

A GUIDE TO SETTING UP AND USING YOUR LAWYER TRUST ACCOUNT

Published
by



Professional
Liability Fund

2018

Oregon State Bar Professional Liability Fund

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Professional Liability Fund

CAROL J. BERNICK
CHIEF EXECUTIVE OFFICER

January 2018

Dear Oregon Lawyer:

This edition of *A Guide to Setting Up and Using Your Lawyer Trust Account* replaces the green-covered handbook of the same name published by the Professional Liability Fund in 2016.

This handbook was created to help you understand and fulfill your ethical obligation to protect the funds and property of your clients, under Rule 1.15 of the Oregon Rules of Professional Conduct.

A Guide to Setting Up and Using Your Lawyer Trust Account explains when to establish a trust account and what type to use, and it provides practical information about how to open and operate a trust account – including how to correctly reconcile the trust journal with the bank trust account statement.

Correctly protecting your clients' funds and property is critical to retaining your license to practice law in Oregon. The Professional Liability Fund has provided this handbook to aid you in your practice of law and to help ensure the protection of your clients' property. In addition, the Professional Liability Fund offers free and *confidential* practice management assistance through our Practice Management Advisor Program. Call the Professional Liability Fund and ask for a practice management advisor if you wish to take advantage of this service.

We hope this handbook will be of assistance to you and that you will utilize our practice management advisors.

Sincerely yours,

Barbara S. Fishleder
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ACKNOWLEDGMENTS

The Oregon State Bar Professional Liability Fund gratefully acknowledges the assistance of those who helped prepare this handbook:

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I. INTRODUCTION

This handbook:

1. describes the rules for handling client funds and property;
2. provides a practical guide to creating and maintaining a trust account; and
3. gives guidance on handling client funds.

We hope this handbook will help you safeguard client funds, assure greater accountability, and reduce the number of complaints received each year relating to the management of client funds. However, this handbook does not address all the legal issues that might arise when handling complex legal matters involving client property.

II. THE IMPORTANCE OF THE LAWYER TRUST ACCOUNT

A. Ethical Obligations

The ethical obligations for those who set up lawyer trust accounts are rooted in the principle that a lawyer who holds funds of a client or third person in trust, even for a brief time or intermittently, has the duty as a fiduciary to safeguard and segregate those assets from the lawyer's personal and business assets. Oregon Rules of Professional Conduct (ORPC) 1.15-1 and ORPC 1.15-2 set forth the ethical duties and obligations of a lawyer holding client or third person funds. The duties in ORPC 1.15-1 and ORPC 1.15-2 are intended to eliminate not only the *actual* loss of client funds but also their *risk* of loss while in the lawyer's possession.

Oregon Rule of Professional Conduct 1.15-1 Safekeeping Property

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account" maintained in the jurisdiction where the lawyer's office is situated. Each lawyer trust account shall be an interest bearing account in a financial institution selected by the lawyer or law firm in the exercise of reasonable care. Lawyer trust accounts shall conform to the rules in the jurisdictions in which the accounts are maintained. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.**
- (b) A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purposes of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes.**

- (c) A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the fee is denominated as “earned on receipt,” “nonrefundable” or similar terms and complies with Rule 1.5(c)(3).**
- (d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.**
- (e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.**

Oregon Rule of Professional Conduct 1.15-2 IOLTA Accounts and Trust Account Overdraft Notification

- (a) A lawyer trust account for client funds that cannot earn interest in excess of the costs of generating such interest (“net interest”) shall be referred to as an IOLTA (Interest on Lawyer Trust Accounts) account. IOLTA accounts shall be operated in accordance with this rule and with operating regulations and procedures as may be established by the Oregon State Bar with the approval of the Oregon Supreme Court.**
- (b) All client funds shall be deposited in the lawyer’s or law firm’s IOLTA account unless a particular client’s funds can earn net interest. All interest earned by funds held in the IOLTA account shall be paid to the Oregon Law Foundation as provided in this rule.**
- (c) Client funds that can earn net interest shall be deposited in an interest bearing trust account for the client’s benefit and the net interest earned by funds in such an account shall be held in trust as property of the client in the same manner as is provided in paragraphs (a) through (d) of Rule 1.15-1 for the principal funds of the client. The interest bearing account shall be either:
 - (1) a separate account for each particular client or client matter; or**
 - (2) a pooled lawyer trust account with subaccounting which will provide for computation of interest earned by each client’s funds****

and the payment thereof, net of any bank service charges, to each client.

- (d) In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:
- (1) the amount of the funds to be deposited;
 - (2) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
 - (3) the rates of interest at financial institutions where the funds are to be deposited;
 - (4) the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;
 - (5) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and
 - (6) any other circumstances that affect the ability of the client's funds to earn a net return for the client.
- (e) The lawyer or law firm shall review the IOLTA account at reasonable intervals to determine whether circumstances have changed that require further action with respect to the funds of a particular client.
- (f) If a lawyer or law firm determines that a particular client's funds in an IOLTA account either did or can earn net interest, the lawyer shall transfer the funds into an account specified in paragraph (c) of this rule and request a refund for the lesser of either: any interest earned by the client's funds and remitted to the Oregon Law Foundation; or the interest the client's funds would have earned had those funds been placed in an interest bearing account for the benefit of the client at the same bank.
- (1) The request shall be made in writing to the Oregon Law Foundation within a reasonable period of time after the interest was remitted to the Foundation and shall be accompanied by written verification from the financial institution of the interest amount.
 - (2) The Oregon Law Foundation will not refund more than the amount of interest it received from the client's funds in question. The refund shall be remitted to the financial institution for transmittal to the lawyer or law firm, after appropriate accounting and reporting.
- (g) No earnings from a lawyer trust account shall be made available to a lawyer or the lawyer's firm.

- (h) A lawyer or law firm may maintain a lawyer trust account only at a financial institution that:**
- (1) is authorized by state or federal banking laws to transact banking business in the state where the account is maintained;**
 - (2) is insured by the Federal Deposit Insurance Corporation or an analogous federal government agency;**
 - (3) has entered into an agreement with the Oregon Law Foundation:**
 - (i) to remit to the Oregon Law Foundation, at least quarterly, interest earned by the IOLTA account, computed in accordance with the institution's standard accounting practices, less reasonable service charges, if any; and**
 - (ii) to deliver to the Oregon Law Foundation a report with each remittance showing the name of the lawyer or law firm for whom the remittance is sent, the number of the IOLTA account as assigned by the financial institution, the average daily collected account balance or the balance on which the interest remitted was otherwise computed for each month for which the remittance is made, the rate of interest applied, the period for which the remittance is made, and the amount and description of any service charges deducted during the remittance period; and**
 - (4) has entered into an overdraft notification agreement with the Oregon State Bar requiring the financial institution to report to the Oregon State Bar Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored.**
- (i) Overdraft notification agreements with financial institutions shall require that the following information be provided in writing to Disciplinary Counsel within ten banking days of the date the item was returned unpaid:**
- (1) the identity of the financial institution;**
 - (2) the identity of the lawyer or law firm;**
 - (3) the account number; and**
 - (4) either (i) the amount of the overdraft and the date it was created; or (ii) the amount of the returned instrument and the date it was returned.**
- (j) Agreements between financial institutions and the Oregon State Bar or the Oregon Law Foundation shall apply to all branches of the financial institution. Such agreements shall not be canceled except upon a thirty-day notice in writing to OSB Disciplinary Counsel in the case of a trust account overdraft notification agreement or to the Oregon Law Foundation in the case of an IOLTA agreement.**
- (k) Nothing in this rule shall preclude financial institutions which participate in any trust account overdraft notification program from charging lawyers or law firms for the reasonable costs incurred by the financial institutions in participating in such program.**

(l) Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing of the same information required by paragraph (i). The lawyer shall include a full explanation of the cause of the overdraft.

(m) For the purposes of paragraph (h)(3), “service charges” are limited to the institution’s following customary check and deposit processing charges: monthly maintenance fees, per item check charges, items deposited charges and per deposit charges. Any other fees or transaction costs are not “service charges” for purposes of paragraph (h)(3) and must be paid by the lawyer or law firm.

Lawyers must account for every penny of these funds as long as the funds remain in their possession. ***This responsibility cannot be delegated, transferred, or excused by the ignorance, inattention, incompetence, or dishonesty of the lawyer or the lawyer’s employees or associates.*** A lawyer may employ others to help carry out this duty but must provide adequate training and supervision to ensure that all ethical and legal obligations to account for those monies are being met. A lawyer can delegate but not abdicate responsibility for the trust account.

