



Federation of Law Societies of Canada

News Release

Supreme Court of Canada Clarifies Conflicts of Interest Rules

July 5, 2013

The Federation of Law Societies of Canada welcomes the unanimous decision of the Supreme Court of Canada in *Canadian National Railway Co. v. McKercher LLP* released July 5, 2013.

The case raised a number of critical issues relating to the rules governing the conduct of lawyers in situations of conflict of interest. The Court's decision brings clarity to these rules, particularly to the scope and applicability of the "bright line" rule from the Court's earlier decision in *R. v. Neil*. The rule prohibits a lawyer from representing one client whose legal interests are directly adverse to immediate interests of another client, even in unrelated matters, unless both clients consent.

The Federation has developed a Model Code of Professional Conduct that provides guidance to the law societies in setting rules governing legal ethics and professional conduct. The Model Code includes rules on conflicts of interest that were developed by our Standing Committee on the Model Code after extensive consideration. These rules are designed to protect the public interest and to respect the duties that are fundamental to the lawyer-client relationship. The rules were drafted to reflect existing law on conflicts of interest as set out by the Supreme Court of Canada in its decisions in *R. v. Neil*, and *Strother v. 3464920 Canada Inc.*

"The conflict of interest rules in the Model Code reflect the Federation's view that the "bright line" rule is the best way to protect the public interest" says Federation Gerald R. Tremblay, C.M., O.Q., Q.C., Ad.E. "The Federation is very pleased that the Court today confirmed this approach to the rules governing conflicts of interest. This decision by the Supreme Court is the culmination of many years of thoughtful reflection within law societies and the legal profession about this important aspect of professional ethics."

The Federation is satisfied that the rules in its Model Code are consistent with the Court's decision. However, the Standing Committee will be reviewing the decision in due course and will consider whether the rule or its accompanying commentary should be refined in any way.

The Federation was represented at the Supreme Court by Vancouver lawyers John Hunter, Q.C. of Hunter Litigation Chambers and by Stanley Martin of Fasken Martineau.

The Federation of Law Societies of Canada is the national coordinating body of the 14 law societies mandated by provincial and territorial law to regulate Canada's 100,000 lawyers and Quebec's 4,000 notaries in the public interest. It is a leading voice on issues of national and international importance relating to the administration of justice and the rule of the law.

For more information on the Federation, please visit our web site at www.flsc.ca

For more information about this release, or to acquire a high resolution photograph of the Federation President, please contact:

Bob Linney
Director of Communications / Directeur des communications
Federation of Law Societies of Canada /
Fédération des ordres professionnels de juristes du Canada
Tel.: 613.783.7399
Cell: 613.795.4346