



NOVA SCOTIA BARRISTERS' SOCIETY

APPLICATION FOR DISPOSAL OF UNDISTRIBUTED TRUST FUNDS

Procedure and Sample Documents

The Nova Scotia Barristers' Society makes periodic applications on behalf of its members for disposal of members' undistributed or unclaimed trust funds. The *Public Trustee Act*, Section 28(1), mandates that lawyers apply for disposal of undistributed trust funds that have been held for five years. The Society provides a facilitated process for members to dispose of such funds that have been held for at least two years and reasonable attempts have been made to dispose of the trust funds.

Funds that qualify

- held in trust for at least two years
- reasonable efforts have been made to identify and contact the person(s) to whom the funds belong without success
- amount(s) held in trust can be specifically quantified and some information provided as to source of funds, reasons funds paid into trust, etc. if known
- members can certify, if possible, that there are no conditions to which the trust funds are subject

Procedure

1. You must file an affidavit with the Society's Director of Finance and Administration, which contains the following information (see sample attached):

a) For Trust Funds to which one or more persons are entitled

- name of client(s) and last known address
- balance of trust funds currently held
- date funds were received
- date funds were last dispersed, where applicable (attach as exhibit a copy of the trust account ledger)
- a statement that the funds were or appear to have been received for provision of legal services and a brief description of the legal services which were/were to have been provided
- efforts made by you to deliver the funds to the client(s) (attach as exhibit copies of letters to client(s), newspaper advertisements, etc. if applicable)
- a statement that there are no conditions to which the funds are subject
- if the client entitled to the funds was a corporation, a statement as to whether the

- corporation still exists according to the official records of the government of the jurisdiction in which the corporation was incorporated or continued
- a statement that you wish the Court to authorize the transfer of funds belonging to (name of client(s)), held in trust by (name of lawyer or law firm) to the Public Trustee

b) For Trust Funds that cannot be attributed to any person

- the amount of unattributable trust funds currently held
 - the date the funds were received
 - the reason(s), if known, why the funds were credited to the trust account and why the funds cannot be attributed to any particular client or other person
 - a statement that you wish the Court to authorize the transfer of unattributable funds held in trust by (name of lawyer or law firm) to the Public Trustee
2. You must enclose with your affidavit a \$25.00 administration fee **payable to the Nova Scotia Barristers' Society.**
 3. The Society will prepare the necessary documentation for a Chambers application and will include your application documents in the next application for disposal of undistributed trust funds.
 4. Once the Society has received the Order granting payment of the undistributed trust funds to the Public Trustee, the Director of Finance and Administration will provide you with a copy of the Order and request that you send a trust cheque in respect of the funds contained in your application to the Society, **payable to the Public Trustee.**
 5. The Director of Finance and Administration will then provide the Public Trustee with an original Order and enclose members' trust cheques.

