

CBA Welcomes Government Retreat on Money Laundering

Lawyers in Canada have won an important victory. The federal government has finally acknowledged that the financial reporting regime did not recognize the unique nature of lawyer-client confidentiality. It has removed any obligation upon lawyers to comply with Part I of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

The government has announced, though, its intention to introduce "re-designed" rules regarding lawyers, promising that they will not adversely affect legal counsels' ability to fulfill their duties and obligations to their clients, and that the "re-design" will take place in consultation with the legal profession.

The CBA has adamantly taken the position that no legislation should compromise lawyers' confidential relationship with their clients. As far back as five years ago, prior to the introduction of Bill C-22, the Proceeds of Crime (Money Laundering) Act, the CBA urged government officials in the Departments of Finance, Justice, Foreign Affairs and Solicitor General to exempt lawyers and Quebec notaries from any mandatory reporting scheme.

The CBA stressed this point to Parliamentary Committees studying the bill before it came into effect. Yet the government insisted that lawyers and their clients and the relationship between them should not be fully protected. The CBA continued to fight for change and intervened when the law was challenged in the Supreme Court of B.C. in November 2001. That challenge led to a temporary stay of the law as it applied to Canadian lawyers and Quebec notaries, and the Minister of Justice was later persuaded by the CBA and the Federation of Law Societies of Canada to treat this stay as nation-wide.

This week's decision by the government makes it clear that legal counsel and law firms will not be put in the untenable position of working against the interests of their clients. Nevertheless, while these are positive developments for the profession, the CBA must remain vigilant in light of the government's declared intention to craft new regulations that will affect lawyers, and in light of a disturbing trend among legislators to see it as good law enforcement to deputize lawyers.

I would like to offer, on your behalf, sincere thanks to our counsel, Ron Skolrood and Greg DelBigio, both of Vancouver, who took on this case pro bono.

The CBA looks forward to helping the government during the coming consultations. Rest assured that we will continue to scrutinize any proposed new scheme to ensure that it fully respects the fundamental confidential relationship between lawyers and their clients.