ORPC 5.3 Responsibilities Regarding Nonlawyer Assistance requires a lawyer having direct supervisory authority over the nonlawyer to make reasonable efforts to ensure the person’s conduct is compatible with the professional obligations of the lawyer. The rule says that a lawyer shall be responsible for conduct of such a person that would violate the Rules of Professional Conduct if engaged in by a lawyer if: “(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.” *In re Mannis*, 295 Or 594, 668 P2d 1224 (1983) (lawyer reprimanded although he was unaware employee was commingling funds).

The need to handle a client’s funds with extreme care should be self-evident. Cases continue to arise in which practicing lawyers, whether inadvertently or intentionally, mishandle their clients’ money, subjecting those clients to the risk of economic hardship and undermining public confidence in the legal profession. Mishandling client funds can also subject the lawyer to disciplinary action, which may result in the lawyer losing his or her license to practice law.

B. Disciplinary Action Resulting from Mismanagement of Client Funds or Property

The Oregon Supreme Court has consistently required strict compliance with the

ethical rules governing client funds and property. The court has also developed a significant body of case law interpreting these rules. The rules distinguish between a charge of dishonesty by misappropriation under ORPC 8.4(a)(3) and a charge of failing to maintain funds in a trust account under ORPC 1.15-1. As the court pointed out in *In re Phelps*, 306 Or 508, 760 P2d 1331 (1998), conduct leading to a charge of failing to maintain client funds in trust often precedes conduct leading to a charge of dishonesty by misappropriation, but the two are different. A lawyer may remove money from a trust account before intentionally appropriating the money for his or her own purposes (a violation of the prohibition against dishonesty), but removal of money from a trust account does not necessarily constitute an intentional misappropriation. The difference between the two is reflected in the sanction imposed. If the Oregon State Bar (OSB) proves a lawyer guilty of dishonesty by intentionally appropriating client funds to the lawyer's own use, the sanction is disbarment. Failing to maintain funds in a trust account does not require intent, and it carries a lesser sanction. See *In re Starr*, 326 Or 328, 952 P2d 1017 (1998).

The disciplinary rules also require that a lawyer *promptly* notify a client of receipt of client funds, securities, or other properties. Client property that is not cash or another form of money must be labeled and identified upon receipt and placed in a safe, a safe deposit box, or other place of safekeeping as soon as practical. Lawyers must also maintain complete records of all funds, securities, and other property of a client coming into the lawyer's possession and must render accounts to the client regarding the property. Failure to provide a client with a proper accounting of his or her property will result in discipline. *In re Gildea*, 325 Or 281, 936 P2d 975 (1997) (lawyer suspended for, among other things, failing to inventory a client's personal property, failing to tender a proper accounting of funds inadvertently placed in his personal account rather than his trust account, and failing to maintain adequate records of client's funds). A lawyer's failure to *promptly* pay or deliver, at a client's request, the funds, securities, or other property in the lawyer's possession to which the client is entitled will also result in discipline. See *In re Arbuckle*, 308 Or 135, 775 P2d 832 (1988).

III. WHAT IS A LAWYER TRUST ACCOUNT?

ORPC 1.15-1 requires a lawyer to "hold property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate 'Lawyer Trust Account' maintained in the jurisdiction where the lawyer's office is situated." Lawyers must identify trust accounts by the phrase "lawyer trust account." Lawyer trust accounts must be separate from the lawyer's business account. "A lawyer may deposit the lawyer's own funds into the lawyer trust account for the sole purpose of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes." ORPC 1.15-1(b). See OSB Legal Ethics Op No 2005-145 (The rule contains no exception that allows "cushions," and placing such funds in a lawyer trust account would constitute impermissible commingling.)

Each lawyer trust account shall be an insured, interest-bearing trust account in a financial institution selected by the lawyer or law firm in exercising reasonable care. ORPC 1.15-1(a); ORPC 1.15-2(h)(2). Depositor accounts, including trust accounts, are insured by the FDIC, or analogous federal government agency, up to the standard maximum deposit insurance amount (\$250,000), for each deposit insurance ownership category. If you are holding more than the insured limit in trust for any one client, allocate funds between multiple institutions and remind clients of the aggregate federal insurance limits to assure that each client's funds are protected. See Sylvia Stevens, "Trust Accounts and the FDIC," *Oregon State Bar Bulletin* (October 2008).

A lawyer or law firm may only maintain a lawyer trust account at a financial institution that has entered into an agreement with the Oregon Law Foundation (OLF) to (1) remit interest earned on IOLTA funds; (2) provide remittance reports; and (3) notify Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored. ORPC 1.15-2(h)(3)-(4).

A lawyer trust account may be set up in several ways. See ORPC 1.15-2. An Interest on Lawyer Trust Accounts (IOLTA) account is only for client funds that cannot earn net interest. These IOLTA funds are remitted to the Oregon Law Foundation, net any transaction costs. For client funds that can earn net interest, either a separate interest-bearing lawyer trust account for each client or client matter or a pooled interest-bearing lawyer trust account with subaccounting that provides for computation of interest earned by each client's funds and a payment to clients of interest earned, net any bank service charges. ORPC 1.15-1(a) requires that all lawyer trust accounts be maintained in compliance with ORPC 1.15-2. No earnings from a lawyer trust account shall be made available to the lawyer or the law firm. ORPC 1.15-2(g). All client funds must be deposited in the lawyer's or law firm's IOLTA account (explained below) unless a particular client's funds can earn net interest. ORPC 1.15-2(b).

In determining whether to establish a separate account for each client or client matter or a pooled interest-bearing lawyer trust account with subaccounting for each client, the lawyer or law firm shall consider "(1) the amount of the funds to be deposited; (2) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held; (3) the rates of interest at financial institutions where the funds are to be deposited; (4) the cost of establishing and administering a separate interest bearing lawyer trust account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit; (5) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and (6) any other circumstances that affect the ability of the client's funds to earn a net return for the client." ORPC 1.15-2(d).

A. IOLTA (Interest on Lawyer Trust Accounts) – Interest to Oregon Law Foundation

The Interest on Lawyer Trust Accounts (IOLTA) program is an innovative program that helps to provide access to legal representation regardless of income for Oregonians. IOLTA is the name given to lawyer trust accounts for nominal or short-term client deposits and that remit interest earnings, net any transaction costs, to the Oregon Law Foundation (OLF), a charitable, tax-exempt entity. Lawyers place into their IOLTA account, client funds that are too small in amount or held for too short of a time to earn interest for a client, net bank charges and administrative costs. It is a mandatory program for all Oregon lawyers since 1988. OLF distributes funds, through grants, to:

- ◆ support access to justice in Oregon by obtaining and distributing funds to provide legal services to persons of lesser means;
- ◆ promote diversity in the legal profession; and
- ◆ educate the public about the law.

To learn more about the OLF, visit the OLF website at www.oregonlawfoundation.org.

Typically, funds placed in an IOLTA account are retainers, advance deposits on fees and costs, or settlement funds. Although some deposits may be substantial, they rarely remain in the trust account long enough to generate net interest.

Clients must be advised that any interest earned on these sums will be transferred to the OLF. You can display a notice in the office, provide brochures, include a statement on the client's bill, or use any other reasonable means of communication. There are no tax consequences to the attorney or client from using an IOLTA. Lawyers only place funds in an IOLTA that otherwise would not produce net interest for a client. Therefore, clients suffer no loss from the IOLTA interest paid to the OLF. Moreover, the IRS has ruled that the interest earned on nominal and short-term client funds and paid over to a bar foundation pursuant to a court-established program is not includable in the gross income of any client or lawyer.

Lawyers must monitor the IOLTA account at reasonable intervals to determine whether circumstances have changed so a particular client's funds did or can earn net interest. You can calculate whether your client's funds would produce a positive net return of interest by this formula:

Interest = Principal x interest rate/12 x number of months.

For example, a \$10,000 deposit at 5 percent interest for one month would earn \$41.67 ($\$10,000 \times .05/12 \times 1 = \41.67) Compare this amount to the cost of the law firm's time to open the account, for example, \$25 plus the bank's monthly maintenance fee of \$7.50. The client would earn a positive net return of \$9.17 ($\$41.67 - \$25 - \$7.50 = \9.17 .) Keep in mind that interest rates are presently much lower than this example.

