



THE CANADIAN
BAR ASSOCIATION
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July 12, 2016

Via email: fwilson@flsc.ca

Gavin Hume, Q.C.
Chair, Ethics Committee
Federation of Law Societies of Canada
World Exchange Plaza
45 O'Connor Street, Suite 1810
Ottawa, ON K1P 1A4

Dear Mr. Hume:

Re: Model Code of Professional Conduct – Consultation Report – January 29, 2016

Thank you for seeking the input of the Canadian Bar Association on revisions to the Federation's Model Code of Conduct proposed in the January 29, 2016 Consultation Report.

The CBA Ethics and Professional Responsibility Committee has considered the amendments to the rules on competence, dishonesty/fraud, and incriminating physical evidence, as well as the proposed new rule addressing responsibilities that arise when a lawyer leaves a firm. We also sought the views of the CBA Criminal Justice Section for the draft amendments on incriminating physical evidence.

We commend the Federation for taking this initiative. For the rule on incriminating physical evidence, we recommend that the following be added to Rule 5.1-2A, Commentary [4] for greater certainty: *"A lawyer cannot merely continue to keep possession of the incriminating physical evidence."*

Apart from this, we do not propose further changes.

Yours truly,

(original letter signed by Tina Head for Anthony J. Kavanagh)

Anthony J. Kavanagh
Chair, CBA Ethics and Professional Responsibility Committee