

# Initial Checklist for Protecting Clients' Interests and Closing a Law Office in an Orderly Manner

## CONTEXT

Any attorney engaged in the private practice of law has an additional responsibility to his/her clients, staff and family to ensure that a plan is in place for the orderly handling of the client's matter in the event of the lawyer's death or disability, including closing down the law practice, if necessary. This is particularly important in the case of a sole practitioner. See NC Rules of Professional Conduct 1.3, Comment [5]. This checklist contains the framework for the information that an attorney should collect in advance while actively practicing law. This type of information would be required of another attorney or a Trustee if he/she were needed to step in and manage the law practice closure.

- ☐ 1. Use retainer agreements with clients that state you have arranged for an attorney (the "Assisting Attorney") to close your practice in the event of death, disability, impairment, or incapacity. Include a statement of consent, authorizing the Assisting Attorney to contact the client if necessary.
  
- ☐ 2. Have a thorough and up-to-date office procedure manual that includes information on:
  - a. How to check for a conflict of interest.
  - b. How to use the calendaring system.
  - c. How to generate a list of active client files, including client names, addresses, and phone numbers.
  - d. Where client ledgers are kept.
  - e. How the open/active files are organized.
  - f. How the closed files are organized and how to access them.
  - g. The office policy on keeping original documents of clients.
  - h. Where original client documents are kept.
  - i. Where the safe deposit box is located and how to access it.
  - j. The bank name, address, account signers, and account numbers for all law office general and trust accounts.
  - k. The location of all law office bank account records (general and trust).
  - l. The location of all electronically stored firm and client records. Include where to find, or who knows about, the computer passwords for email, online storage and all other web-based systems.
  - m. How to access your voice mail (or answering service) and the access code numbers.
  - n. Where the post office or other mail service box is located and how to access it.

- o. How to access any online law practice identities, including Facebook, Twitter, LinkedIn, and other social media accounts.
- ☐ 3. Make sure you document all file deadlines (including follow-up deadlines) on your calendaring system.
- ☐ 4. Document your files.
- ☐ 5. Keep your time and billing records up to date.
- ☐ 6. Avoid keeping original documents of clients, such as wills and other estate planning documents. If you do have original documents, maintain them in a central place, indexed, within the office.
- ☐ 7. Have a written agreement with the Assisting Attorney who will close your practice that outlines the responsibilities involved in closing your practice. Determine whether the Assisting Attorney will also be your personal attorney, or if you need to designate a personal attorney for yourself. Be sure to choose an Assisting Attorney who is sensitive to conflict of interest issues. Also consider the possibility of needing a third attorney to act as the Trust Account Signor.
- ☐ 8. If your written agreement authorizes the Assisting Attorney to sign trust or general account checks, follow the procedures required by your local bank. Decide whether you want to authorize access at all times, at specific times, or only upon the happening of a specific event. In some instances, you and the Assisting Attorney will have to sign bank forms authorizing the Assisting Attorney to have access to your trust or general account. Choose your Assisting Attorney wisely as he or she may have access to your clients' funds.
- ☐ 9. Familiarize your Assisting Attorney with your office systems and keep him or her apprised of staff and other office changes.
- ☐ 10. Introduce your Assisting Attorney to your office staff and make certain your staff knows where you keep the written agreement and how to contact the Assisting Attorney if an emergency occurs. If you practice without regular staff, make sure your Assisting Attorney knows whom to contact (the landlord, for example) to gain access to your office.
- ☐ 11. Inform your spouse or closest living relative and the personal representative of your estate of the existence of this agreement and how to contact the Assisting Attorney.
- ☐ 12. Forward the contact information of your Assisting Attorney to Lawyers Mutual Liability Insurance Company or your professional liability insurance carrier each year. This will enable your professional liability insurance carrier to locate the Assisting Attorney in the event of your death, disability, impairment, or incapacity.
- ☐ 13. Renew your written agreement with your Assisting Attorney (and Trust Account Signor, if applicable) each year. If you include the name of your Assisting Attorney in your retainer agreement, make sure it is current.
- ☐ 14. Arrange for payment of your Assisting Attorney, Trust Account Signor, and support staff during the closing process. Consider purchasing (or having the firm purchase) an insurance policy to cover these costs.