ORPC 1.15-2(e). If a lawyer or law firm determines that a particular client's funds did or can earn net interest, the lawyer must transfer the funds into a separate or pooled interest-bearing lawyer trust account. The lawyer or law firm is also required to request a refund for the lesser of either any interest earned by the client's funds and remitted to the OLF or the interest the client's funds would have earned had those funds been placed in an interest-bearing account for the benefit of the client at that same bank. ORPC 1.15-2(f). The request for a refund must be made in writing to the OLF within a reasonable period after the interest was remitted to the OLF and must be accompanied by written verification from the financial institution of the interest amount. ORPC 1.15-2(f)(1). The OLF will not refund more interest than it received from this client's funds. Refunds are remitted to the financial institution for transmittal to the lawyer or law firm after accounting and reporting. ORPC 1.15-2(f)(2).

If a client's funds can earn net interest, the lawyer or law firm must deposit the funds in an interest-bearing trust account for the client's benefit, and the net interest earned by funds shall be held in trust as property of the client. The interest-bearing account shall be either a separate account for the particular client or a pooled account for a group of such clients.

B. Pooled Accounts – Interest to Each Client

As the name implies, a pooled account with subaccounting provides for computation of interest earned by each client's funds and the payment of such funds, net any bank service charges, to each client. This account is used for all client funds, with interest earned remitted to each client (net a prorated share of bank service charges). This requires separately tracking each client's interest and crediting the interest to that client's account. If you use this type of trust account, you must prorate the bank service charges among the clients with funds on deposit. You must also report the interest earned by each client to the IRS at the end of each year.

C. Separate Accounts for Particular Clients or Client Matters – Interest to Each Client

Another type of interest-bearing account is the separate lawyer trust account established for a particular client or client matter. This type of account should be set up under the lawyer's Social Security or federal Taxpayer Identification number. Interest is reported under the lawyer's name on a Form 1099-INT issued by the bank. The lawyer must then issue a Form 1099-INT to the client to reflect the pass-through of interest. This type of account should be designated as "Lawyer Trust Account for Client XYZ."

D. Estate or Conservatorship Accounts

You must use separate bank accounts to maintain separate estate or conservatorship accounts. Appropriate accountings of the funds in these accounts must be made to the court, so they should be kept separate from other client funds. The federal Taxpayer Identification or Social Security number of the estate or conservatorship is used for these accounts, and any

interest generated is credited to the estate or conservatorship. All bank charges are the responsibility of the estate or conservatorship. These accounts are **not** considered “lawyer trust accounts” under ORPC 1.15-1 and ORPC 1.15-2.

IV. ESTABLISHING AN IOLTA LAWYER TRUST ACCOUNT

A. Setting Up the IOLTA Account

A lawyer trust account must be established in a financial institution in the jurisdiction where the lawyer’s office is situated ORPC 1.15-1(a). If you are licensed to practice in more than one state, you must comply with the trust account regulations of each state. When establishing a lawyer trust account, be sure to talk with someone at the financial institution who understands lawyer trust accounts.

Practice Tip: If you maintain a lawyer trust account in Washington, review the Professional Liability Fund (PLF) practice aid, “Trust Accounting Rules for Washington Practitioners” available on the PLF website, www.osbplf.org.

Practice Tip: Download the document entitled “Notice to Financial Institutions,” available on the OLF website, www.oregonlawfoundation.org. Take it to the bank when setting up your IOLTA account. This is not mandatory, but some financial institutions request documentation before opening an IOLTA account, and this form should help meet that requirement. It also clarifies what kind of account you are requesting. Interest rates on lawyer trust accounts vary widely. Lawyers can help the OLF in its mission by establishing their IOLTA accounts at an OLF Leadership Bank committed to maximizing the rate of return on IOLTA accounts. For a list of OLF Leadership Banks, visit the OLF website at www.oregonlawfoundation.org.

B. OSB Operating Regulations and Procedures

ORPC 1.15-2(a) provides that IOLTA accounts shall be operated under such “operating regulations and procedures as may be established by the OSB with the approval of the Oregon Supreme Court.” This provision represents one of several amendments to ORPC 1.15-2 since its original adoption. Lawyers would be well advised to monitor developments in OSB operating regulations and procedures.

C. Annual Compliance

ORS 9.675 provides that every active member of the OSB shall “certify annually to the bar whether the member maintains any lawyer trust accounts in Oregon. If a member maintains one or more lawyer trust accounts, the member must disclose the financial institution in which each account is held and the account number for each account. The executive director of the Oregon State Bar shall prescribe a form and due date for the certification and disclosures required by this section.”

For instructions on completing the annual certification, visit the OSB website, www.osbar.org/IOLTA.

Lawyers who fail to file an annual certification will receive a written notice of default from the OSB Executive Director. Any lawyer who fails to cure a default within 60 days after the date the notice is given will be administratively suspended. ORS 9.675(2). A person suspended under this section may be reinstated to membership in the bar only if the person pays all required fees and contributions and complies with all rules of procedure and rules of the Supreme Court relating to reinstatement. [2011 c.304 §2013 c.3 §3] ORS 9.675(3).

D. New Lawyer Trust Accounts

Lawyers opening a new IOLTA account are no longer required to complete a “Notice of Enrollment” form and submit it to the OLF within 30 days of establishing the account. When the requirement for annual certification was deleted from ORPC 1.15-2(m) and moved to ORS 9.675(2), the “Notice of Enrollment” requirement for new accounts was removed.

Aside from the mandatory annual OSB compliance, lawyers do not notify the OSB, OLF, or PLF when they set up a new trust account.

E. Mandatory Trust Account Overdraft Notification Program

All lawyer trust accounts are subject to the mandatory trust account overdraft notification program. ORPC 1.15-2(h)(4). If you receive notification from a financial institution that an instrument presented against your lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, you must promptly notify Disciplinary Counsel in writing. The written notice must include a full explanation of the cause of the overdraft and (1) the identity of the financial institution; (2) the identity of the lawyer or law firm; (3) the account number; and (4) either (i) the amount of the overdraft and the date it was created; or (ii) the amount of the returned instrument and the date it was returned. ORPC 1.15-2(l).

F. Bank Charges

Financial institutions that offer IOLTA accounts are instructed by the OLF that in no instance may the principal of a lawyer’s or law firm’s trust account be used to pay monthly maintenance fees, per-item check charges, items deposited charges, or per-deposit charges. These service charges are the responsibility of the OLF. ORPC 1.15-2(m). Any other fees or transaction costs are not “service charges” for the purposes of ORPC 1.15-2(h)(3) and must be paid by the lawyer or law firm. Carefully monitor your trust account because financial institutions may inadvertently charge check printing fees to a lawyer trust account, even though they have been specifically instructed by you to charge them to the lawyer’s or firm’s general or office account. Even such a relatively small amount may create an overdraft situation.

When a lawyer trust account is charged for any of the items listed below, the lawyer or law firm must immediately deposit a sum of money into the account to cover the costs. ORPC 1.15-1(b).

- ◆ NSF (non-sufficient funds) fees
- ◆ Stop payment charges
- ◆ Wire transfer fees
- ◆ Electronic transfer fees
- ◆ Check printing costs
- ◆ Deposit slip printing costs
- ◆ Endorsement stamp costs

These are all considered bank charges for which the lawyer or law firm is responsible and are *not* to be paid out of client trust funds. ORPC 1.15-2(m). Whether a lawyer or law firm can pass on client-related bank charges to the client (*e.g.*, NSF fees for the client's bounced check or wire and electronic transfer fees) is debatable. At a minimum, the client must agree to pay for such costs at the outset of representation. You can incorporate appropriate language into the written fee agreement with the client.

V. TRUST ACCOUNTING CONCEPTS

A. Each Client Should Be Considered a Separate Account

An important aspect of trust accounting is tracking each client's money separately to determine immediately the balance each client has in trust. To do this, maintain a separate record for each client that shows the amount of each deposit made to the trust account on behalf of that client, the amount of each disbursement, and the purpose for each. You can use individual ledger cards or set up proper reports to track these sub accounts for client trust funds in a computer program.

B. Don't Spend What You Don't Have

You cannot disburse money from a client's trust account on uncollected funds. A lawyer who disburses money on behalf of a client whose funds have not cleared the bank is using money from the trust account that belongs to other clients. Under new banking rules adopted in 2004, certain instruments may clear within one or two banking days. Some banks make funds available for use the same day they are deposited. However, if a check or draft is returned due to insufficient funds, an improper endorsement, a stop payment order, or other reasons, and the lawyer has already paid out the money on those funds, the lawyer can be in serious trouble for failing to preserve client funds in a trust account.

