are reviewed by the Law Society, which may request that the member provide documentation that any inadequacies have been corrected. If numerous inadequacies were found, a second audit may be conducted within six months. If the auditors discover serious problems, or misconduct is suspected, the matter will be investigated by the Society's audit and investigation department staff.

A study of the spot audit program found that of the initial 150 audits conducted, 77 per cent detected some form of trust accounting inadequacies or other conduct that required further investigation. About 70 per cent involved minor deficiencies, which were dealt with through administrative guidance to members. The remaining seven per cent identified inadequacies of a more serious nature that required further investigation. The study also found that firms which failed to file annual regulatory reports disclosed a "disproportionately higher incidence of trust accounting record inadequacies of a serious nature."

All but four of the 150 audits were completed with a one-day, on-site visit at an average cost of \$950 per audit. Virtually all the lawyers who responded to the post-audit survey indicated that the auditors were courteous and helpful.

The sidebar summarizes the seven most common financial records issues that were found during the audits. Members are encouraged to use the table to assess their practices and records and to promptly correct any problems that are found.

Seven Common Problems with Financial Records

Description of Problem	Commentary
Accounting records in arrears	The accounting records were found to be in arrears one month or more in entering and posting. The Society expects accounting records to be entered and posted currently at all times as set out in Section 15(2)(a) of Regulation 708.
Trust reconciliations and trust comparisons in arrears	Section 15 (1)(h) of the Regulation requires a member to make a comparison each month between the total of the trust obligations to clients and the total of funds held on deposit in the trust accounts. The comparison is to be made within 15 days after each month-end as set out Section 15(2)(a). When trust comparisons are not performed at all or not on a timely basis, the result is that any overdrawn trust ledger accounts; inactive client trust accounts; and unreconciled items that exist remain uncorrected.
Overdrawn client trust ledger accounts	When a payment from trust is made on behalf of a client in excess of trust money held on behalf of that client, an overdrawn trust ledger account is created, which is matched by a shortage in trust funds. Members should not wait for the client to provide funds to correct an overdrawn trust ledger account, but should correct the overdrawn account by injecting their own funds into the trust account.
Client trust ledger accounts with no activity in over one year	The member should review the trust listing to identify inactive client trust ledger accounts which can be closed, either by paying the balance held to or on behalf of the client, or by billing and transferring to the general account if the member or firm are so entitled. Review of inactive accounts may also reveal funds held for the registration of documents, if this is the case, documents should be registered forthwith.
Unreconciled items	Trust bank reconciliations which reflect the same uncorrected reconciling items from month to month. The items may be as simple as bank charges or more complex unidentified items. Accounting staff should determine the cause of the reconciling items and correct them before the next month's trust comparisons.
Earned fees in trust	Money that a member becomes entitled to should be billed and transferred from the trust account generally within a month of the fee having been earned 14(7) of Regulation 708. It was found that transfers from the trust account to the general account on account of fees were made without first delivering a billing to the client.
Pre-taking fees	A procedure should be instituted to ensure that billings are prepared and dated, delivered, entered and posted before transfers are made from trust to general on account of fees as set out in Section 14(8)(c) of Regulation 708. In addition, a fee book or chronological billing file should be maintained as per Section 15(1)(g) of Regulation 708.