

# Code of Ethics for Trustees in Bankruptcy\*

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## INTRODUCTION

The Code of Ethics for Trustees in Bankruptcy is a 1995 amendment to the Rules of the Bankruptcy and Insolvency Act.

The Code establishes a standard for services to be provided by licensed bankruptcy trustees. It addresses the information that trustees must provide to creditors, the treatment of funds entrusted to trustees, conflicts of interest, and the sale and purchase of the property of a business or individual who has filed for bankruptcy. It also contains standards for advertising by trustees and for maintaining the good reputation of the trustee community.

### 54.3

Every trustee shall maintain the high standards of ethics that are central to the maintenance of public trust and confidence in the administration of the Act.

### 54.31

For the purposes of sections 54.35 to 54.48, "professional engagement" means any bankruptcy or insolvency matter in respect of which a trustee is appointed or designated to act in that capacity pursuant to the Act.

### 54.32

Trustees shall perform their duties in a timely manner and carry out their functions with competence, honesty, integrity and due care.

### 54.33

Trustees shall cooperate fully with representatives of the Superintendent in all matters arising out of the Act, these Rules and any directive issued pursuant to subsection 5(4) of the Act.

### 54.34

Trustees shall not assist, advise or encourage any person to engage in any conduct that the trustees know, or ought to know, is illegal or dishonest, in respect of the bankruptcy and insolvency process.

### 54.35

Trustees shall be honest and impartial and shall provide to interested parties full and accurate information as required by the Act with respect to the professional engagements of the trustees.

### 54.36

Trustees shall not disclose confidential information to the public concerning any professional engagement, unless the disclosure is

- (a) required by law; or
- (b) authorized by the person to whom the confidential information relates.

### 54.37

Trustees shall not use any confidential information that is gathered in a professional capacity for their personal benefit or for the benefit of a third party.

### 54.38

Trustees shall not purchase, directly or indirectly,

- (a) property of any debtor for whom they are acting with respect to a professional engagement; or
- (b) property of any estates in respect of which the Act applies, for which they are not acting, unless the property is purchased
  - (i) at the same time as it is offered to the public,
  - (ii) at the same price as it is offered to the public, and
  - (iii) during the normal course of business of the bankrupt or debtor.

\* As per the 1995 amendments to the Bankruptcy and Insolvency Rules. For the legal text of the Code of Ethics, readers should refer to the published version in the Canada Gazette, Part II, October 18, 1995 (SOR/95-463).



#### 54.39

(1) Subject to subsection (2), where trustees have a responsibility to sell property in connection with a proposal or bankruptcy, they shall not sell the property, directly or indirectly,

- (a) to their employees or agents, or persons not dealing at arm's length with the trustees;
- (b) to other trustees or, knowingly, to employees of other trustees; or
- (c) to related persons of the trustees or, knowingly, to related persons of the persons referred to in paragraph (a) or (b).

(2) Where trustees have a responsibility to act in accordance with subsection (1), they may sell property in connection with a proposal or bankruptcy to the persons set out in paragraphs (1)(a), (b) or (c), if the property is offered for sale

- (a) at the same time as it is offered to the public;
- (b) at the same price as it is offered to the public; and
- (c) during the normal course of business of the bankrupt or debtor.

#### 54.4

Trustees who are acting with respect to any professional engagement shall avoid any influence, interest or relationship that impairs, or appears in the opinion of an informed person to impair, their professional judgment.

#### 54.41

Trustees shall not sign any document, including a letter, report, statement, representation or financial statement, or associate themselves with any such document, that they know, or reasonably ought to know, is false or misleading, and any disclaimer of responsibility set out therein has no effect.

#### 54.42

Trustees may transmit information that they have not verified, respecting the financial affairs of a bankrupt or debtor, if

- (a) the information is subject to a disclaimer of responsibility or an explanation of the origin of the information; and
- (b) the transmission of the information is not contrary to the Act, these Rules or any directive issued pursuant to subsection 5(4) of the Act.

#### 54.43

Trustees shall not engage in any business or occupation that would compromise their ability to perform any professional engagement or that would jeopardize their integrity, independence or competence.

#### 54.44

Trustees who hold money or other property in trust shall

- (a) hold the money or property in accordance with the laws, regulations and terms applicable to the trust; and
- (b) administer the money or property with due care, subject to the laws, regulations and terms applicable to the trust.

#### 54.45

Trustees shall not, directly or indirectly, pay to a third party a commission, compensation or other benefit in order to obtain a professional engagement or accept, directly or indirectly from a third party, a commission, compensation or other benefit for referring work relating to a professional engagement.

#### 54.46

Trustees shall not obtain, solicit or conduct any professional engagement that would discredit their profession or jeopardize the integrity of the bankruptcy and insolvency process.

#### 54.47

Trustees shall not, directly or indirectly, advertise in a manner that

- (a) they know, or should know, is false, misleading, materially incomplete or likely to induce error; or
- (b) unfavourably reflects on the reputation or competence of another trustee or on the integrity of the bankruptcy and insolvency process.

#### 54.48

Trustees, in the course of their professional engagements, shall apply due care to ensure that the actions carried out by their agents or employees or any persons hired by the trustees on a contract basis are carried out in accordance with the same professional standards that those trustees themselves are required to follow in relation to that professional engagement.

#### 54.49

Any complaint that relates to a contravention of any of sections 54.32 to 54.48 shall be sent to the Office of the Superintendent in writing.

The Office of the Superintendent of Bankruptcy helps ensure that insolvency estates in Canada are administered in a fair and orderly manner. As part of our work we supervise various insolvency procedures, record proposal and bankruptcy proceedings, and make the information available to the public. We deal with complaints from creditors, debtors and members of the public, and license persons who may act as trustees in bankruptcy.

We provide bilingual services from our 14 offices across Canada from 8:30 a.m. to 4:30 p.m., Monday to Friday. (Check under Industry Canada in the blue pages of your telephone directory for the office nearest you.)

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