Take a cautious approach with your trust account. Be especially careful when a client insists upon paying a retainer in cash. Although some clients have legitimate reasons for engaging in cash only, others may be involved in criminal enterprises and

you may inadvertently become involved in money laundering. Carefully document any cash deposits and have your client sign your written receipt of cash. For clients who pay their retainer by check, wait a prudent amount of time for the funds to clear before drawing on those funds. For an ordinary transaction with an established client or known third party, wait three banking days for locally written checks, five banking days for checks written within Oregon, but outside your local area, and ten or more banking days for out-of-state checks. For checks in the amount of five thousand dollars or more, banks are allowed to hold these funds for seven banking days whether the check is local, in state, or out of state. To avoid the growing problem of check scams, wait at least ten banking days before disbursing funds in the following circumstances: (1) the transaction is with a new client or a client you are unsure about; (2) the check is very large; (especially compared with the extent of legal services provided, if the check is a retainer); (3) the check is from an unknown third party; or (4) any aspect of the transaction raises (or should raise) your suspicions. Counterfeit checks may be difficult to detect, so do not put your other clients trust funds at risk by withdrawing funds drawn on fraudulent deposits. To verify that funds have cleared, ask *your bank* to contact the *issuing bank*. Remember that drafts or other instruments may take longer than ten days to process.

For a thorough discussion of banking rules, check scams, and the time that may be necessary for funds to clear, See Sylvia Stevens, "Waiting for 'Go' Dough: A primer on disbursing client funds," *Oregon State Bar Bulletin* (June 2006), *Oregon State Bar Bulletin* (November 2008), Kimi Nam, "Check Scams Target Lawyers," *In Brief*, no. 106 (November 2008), Sheila Blackford, "Check Scams Becoming More Sophisticated," *In Brief*, no. 108 (November 2010), and Beverly Michaelis, "Scam Update: New Ways They Can Get Your Money," *In Brief*, no. 120 (January 2013).

C. Maintain an Audit Trail

ORPC 1.15-1(a) states that a lawyer shall maintain complete records of trust account funds and other property of clients or third persons in the lawyer's possession. "Complete" records include checkbooks, canceled checks, check stubs, vouchers, deposit slips, ledgers, journals, client billing statements, bank statements, closing statements, accountings, other statements of disbursement, and any other records reflecting trust account transactions.

Access your trust account online and retrieve canceled checks and bank statements monthly. Retain these PDFs. *Complete trust accounting records, including checks and bank statements, must be preserved for five years after termination of representation.* Your bank may not preserve complete records of your account for the five years you must retain them.

Use caution when making telephone, electronic, or wire transfers to and from the trust account. These transfers rarely generate a clear audit trail of whose money was transferred and for what purpose. It is easy to make trust account errors without a proper paper trail.

D. There Is No Such Thing as a Negative Balance

There should never be a negative balance for either the trust account or the individual client's trust balance. Each client has either a positive or zero balance. Having a negative balance is a sign of negligence or theft, at worst.

E. Safety Measures

1. The lawyer should divide bookkeeping tasks among the lawyer's staff. The person who pays the bills should not be the person who reconciles the account. Consider assigning a two-person team to process deposits and account reconciliations, such as pairing an attorney with a staff member. The unopened bank statement should be delivered to the principal lawyer or managing partner for review for forgeries or other irregularities. Sole practitioners with staff may want to have the bank statement sent to their home. Regularly reviewing the checks and the statements can help you catch identity theft or embezzlement at an early stage.
2. Use duplicate numbered receipts for cash payments, and advise clients it is *their* responsibility to keep those receipts. Ask the client to sign the receipt and acknowledge the amount paid, preferably in front of another witness. Write the receipt number on the deposit slip to identify who made the payment, and enter that number on the client's ledger when posting the transaction. If you enter more than one cash payment on a deposit slip, use a deposit ledger to itemize the deposits.
3. Do not rush. Be sure you are using the proper account. Verify that all disbursements are supported by adequate documentation, including the case name or number before signing checks or approving electronic transactions.
4. Require two signatures on large checks. Requiring two signatures can be an important internal control even if banks may disclaim responsibility for cashing checks with fewer than the required signatures.
5. Allow no one to issue or sign a check made payable to "cash."
6. Approve all client billings and reconcile receipts of payment.
7. Control access to checkbooks.
8. Order trust account checks in a different color from those used for the business account.
9. There are serious risks when connecting a debit card to your trust

account. Debit cards can be lost, misplaced, or used fraudulently, resulting in theft of client funds. For this reason, you may decide to obtain a business debit card tied to your business account to pay filing fees, treating the expense like any other cost advanced on a client's behalf. To manage the risks associated with debit cards, see "Oregon eCourt Filing Fees and IOLTA," available on the PLF website, www.osbplf.org.

10. Control access to online banking. If you are in a firm, use proper accounting controls and supervise staff with access to online accounts. If you are a sole practitioner, do your online banking at home or take precautions to protect access to your account. Be sure to have up-to-date virus protection on the computer before accessing any online banking sites and be on the alert for any scamming schemes that may deliver malware to your computer. See Section V. B., *Trust Accounting Concepts*, above for helpful articles.

For assistance in establishing proper accounting systems and controls, consult a certified public accountant. For assistance in protecting confidential personal and financial data stored on your office computer system, contact a qualified computer consultant.

VI. TRUST ACCOUNTING ESSENTIALS

A. Property Held in the Lawyer Trust Account

The lawyer trust account should be used for:

- ◆ Advanced fees or retainers for work to be completed and advances for costs to be paid on behalf of a client;
- ◆ Settlement funds and refund checks that belong in part to the lawyer, the client, or to a third party;
- ◆ Funds that come into the lawyer's possession during the representation of a client, in which both the client and a third person have an interest;
- ◆ Funds of the lawyer deposited for the sole purpose of paying bank service charges or meeting minimum balance requirements. ORPC 1.15-1(b). See OSB Legal Ethics Op No 2005-145; and
- ◆ Overpayments by clients. If a client overpays a billing statement, the entire client payment must be deposited into the trust account. Only the amount due the lawyer or law firm can be disbursed from trust in payment of the client's bill. Contact the client and get instructions on whether you should refund the overpayment or leave the money in the trust account to be applied against future fees and costs.

Lawyers must never keep their own personal funds, business funds, or investment money in the trust account. A lawyer may deposit the lawyer's own funds in a lawyer trust account for the sole purposes of paying bank service charges or meeting minimum balance requirements on that account, but only in amounts necessary for those purposes. Flat fees designated as "earned upon receipt" must be deposited into the lawyer's office or general account. Likewise, once fees have been earned from a client with money in trust, that money must be transferred promptly to the lawyer's office or general account.

The IRS may look at lawyers' trust accounts to determine whether lawyers are leaving funds in those accounts past the end of the fiscal or calendar year to avoid taxes. Leaving earned fees in the trust account beyond a reasonable administrative time period constitutes commingling.

B. Retention of Unclaimed Client Funds and Property

Periodically, lawyers find they have unclaimed client funds in a trust account or unclaimed property in their possession. This can occur when clients disappear or checks remain uncashed. Pursuant to ORS 98.332, funds held by a fiduciary, including a lawyer, are deemed abandoned if the owner has not accepted payment of the funds, corresponded in writing about the funds, or otherwise indicated interest in the funds within two years after the funds are payable or distributable to the owner. Common situations include:

- ◆ A client may deposit a retainer with the lawyer and then never return to the office. When the lawyer tries to make contact, the client cannot be located.
- ◆ Witnesses or others may fail to cash small checks received for appearance fees or other services.
- ◆ A settlement check may be received that is payable to both the lawyer and the client, but the lawyer cannot find the client.

If unclaimed funds remain in the trust account, the lawyer must comply with the Uniform Disposition of Unclaimed Property Act (ORS 98.302-98.436). Lawyers must exercise due diligence to determine the whereabouts and communication with the owner of the funds. Funds deemed abandoned as of June 30 of each year must be reported to the Department of State Lands (DSL) during the month of October of that same year. Unclaimed funds held in the lawyer trust account must be paid over to the Oregon State Bar along with a copy of the DSL report. The money paid to the OSB will be appropriated to the Legal Services program, which funds legal aid organizations that provide civil legal services to the poor statewide.

You must retain records of the name and last-known address of the owner of the funds as well as any other evidence that would assist in the identification of the

owner for three years after remitting the funds. Note that if the owner's last-known address is in a different state, those abandoned funds must be reported and sent to that state.

