

Tips for Safeguarding Client Trust Funds



THE Bocker Law Firm P.A.

Here are some easy-to-implement and smart accounting practices to safeguard your trust account and your law license:



1. Always, always, always be vigilant; lawyers have a professional duty to supervise their non-lawyer staff and can be disciplined by the Bar for failure to do so.

2. Have well-documented and sound accounting procedures in place that are followed consistently.

3. Write a letter to your bank stating that the principals or partners are the only ones who are authorized to transfer/withdraw money from any firm accounts.

WE OFFER CUSTOMIZED TRUST ACCOUNT PROCEDURAL ASSESSMENTS AND SEMINARS FOR LAW FIRMS AND LAWYERS.

4. Reconciliations are still the number one problem with attorney trust accounts. There are three reports that are required by the State Bar – two on a quarterly basis and one on a monthly basis. These reports are described below:

a. Quarterly three-way reconciliations: the three-way reconciliation compares the sum of the individual client ledgers to the firm's general ledger and to the bank statement.

b. Quarterly review reports: three random client transactions must be verified with the source documentation each quarter.

c. Monthly reconciliations: the bank statement must be reconciled with the general ledger.

The forms for all three reports may be found on the State Bar's website, or we can provide them to you.

5. Ensure to keep all records required by the State Bar including: source and date of receipt of deposited funds; canceled checks or digital images; instructions or authorizations to transfer, disburse or withdraw funds; bank statements; ledgers; etc. There are very specific requirements for this documentation, including what information must be contained on each document.

6. If you delegate certain tasks to others, implement a system so that different employees do different functions:

a. The employee who opens and reviews the trust account

statements should not also reconcile the accounts.

b. The employee who signs checks must not complete the reconciliations. This is prohibited by the State Bar. Any person who signs the checks must complete a one-hour CLE. No electronic signatures, pre-printed signatures, or stamped signatures are permitted on trust account checks.

c. The lawyer must supervise any employees involved with the trust account, and must review, sign and date all reconciliation reports. Appropriate reconciliation review includes review of the bank statements and cancelled checks on a monthly basis.

7. Consider Positive Pay, an anti-fraud service offered by banks which protects companies against altered checks and counterfeit check fraud. After a firm cuts checks, the firm transmits to their bank a list of the checks they issued with the check number, date and dollar amount. When checks are presented to the bank for payment, the bank will match each check presented to the firm's previously transmitted lists. If a check does not match, it will not clear.

8. Although the Rules permit non-lawyers to be signatories on trust accounts, best practices dictate that non-lawyers should not be signatories.

9. A lawyer may only take funds remaining in the trust account if the funds can be conclusively documented as the lawyer's money.

10. Miscellaneous items: (1) Make sure the account is set up as an IOLTA account; (2) When you meet with your bank, go with your NSF directive; (3) Bank statements must include copies of canceled checks; (4) SIZE does matter (when it comes to check copies from the bank) and the rules are very specific; (5) Specify clients, bank name, and check number on all trust account deposit slips and keep a copy; (6) Keep all trust records for 6 years; and (7) Words not to use with trust accounts are "borrow, adjustment," and "auto-reconcile."

11. Consult an expert if you are unsure. We can assess your trust account record-keeping and note deficiencies. We can also provide you with a checklist to assist with your reconciliations in the future and may be able to suggest a better, or more efficient way, to handle the trust account. Let us know if we can assist you. It's never a bad idea to have someone look over your shoulder.

Follow @TrustAccountNC for attorney scam alerts and other news affecting attorneys and their trust accounts.