

Avoiding financial difficulty

Business essentials for lawyers

"I owe, I owe, it's off to work I go"
– Anonymous

Are you among those who believe it necessary to purchase a new vehicle every two years, hold a golf membership, take two annual vacations, and send your kids to private school? The idea that a law degree automatically entitles one to an affluent lifestyle is an illusion that has landed more than one lawyer in financial hot water.

And even if you don't buy into the affluent lifestyle illusion, how prepared are you if an unforeseen financial problem arises?

It's deceptively easy to get into financial difficulties that make bankruptcy a potential solution. What happens, for example, if you miss a quarterly income tax payment? Penalties and interest mount, making it increasingly difficult to catch up. Or what if you are ill or incapacitated for a time? Even with disability insurance, your earnings can drop dramatically while your expenses continue. And if a key client can't pay your bill, even temporarily, what then? Suddenly, your own future is in jeopardy.

Anything, from changes to tax shelter laws, simple overspending, or low Legal Aid tariffs can have a devastating effect on your financial picture. To maintain your reputation and your clientele, it is critical that you avoid financial difficulties, or, if you're already facing problems, to deal with them immediately.

Almost a third of the people who seek my help when they are in financial difficulties are professionals – yes, even lawyers (and in the last legal aid crisis, that figure was even higher). To make sure that you're not one of the statistics, proper financial planning is essential.

Your first step, whether you are just starting out or have been in practice for a while, is to retain the services of a good accountant. He or she will help you develop a complete business plan, including monthly cash flow statements, business objectives and financial actions specific to your needs. This plan will ensure that instead of running around in circles, you'll have a clear idea of what you want to achieve, where you want to be financially, and how you'll get there.

With your accountant's help, review the finances for your practice. Are you financing your business with a bank loan or are you using a credit card? If you've opted for a credit card, remember that interest rates run between 11 and 22 percent per month, which may result in your ability to make only minimum monthly payments. This could, in turn, mean digging yourself ever more deeply into the debt hole. Find out what your alternatives are, and set your financing in order as soon as possible.

Budgeting for expenses is also vital. Be sure to consider all your expenses, including salaries, rent, Law Society dues, Errors and Omissions Insurance and your own draw. If you find that your practice income is less than your expenses, you'll need to fund the difference by borrowing, either from a bank, family or friends (but definitely not from your Trust Account – if you're at all tempted to take that route, the Law Society's strict approach will lead to disciplinary action and even disbarment).

In your budget, remember the expenses that must be dealt with monthly, quarterly, and yearly. For example, depending on your billings, as a GST registrant you must remit GST either monthly or yearly. This is not your money. It is trust monies that came from your clients and it belongs to the federal government. To be safe, and to avoid the temptation of spending it, put it in a special account so that when the GST must be paid, you're not scrambling to find the funds elsewhere.

The same thing holds true for source deductions. Again, this is not your money. It is trust monies and must be paid monthly to the Canadian government. Put it in a special account.

And, whether you want to or not, you are also required to remit quarterly instalments of your own income tax to the government. Failure to do so will not only result in interest charges on your late payments, it can also be disastrous at tax time. If you have to find \$40-50,000 on April 30th and you haven't put the money away, you'll be stuck playing catch-up – or falling further and further behind. Calls and letters from the Canada Customs and Revenue Agency will make this a harrowing experience at best.

It is possible to rise above financial difficulties without damaging your reputation, but the key to avoiding problems in the first place is prevention. Recognize that, just like in every other profession, the lifestyle you want must be earned through hard work, effort, and responsible planning. Your practice is essentially a business like any other, so while you're taking care of other people's legal and business concerns, you also need to take care of your own.

Stanley J. Kershman (info@bankruptlaw.com) is the head of the Bankruptcy and Insolvency and Restructuring Department at the law firm of Perley-Robertson, Hill & McDougall LLP, as well as a speaker, author, and certified specialist in bankruptcy and insolvency law. His book "Credit Solutions: Kershman on Advising Secured and Unsecured Creditors" published by Carswell is in its second printing. He is also a Deputy Small Claims Court Judge.