The reporting forms are on the DSL website at <http://www.oregon.gov/dsl/UP/pages/upforms.aspx>. Forms 1a and 2a must be completed and sent to the DSL with copies of the reports and the unclaimed funds forwarded to the OSB. In no circumstance may the lawyer take these unclaimed funds for his or her own purposes. OSB Legal Ethics Op No 2005-48.

Uncashed check funds revert to the client and should be reimbursed to the client. You must try to find the client and must maintain reasonable records sufficient to permit the client to make a claim for the return of the property for the period permitted by the Act. One way to avoid this problem is to monitor canceled checks. If a check has not cleared the trust account for two months, track it down immediately. Another solution may be to print "void after 90 days" on the face of the check.

If a settlement check is made payable to both the lawyer and the client, the lawyer cannot sign the client's name on the endorsement without the client's authorization. *In re Maroney*, 324 Or 457 (1996) (lawyer disbarred, in part, for signing settlement check without client's knowledge or consent). The lawyer must comply with OSB Legal Ethics Op No 2005-48 and the Uniform Disposition of Unclaimed Property Act regarding the client's portion of the settlement. See also OAR 141-045-0031 (3)(d). Instruct your clients to notify you if their address or phone number changes. If a client will be unavailable to sign, discuss what your ethical course of action should be with OSB ethics counsel.

C. Trust Property Other Than Cash

Occasionally lawyers must hold property other than cash for a client (valuable papers, coins, stamps, or other types of collectibles). It is the lawyer's responsibility to properly inventory and safeguard this noncash property from theft, loss, and destruction. ORPC 1.15-1(a). Obtaining insurance coverage for client property is recommended, but not required.

Theft, loss, or destruction of client property *may be covered* under the data breach and cyber liability endorsement in the PLF Claims Made Excess Plan. If you experience this loss and your firm has excess coverage with the PLF, contact us at (503) 639-6911 or (800) 452-1639.

Additionally, lawyers must notify clients promptly of the receipt of funds, securities, or other properties; maintain complete records; and render appropriate accountings to clients. ORPC 1.15-1(d), *In re Gildea*, 325 Or 281, 290 (1997) (lawyer suspended for failing to render appropriate accountings to the client.)

D. Maintain Records for Five Years

The lawyer or law office must maintain complete records in connection with the trust account and trust properties for five years after termination of the representation. ORPC 1.15-1(a). Such records include checkbooks, canceled checks, check stubs, vouchers, deposit slips, ledgers, journals, client billing statements, bank statements, closing statements, accountings, other statements of disbursements rendered to clients, three-way reconciliations of client ledgers, journals of transactions, and bank statements, along with and any other records reflecting trust account transactions.

When you receive notice that your monthly bank statement is available, access your trust account online. Download your statement, along with PDFs of your canceled checks. Note that most banks will only keep account records for four years. Complete records of trust account funds and other property shall be preserved for a period of five years after termination of the representation. ORPC 1.15-1(a).

Keep these records separate and apart from the clients' files and store or file them monthly and yearly. It is relatively easy to locate specific documents when records are filed in this manner.

VII. TRUST ACCOUNTING PROCEDURES

A. Opening the Trust Account

ORPC 1.15-2(h)(4) requires lawyers to establish their trust accounts in a financial institution that agrees to "report to the OSB Disciplinary Counsel when any properly payable instrument is presented against such account containing insufficient funds, whether or not the instrument is honored." The account must be identified by use of the phrase "Lawyer Trust Account." Many banks will allow lawyers to set up a trust account with no funds, or lawyers may open the account using money paid to them by a client for future fees or costs. If a minimum balance is required to open a trust account, the lawyer may deposit his or her own funds into the trust account, but only in an amount necessary for that purpose. ORPC 1.15-1(b).

Order trust checks in a different color from the general or office account checks, and keep the trust account checkbook and deposit slips in a different location from the general or office account checks and deposits slips. This will help prevent confusion when making deposits or disbursements.

B. Trust Account Records

Trust account records should consist of a trust account journal and a separate client ledger card for each client. **All** deposits and disbursements must be tracked in the trust account journal, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement.

This is similar to keeping a running total on the check stubs of how much is in the account.

In addition, each client should have his or her own client ledger card. A client's ledger card shows all funds deposited for that client's benefit and all disbursements on behalf of the client against those funds, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement.

The samples shown in the Index of Forms are from a manual accounting system and require that the entries made in the journal be duplicated on that client's ledger. Alternatively, journals and ledgers can be set up in a spreadsheet program, or you may use accounting software to generate equivalent records. Accounting software is designed so that only one entry is needed to enter the information in the journal and assign it to a particular client. If you are using a software program, you should print hard copy or PDF reports each month showing individual client trust account activity and all transactions for the trust account.

(See pages 30 and 31 for samples of QuickBooks® and Quicken® reports. See page 32 for an example of a chart of accounts that can be used with either.)

The sample client ledger card on the opposite page reflects these transactions for the client John Jones:

On January 4, 2016, Mr. Jones deposited a retainer of \$1,000 with lawyer Roberta Long. His trust balance on January 4 is \$1,000.

On January 14, 2016, lawyer Long filed a Petition of Dissolution on behalf of Mr. Jones. She used her business credit card to pay Jones' eCourt filing fee, which was posted to the ledger as a "cost advanced." She also arranged for service of process. The Jones client ledger reflects two cost disbursements relating to this activity. The first was a reimbursement to Long for the eCourt filing fee for \$200. The second was a check payable to the sheriff for \$20. These amounts were deducted from Mr. Jones' trust balance, leaving \$780. (\$1,000 less the two checks totaling \$220.)

On January 21, 2016, incoming documents were scanned for client Jones. This expense was posted to the "costs advanced" category of the Jones ledger, reflecting a balance due of \$5. No funds were disbursed out of the Jones trust account to cover these costs.

On January 31, 2016, three entries were added to the Jones ledger. The first entry reflects \$500 charged to the client for fees. The second entry is a disbursement from the trust account to lawyer Long for \$505 (\$500 for fees; \$5 for costs advanced on January 21). Mr. Jones has \$275 remaining in his trust account. The third entry reflects the \$500 deposit to the office account for the month's fees and \$5 for costs advanced. The effect is to credit Mr. Jones' account with the money transferred from trust, leaving the balance owed for fees and costs at \$0.

On February 4, 2016, a delivery fee was incurred on behalf of client Jones. This expense was posted to the "costs advanced" category of the Jones ledger, which then reflected a balance due of \$5. As with the scanning fee posted on January 21, no funds were disbursed out of the Jones trust account.

On February 29, 2016, three entries were added to the Jones ledger. The first entry reflects a charge of \$300 for fees. The second entry is a disbursement to lawyer Long for \$275, the balance remaining in Jones' trust account. Jones now has insufficient funds in his account to pay lawyer Long in full. Jones owes Long \$30 (the difference between accumulated fees and costs of \$305 and Jones' trust account balance of \$275). When lawyer

Long deposited the disbursement from Jones' trust account into the office account (the third entry on February 29), she applied the available \$275 to costs first, zeroing out the \$5 balance, then to her fees of \$300, leaving a balance due of \$30 in the fees category. Mr. Jones' balance owed was then \$30 in the AR (accounts receivable) column. (*When trust funds cannot cover both fees and costs, as they are, the available trust balance is always applied to costs **first**, then to attorney fees.*)

CLIENT LEDGER CARD

NAME: JONES, JOHN MATTER: DISSOLUTION FILE NO. 673

ADDRESS: 123 MAIN STREET, ANYWHERE, OREGON 97000 PHONE: 503-999-0000 LAWYER: ROBERTA LONG

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
1/04/16	Jones, John	Retainer	110								1,000.00	1,000.00
1/14/16	Office	eFiling Fee		200.00		200.00						
1/14/16	Costs – Roberta Long	eFiling Fee	5024		200.00	0.00				200.00		800.00
1/14/16	Sheriff	Service Fee	5025							20.00		780.00
1/21/16	Office	Scanning Fee		5.00		5.00						
1/31/16	Fees – Roberta Long	Statement Sent					500.00		500.00			
1/31/16	Roberta Long	Fees & Costs	5026							505.00		275.00
1/31/16	Dep. To Office Acct.	A.R.	5026		5.00	0.00		500.00	0.00			
2/04/16	Office	Delivery Fee		5.00		5.00						
2/29/16	Fees – Roberta Long	Statement Sent					300.00		300.00			
2/29/16	Roberta Long	Fees & Costs	5030							275.00		0.00
2/29/16	Dep. To Office. Acct.	A.R.	5030		5.00	0.00		270.00	30.00			

A. Depositing Trust Account Funds

Deposit trust funds promptly, using a duplicate deposit slip and listing the checks separately. To protect confidentiality, list the names of those whose checks are being deposited only on the duplicate, or attach photocopies of the checks to the deposit receipt.

