

**CHECKLIST FOR SPECIAL COMMISSIONER, ASSISTING ATTORNEY FOR  
CLOSING A PRACTICE OF AFFECTED ATTORNEY WHEN THERE HAS BEEN  
NO ADVANCED PROVISION**

*IMMEDIATELY (WITHIN 2 – 3 DAYS) UPON RECEIPT OF ORDER OF APPOINTMENT:*

- ⇒ Download from the Kentucky Bar Association website ([www.kybar.org](http://www.kybar.org)) copies of forms, letters, court documents and checklists that will assist you in closing out the affected attorney's practice.
- ⇒ Obtain several certified copies of Order of Appointment as you may be required to provide this to banks, post office, executor, malpractice carrier, landlord, utilities and others.
- ⇒ Identify and attempt to contact affected attorney's secretary, paralegal or other office personnel to ascertain whether that individual is willing and able to assist you in locating keys, account numbers, passwords, and in identifying landlords, accountants, utility supplies, outstanding invoices, banks, post office box numbers, and other information that you will require.
- ⇒ Collect keys, account numbers, passwords, landlord's and accountant's information, utility supplies, outstanding invoices, banks, post office box numbers, and other information that you will require to close out affected attorney's practice.
- ⇒ Contact landlord (if office is not owned by affected attorney) and utility companies to ascertain when payment is due and to make arrangements for access to affected attorney's office.

*FIRST WEEK:*

- ⇒ Check calendar for pending deadlines and urgent items.
- ⇒ Where deadlines and urgent items have been identified, petition the Court, in your capacity as a Special Commissioner, for enlargement of time so that the client may retrieve his/her file and retain substitute counsel.
- ⇒ Assemble or review list of affected attorney's active files/clients in order to perform conflict check.
- ⇒ For those conflicted clients, send clients letter informing them that they will need to pick up their file immediately and retain substitute counsel as you are unable to review the contents of the file for deadlines.
- ⇒ On a continuing basis, retrieve and open all unopened mail and email.

*FIRST TWO WEEKS:*

- ⇒ Perform review of non-conflicted client files to ascertain whether there are uncalendared deadlines, and to identify appropriate motions to withdraw as counsel.

- ⇒ Write to clients with active files, advising them that they need to retain new counsel, and advise them of pending deadlines. Explain how and when they should plan to retrieve their files.
- ⇒ Prepare appropriate releases for clients to sign upon receipt of their file, and written permission to destroy affected attorney's copy of file after a specified period of time.
- ⇒ Prepare appropriate checklists for items returned to clients.
- ⇒ Contact opposing counsel for matters where depositions, court appearances, discovery is due and set in order to obtain extensions of time. Get agreed orders where possible, or follow up with written confirmation of your agreement.
- ⇒ Place an announcement in the local paper, informing clients/former clients whom they may contact with questions regarding their accounts and files.

#### *WITHIN FIRST MONTH:*

- ⇒ Obtain client's permission to file motion to withdraw as counsel of record, or where they advise that new counsel has been retained, contact counsel for agreed order substituting counsel.
- ⇒ Make arrangements for telephone company to forward affected attorney's calls to different number once affected attorney's telephone is disconnected.
- ⇒ Complete appropriate forwarding forms with United States Post Office so that mail will be properly forwarded once affected attorney's post office box is closed.
- ⇒ Contact affected attorney's bank(s) and provide banks with certified copies of Order of Appointment, in order to determine whether the Order of Appointment will suffice to give you access to the affected attorney's accounts, or whether the bank(s) require a more specific order, in order to give you appropriate access. Draft appropriate motions where necessary.
- ⇒ Determine what, if any, long term leases, affected attorney has entered into (i.e. vehicle leases, internet, cloud storage, premises, advertising, etc.) and contact the lessor to make arrangements for terminating leases.

#### *WITHIN TWO MONTHS:*

- ⇒ Make sure client billing is current, with all payments made by clients and time for services performed by affected attorney, and expenses incurred by affected attorney posted to client accounts.
- ⇒ Send out final bills to clients, attempt to collect amounts due, and post final payments.
- ⇒ Reconcile bank account/general account from which monthly expense are paid, and obtain Court's permission to pay final expenses, where funds are available.

- ⇒ Perform review/audit of affected attorney's trust/escrow account.
- ⇒ Prepare full accounting to the Court, disclosing all discrepancies in client's trust accounts.
- ⇒ Petition Court for permission to distribute from trust/escrow account settlement proceeds/judgment awards that can clearly be identified as belonging to clients.
- ⇒ Contact Kentucky Office of Bar Counsel and affected attorney's malpractice carrier where it appears that affected attorney has stolen or misappropriated client fee accounts and/or settlements/judgment awards.
- ⇒ Where applicable, if probate action has been commenced, contact affected attorney's estate executor/administrator, in order to ascertain if he/she requires access to affected attorney's office in order to inventory furnishings/equipment, and for the exchange of other essential information.

*WITHIN THREE-FOUR MONTHS:*

- ⇒ Obtain copy of closed file list, or where unavailable, make inventory of closed files.
- ⇒ Make arrangements for long term storage of closed files.
- ⇒ Where possible, write letters to clients of closed files, giving them information regarding the retrieval of closed files and the length of time when the file will remain in storage prior to destruction.
- ⇒ Inform the Kentucky Bar Association where the closed files will be stored and the name, address, and phone number of the contact person for retrieving those files by completing the KBA's online form located at [www.kybar.org/filestorage](http://www.kybar.org/filestorage).
- ⇒ Where appropriate, make arrangements for disconnection of utilities, internet, telephone, and for surrender of the premises to landlord.

*WITHIN SIX MONTHS:*

- ⇒ Ideally, you should be able to close out the affected attorney's practice within the six months. At the appropriate time, file a complete report with the Court detailing the activities you have performed, the disposition of each active client's case (whether you were able to reach them, whether they retrieved their files, whether an agreed order was entered substituting counsel, where unretrieved files are stored and who is responsible for safekeeping the file), as well as disposition of inactive client's files. Attach all charts you prepared for tracking the files. Prepare a full final accounting, including client accounts with outstanding balances that you were unable to collect. Provide a copy of the accounting to the affected attorney's probate estate where applicable. Move the Court for permission to be relieved from further duty to the Court in your capacity as trustee.