Always use the proper deposit slip. Use the safeguards recommended in Section V. E. *Safety Measures* above. If you deposit the funds into the wrong account, you might not notice the error immediately, which can lead to trust account overdrafts. If you discover that funds have been deposited in the wrong account, immediately transfer them to the proper account.

You cannot use funds deposited in the trust account until those funds have cleared the bank. Make disbursements according to the guidelines described in this handbook (see Section V. B. *Don't Spend What You Don't Have* above), even if you held the funds for a while before depositing them. If a check is returned for insufficient funds, you want to know that promptly. You cannot distribute money immediately on the client's behalf unless you receive cash.

When you receive funds from third parties for the client's benefit, such as settlement checks or drafts, promptly notify the client. ORPC 1.15-1(d). Checks or drafts made payable to the client and the lawyer must be endorsed by both the client and the lawyer before they may be deposited in the trust account. If the client will be unavailable during a critical period, discuss whether the client should give you a power of attorney to endorse the check or draft to ensure prompt presentation for payment. Absent such authorization, you cannot endorse the check or draft for the client.

Frequently, settlements are paid by draft. A draft has not cleared and is not available for disbursement until it has reached the payer's bank and has been approved for release of funds. Drafts can be dishonored by the paying bank for irregularities such as an incorrect endorsement.

B. Accepting Credit Cards

Accepting credit cards requires extra attention to bookkeeping, particularly when trust funds are involved. Most banks and private credit card processors charge set-up fees, monthly fees, and annual fees besides the convenience fee surcharged on each transaction. Account for these fees ethically, in compliance with substantive law, and under your client fee agreement. See the PLF practice aid, "Accepting Credit Cards."

Lawyers who accept credit card payments from clients should carefully review OSB Legal Ethics Op No 2005-172. Any credit card payments deposited to the trust account for services already rendered must be withdrawn promptly from the trust account and transferred to the general or office account to avoid commingling earned fees with unearned fees. [See OSB Legal Ethics Op No 2005-172 and George Riemer, "Charge It? Credit Cards and Lawyer Trust Accounts," *Oregon State Bar Bulletin* 60, no. 9 (July 2000).]

If the bank requires you to designate a single merchant account for *all* credit card transactions and you accept credit card payments for earned and unearned fees, your merchant account should be a trust account. If you accept credit card payments for earned fees only, designate your business account as the merchant account. OSB Legal Ethics Op No 2005-172.

Credit card surcharges are a subject of special concern. In 2013, the U.S. District Court for the Eastern District of New York approved the “Payment Card Interchange Fee Settlement,” a class action suit among merchants, Visa, MasterCard, and other defendants involving allegations of excessive credit card surcharges. (For more information, visit the settlement website, <https://www.paymentcardsettlement.com/en.>)

Some Oregon law firms take the position that the “Payment Card Interchange Fee Settlement” (PCIFS) permits them to pass Visa and MasterCard surcharges through to clients. The PLF does not advise lawyers on substantive law. This includes interpreting the applicability of the PCIFS. Lawyers should note this comment in OSB Legal Ethics Op No 2005-172: “Some jurisdictions suggest that a lawyer can pass the credit card transaction fee on to the client, if the client agrees. Interpretation of federal and state law on this issue is beyond the scope of this opinion, but we note that charging the client for the transaction fee may implicate Regulation Z of the Truth in Lending Act, 12 CFR pt 226, requiring that the lawyer make certain specific disclosures to the client and offer cash discounts to all clients.” The opinion cites CONSUMER LAW IN OREGON ch 14 (Oregon CLE 2013).

If you elect to pass credit card surcharges on to clients, proceed at your own risk. Keep the following in mind:

- ◆ On June 30, 2016, the Second Circuit Court of Appeals reversed and remanded approval of the settlement in this action. The Court’s opinion can be read here: <https://www.paymentcardsettlement.com/Content/Documents/Second%20Circuit%20Opinion.pdf>
- ◆ Credit card surcharges are illegal in ten states. Some experts predict this number will grow.
- ◆ Conduct your own legal research regarding Regulation Z.
- ◆ Conduct your own legal research regarding the prerequisites and limitations that apply to surcharging under the “Payment Card Interchange Fee Settlement.”

See Sam Harden’s LawPay Blog post, “Opinion on Surcharging,” November 30, 2016, here: <https://lawpay.com/opinion-on-surcharging/>.

The safest practice when accepting credit card payments is to treat the merchant fee or surcharge as a business expense. Arrange for the merchant fee to be deducted from your general office account and the client funds to be deposited in your trust account. If the bank will not deduct fees from your general account, you have two options. First, permit the use of credit cards **only** for earned fees you can deposit immediately in the general account. Because banks will usually not deposit credit card payments into multiple

accounts, limit acceptance of such payments to earned fees if you are using the general account. If you receive retainers or other unearned costs and fees by credit card, the trust account is the proper account for deposit of these payments. You then face the problem of accounting for the merchant fee.

One correct but very cumbersome method is to calculate the merchant fee on each transaction and deposit that fee into the trust account on the same day the credit card payment is made.

Another approach is to consider using a private credit card processor. Private credit card processors are often more flexible than banks, and will usually allow you to deduct merchant fees from the general account for **all** your transactions, regardless of which account receives your deposit. Many companies offer this service. Evaluate each company's reputation, references, rates, and services. Find a credit card processor experienced in serving the legal profession.

Set-up fees, monthly fees, and annual fees assessed by banks and credit card processors are an expense of the law firm and the lawyer's responsibility. You can build these costs into your billable fee with credit card surcharges. For a discussion of billing client costs, see David J. Elkanich, Peter R. Jarvis, Roy Pulvers, and Allison D. Rhodes, "Billing Costs," *Fee Agreement Compendium* (2007). See BarBooks™ on the OSB website, www.osbar.org.

C. Disbursing Trust Account Funds

ORPC 1.15-1(c) states, "A lawyer shall deposit into a lawyer trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred." Send each client a monthly statement showing all sums deposited and disbursed. Generally, funds in a trust account may be withdrawn when earned and invoiced, unless you expect the client to dispute the amount due. ORPC 1.15-1(e). However, when the bill is sent, the client may not know of the bill or could have disputed the bill. You may wait a reasonable period – such as 30 days – after the client has been invoiced before withdrawing earned funds. OSB Legal Ethics Op No 2005-149.

Never write a check from the trust account unless those funds have cleared the bank. Writing a check on behalf of a client whose funds have not cleared the bank is the equivalent of using another client's money. The check being deposited for the client's benefit may be returned for insufficient funds or may not be honored by the bank.

Never write a trust check for "cash" or to pay personal or business expenses. Trust account checks should be written **only** to the client or for the benefit of the client. "Benefit of the client" includes payment from the trust account to the lawyer's general account to pay the lawyer's fees. The best practice is **never** to write a check from the trust account to pay a personal expense. This means you should never write a trust account check to pay your OSB membership dues or your PLF malpractice insurance assessment. To do so gives the appearance of converting client funds to your personal use. If the client owes \$350 for fees, the lawyer should write a \$350 check from that client's trust money to the lawyer. The check should then be deposited into the lawyer's office account for the

lawyer's general use. This provides the lawyer with precise records of trust accounting and of personal and business expenses.

D. Reconciling Account Records with Monthly Bank Statements

Reconcile the trust account **each** month without fail. If someone makes an error, it is easily discovered and corrected if the account is reconciled monthly. If you don't reconcile the trust account for many months, it may be almost impossible to find and correct any errors, and an ongoing error will eventually lead to an overdraft. An undiscovered and uncorrected error indicates that you are not properly maintaining and safeguarding client funds.

Each month, the trust balances for each client must be added together. Use the bank statement to reconcile the trust journal. Compare the bank statement list of deposits and disbursements with the trust journal records. Mark all deposits and disbursements shown on both. Then, using a reconciliation form (usually on the back of the bank statement), subtract from the bank statement balance any checks that have not cleared the bank, and add any deposits not shown on the bank statement. This balance should equal the amount in the trust journal. It should also equal the total of the individual client ledger card balances.

If you maintain a checkbook register in lieu of a trust journal, reconcile the checkbook register to your bank statement and perform the steps described above. If you use an accounting program, run the reconciliation feature and check off disbursements and deposits that have cleared the bank. Run a report showing each client's trust balance and compare it to your reconciliation.

E. Closing the Trust Account

A checklist describing the steps involved in closing a lawyer trust account is available on the PLF website, www.osbplf.org.

F. Death of Sole Signatory on the Trust Account

When the sole signatory on a trust account dies, the court may take jurisdiction and appoint one or more lawyers in good standing with the OSB to act as custodian of the affected lawyer's law practice. ORS 9.705-9.755. This process is slow and can be expensive. A better practice is for sole practitioners to plan ahead for the unexpected by selecting an "assisting attorney." This process is described in the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death*, available at the PLF website, www.osbplf.org. If you would like assistance with this process, call the PLF for an appointment with a practice management advisor.

G. Sample Trust Account Transactions, Trust Account Trial Balances, and Trust Account Reconciliation

On a duplicate deposit slip, list each check or cash amount separately. For each entry made, identify the client and matter, if necessary. In the sample duplicate deposit slip shown here, Mr. Brown is shown as having remitted \$500 in cash, and three checks are

listed: one for client Smith from States Insurance (\$30,000), one from Mr. Jones for \$1,000, and one from Mr. Martin for \$250.

SAMPLE DUPLICATE DEPOSIT SLIP

DATE 3/04/16

		DOLLARS	CENTS
CURRENCY			
	Brown	500	--
COIN			
CHECKS			
1	States Insurance/Smith	30,000	--
2	Jones	1,000	--
3	Martin	250	--
4			
5			
TOTAL		31,750	--

This sample duplicate deposit slip shows the client names for accounting purposes. If you deposit cash, write the amount of cash from each client on the duplicate deposit slip. Your bank deposit slip should reflect the total cash deposited. Photocopy or scan each client check and attach it to the duplicate deposit slip or the deposit receipt the bank provides for the law firm records.

When you make a deposit, enter the amount in the "Trust Account Journal." Using the example above, these entries should be made to the Trust Account Journal for clients Brown, Smith, Jones, and Martin:

TRUST ACCOUNT JOURNAL

Date	Client	Source/Payee	Receipts	Disbursements	Description	Balance
3/04/16	Brown	Brown	500.00		Retainer	500.00
3/04/16	Smith	States Ins.	30,000.00		Settlement	30,500.00
3/04/16	Jones	Jones	1,000.00		Retainer	31,500.00
3/04/16	Martin	Martin	250.00		Retainer	31,750.00

You must enter these same amounts on the individual client ledger cards for clients Brown, Smith, Jones, and Martin.

CLIENT LEDGER CARD

NAME: Brown, Chris MATTER: Corporate FILE NO. 674

ADDRESS: 789 Your Street, Anywhere, OR 97000 PHONE: 503-123-4567 LAWYER: Roberta Long

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
3/04/16	Brown, Chris	Retainer	Cash								500.00	500.00

CLIENT LEDGER CARD

NAME: Smith, Jamie MATTER: Personal Injury FILE NO. 675

ADDRESS: 1464 SW First, Anywhere, OR 97000 PHONE: 503-648-9764 LAWYER: Roberta Long

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
3/04/16	Smith, Jamie	Settlement	1798								30,000.00	30,000.00

CLIENT LEDGER CARD

NAME: Jones, John MATTER: Dissolution FILE NO. 673

ADDRESS: 123 Main Street, Anywhere, Oregon 97000 PHONE: 503-999-0000 LAWYER: Roberta Long

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
3/04/16	Jones, John	Retainer	678								1,000.00	1,000.00

CLIENT LEDGER CARD

NAME: Martin, Mark MATTER: Real Estate FILE NO. 672

ADDRESS: 7436 Elmwood, Anywhere, OR 97000 PHONE: 503-246-9878 LAWYER: Roberta Long

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
3/04/16	Martin, Mark	Retainer	890								250.00	250.00

To disburse funds from the trust account, prepare a check and fill in the “For” or “Memo” line on the bottom left of the check. This should include the client’s name and the reason for the disbursement.

Roberta Long
 Lawyer Trust Account
 123 Main
 Anywhere, OR 97000

March 18, 2016

Pay to the Order of Smith Court Reporting \$ 200.00

Two Hundred and 00/100ths ----- Dollars

Memo Jones / Court Reporter

Once the check has been written, make the entry noted in bold in the Trust Account Journal:

TRUST ACCOUNT JOURNAL

Date	Client	Source/Payee	Receipts	Disbursements	Description	Balance
3/04/16	Brown	Brown	500.00		Retainer	500.00
3/04/16	Smith	States Ins. Co.	30,000.00		Settlement	30,500.00
3/04/16	Jones	Jones	1,000.00		Retainer	31,500.00
3/04/16	Martin	Martin	250.00		Retainer	31,750.00
3/14/16	Jones	Roberta Long		30.00	AR Balance	31,720.00
3/18/16	Jones	Smith Court Reporting		200.00	Court Reporter	31,520.00
TOTALS			31,750.00	230.00		31,520.00

You must also make the entry on Mr. Jones' client ledger card. The sample client ledger card for Mr. Jones (shown on a following page) includes the transactions described above. The \$1,000 retainer paid on March 4, 2016, and the \$200 court reporting fee paid on March 18, 2016, are noted in bold. Also included is a disbursement to lawyer Long's office account on March 14, 2016, to pay off Jones' outstanding accounts receivable balance of \$30.00. (See Section VII. B. for a description of other transactions on the Jones account.)

The sample Trust Account Reconciliation in the Index of Forms is an easy format to follow for reconciling a trust account. To reconcile an account, the amounts in parts one, two, and three of the reconciliation form must be identical. If a discrepancy exists between any of the figures, it must be resolved before the account is considered in balance. Finding the error can be challenging, but being off even one penny means the account does not balance.

Using an accounting program to track trust funds is much more efficient and accurate than maintaining manual records or spreadsheets, provided you use the software correctly. One entry can generate a check and post data to the trust account journal and to the client's individual ledger. On pages 31 and 32 of this book are reports similar to those generated in QuickBooks®

and Quicken®. Reconciling your trust account in these programs takes only a few minutes and involves entering the ending balance on the reconciliation screen and marking the cleared deposits and checks. After the program indicates the account is in balance, you can prepare a report for the individual client accounts to see whether they (the individual accounts) balance with your reconciled balance.

The foregoing is typical of the procedures to maintain proper trust account records. For practical assistance with trust accounting issues, lawyers and staff are encouraged to call the practice management advisors at the Professional Liability Fund, (503) 639-6911 or 1-800-452-1639, for free and confidential help with trust accounts. Questions relating to a lawyer's ethical obligations under the Oregon Rules of Professional Conduct should be directed to the General Counsel of the Oregon State Bar at (503) 620-0222 or 1-800-452-8260.

CLIENT LEDGER CARD

NAME: JONES, JOHN MATTER: DISSOLUTION FILE NO. 673

ADDRESS: 123 MAIN STREET, ANYWHERE, OREGON 97000 PHONE: 503-999-0000 LAWYER: ROBERTA LONG

DATE	NAME	MEMO	CK. NO.	COSTS ADVANCED			FEES			TRUST		
				Advanced	Received	Balance	Charged	Received	AR Bal.	Disbursed	Received	Balance
1/04/16	Jones, John	Retainer	110								1,000.00	1,000.00
1/14/16	Office	eFiling Fee		200.00		200.00						
1/14/16	Costs – Roberta Long	eFiling Fee	5024		200.00	0.00				200.00		800.00
1/14/16	Sheriff	Service Fee	5025							20.00		780.00
1/21/16	Office	Scanning Fee		5.00		5.00						
1/31/16	Fees – Roberta Long	Statement Sent					500.00		500.00			
1/31/16	Roberta Long	Fees & Costs	5026							505.00		275.00
1/31/16	Dep. To Office Acct.	A.R.	5026		5.00	0.00		500.00	0.00			
2/04/16	Office	Delivery Fee		5.00		5.00						
2/29/16	Fees – Roberta Long	Statement Sent					300.00		300.00			
2/29/16	Roberta Long	Fees & Costs	5030							275.00		0.00
2/29/16	Dep. To Office. Acct.	A.R.	5030		5.00	0.00		270.00	30.00			

VIII. FREQUENTLY ASKED TRUST ACCOUNT QUESTIONS

- Q.** When must I set up a lawyer trust account?
- A.** ORPC 1.15-1(a) states that a lawyer shall hold property of clients or third persons in a lawyer's possession separate from the lawyer's own property. Funds, including advances for costs and expenses and escrow and other funds held for another, shall be kept in a separate "Lawyer Trust Account."
- Q.** Where can I set up a trust account?
- A.** Lawyers must open a trust account in the jurisdiction where their office is located. ORPC 1.15-1(a). The financial institution must be authorized by law to transact business in the state where the account is maintained; must be insured by the Federal Deposit Insurance Corporation or an analogous federal government agency; must have contracted with the Oregon Law Foundation (OLF) to report and remit interest earned on IOLTA accounts; and must have signed an overdraft notification agreement with the Oregon State Bar.
- Q.** Must I notify the OSB, the OLF, or PLF when I set up a trust account?
- A.** Lawyers opening a new IOLTA account are no longer required to complete a "Notice of Enrollment" form and submit it to the OLF within 30 days of establishing the account.

Lawyers do not have to notify the PLF about their trust accounts.

- Q.** Why must I complete an Annual IOLTA Certification?
- A.** Every active member of the Oregon State Bar must annually certify to the OSB whether the member maintains any lawyer trust account in Oregon. ORS 9.675. The member must disclose the financial institution in which each account is held and the account number for each account. You still must complete the form whether your office is in another jurisdiction and those lawyer accounts are not in Oregon (box 2) or whether you do not hold client funds or the funds of third parties or maintain any lawyer trust accounts (box 3).
- Q.** When can I disburse funds from my trust account?
- A.** Wait a prudent amount of time for the funds to clear. A check is not deemed "cleared" until it is honored and collected by the issuing bank, even if your bank has a policy of making funds available in a shorter period.

For an ordinary transaction with an established client or known third party, wait three banking days for locally written checks, five banking days for checks written within Oregon, but outside your local area, and ten or more banking days for out-of-state checks. Note, that checks for \$5,000 and over may be held by banks for seven banking days, whether drawn on a local, in-state, or out-of-state bank, therefore allow sufficient time for these checks.

To avoid the growing problem of check scams, wait at least ten banking days before disbursing funds in the following circumstances: (1) the transaction is with a new client or a client you are unsure about; (2) the check is very large; (especially compared with the extent of legal services provided, if the check is a retainer); (3) the check is from an unknown third party; or (4) any

aspect of the transaction raises (or should raise) your suspicions. Remember that drafts or other instruments may take longer than ten days to process. To verify that funds have been collected, ask your bank to contact the issuing bank.

For further discussion of banking rules, check scams, and the time that may be necessary for funds to clear, see Sylvia Stevens, "Waiting for 'Go' Dough: A primer on disbursing client funds," *Oregon State Bar Bulletin* (June 2006) and "Trust Account Lessons Cautionary Notes," *Oregon State Bar Bulletin* (July 2008) Helen Hierschbiel, "Scammers Take Aim at Lawyers: How to Avoid Becoming the Next Victim," *Oregon State Bar Bulletin* (May 2010), Sheila Blackford, "Check Scams Becoming More Sophisticated," *In Brief*, no. 108 (November 2010), Beverly Michaelis, "Scam Update: New Ways They Can Get Your Money," *In Brief*, no. 120 (January 2013), Beverly Michaelis, "Don't Get Scammed! Fraud Prevention Tip," *In Brief*, no. 121 (September 2013), Barbara Fishleder, "Oregon Law Firm Targeted by Scam," *In Brief*, no. 124 (December 2014), and Jennifer L. Meisberger, "Sophisticated Scams: Protect Your Clients' Money," *Oregon State Bar Bulletin* (June 2015).

Q. My trust account has had an outstanding check for a while. What should I do about it?

A. If the money cannot be returned to the client, you must comply with ORS 98.302-98.436 (Uniform Disposition of Unclaimed Property Act). Effective January 1, 2010, unclaimed funds held in lawyer trust accounts must be reported to the Department of State Lands (DSL), but paid over to the OSB with a copy of the DSL reports. The reporting forms can be found on the DSL website at <http://www.oregon.gov/dsl/UP/pages/upforms.aspx>. Forms 1a and 2a must be completed and sent to the DSL with copies of the reports and the unclaimed funds forwarded to the OSB. In no circumstance may you take unclaimed funds for your own purposes. OSB Legal Ethics Op No 2005-48.

Funds held by a fiduciary are considered abandoned if the owner has not accepted payment of the funds, corresponded in writing about the funds, or otherwise indicated interest in the funds within two years after the funds are payable or distributable to the owner. ORS 98.332. Funds deemed abandoned as of June 30 of each year are to be reported to the DSL during the month of October of that same year, although earlier reporting may be allowed upon written request.

Q. Can I have more than one trust account?

A. Yes. Lawyers who represent clients in more than one jurisdiction may have to establish multiple trust accounts. In addition, client funds that can earn "net interest" must be deposited in a separate trust account in which interest accrues for the client's benefit. This shall be a separate account for each client or client matter or in a pooled interest bearing lawyer trust account with subaccounting that provides for computation of interest earned by each client's funds and a payment to clients of interest earned net any bank service charges. ORPC 1.15-2(c).

Q. What is "net interest?"

A. ORPC 1.15-2(d) provides: "In determining whether client funds can or cannot earn net interest, the lawyer or law firm shall consider the following factors:

- (1) the amount of the funds to be deposited;
- (2) the expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;
- (3) the rates of interest at financial institutions where the funds are to be deposited;
- (4) the cost of establishing and administering a separate interest-bearing lawyer trust

- account for the client's benefit, including service charges imposed by financial institutions, the cost of the lawyer or law firm's services, and the cost of preparing any tax-related documents to report or account for income accruing to the client's benefit;
- (5) the capability of financial institutions, the lawyer or the law firm to calculate and pay income to individual clients; and
 - (6) any other circumstances that affect the ability of the client's funds to earn a net return for the client."

Q. Can I set up a lawyer trust account for a client outside of Oregon?

A. In Oregon, trust funds must be deposited in a trust account in the jurisdiction in which the lawyer's office is situated. See ORPC 1.15-1(a). Lawyer trust accounts must conform to the rules in the jurisdictions in which the accounts are maintained. Any inconsistencies between the rules of the jurisdictions will be resolved by the provision in ORPC 8.5(b).

Q. Can a client waive the right to interest?

A. No. Clients in the United States have no choice regarding placement of funds into IOLTA accounts, and only those funds that cannot earn net interest are to be placed in an IOLTA account. Rule 1.15-2(c) mandates that client funds that can earn net interest shall be placed in an interest-bearing trust account for the client's benefit, and the net interest earned by funds in such an account shall be held in trust as property of the client. Nothing prevents a client from making a subsequent tax-deductible donation to the Campaign for Equal Justice or other charitable organization.

Q. Which banks offer the best interest rates on IOLTA accounts?

A: Where you bank matters! Put your lawyer trust account funds in one of the Leadership Banks identified on the Oregon Law Foundation website, www.oregonlawfoundation.org, because those banks will maximize the rate of return on IOLTA accounts. For example, visionary banks pay at least 1% interest and charge no service fees for IOLTA accounts.

Q. Am I required to monitor my trust account?

A. Yes. You must review your IOLTA account at reasonable intervals to determine whether circumstances have changed so a particular client did or can earn net interest. ORPC 1.15-2(e).

Q. What if a client earned or could earn net interest?

A. If a particular client's funds either earned or could earn net interest, transfer the funds into an appropriate interest-bearing account and request a refund in writing for any interest that may have been remitted to the OLF. ORPC 1.15-2(f). Review ORPC 1.15-2(f) (1) and (2) for further details.

Q. Can I pay client costs directly out of the trust account?

A. Yes, as long as the client has money in the trust account to cover the costs. If funds have been deposited on behalf of a client have not yet cleared, you must either wait until they clear or pay the costs out of your general account and reimburse the general account when the funds have cleared.

Q. Must I keep a minimum balance in my trust account?

- A.** Only if the bank requires a minimum balance. Most banks do not. If a minimum balance is required, deposit just enough money to meet the bank's requirement. See ORPC 1.15-1(b).
- Q.** What if the bank takes check-printing charges from the trust account?
- A.** You can deposit your own money into the trust account to cover the check-printing charges. ORPC 1.15-1(b) permits lawyers to deposit their own funds into the lawyer trust account to pay bank service charges or meet minimum balance requirements in amounts necessary for those purposes.
- Q.** What if I have an overdraft on the trust account?
- A.** ORPC 1.15-2(l) states, "Every lawyer who receives notification from a financial institution that any instrument presented against his or her lawyer trust account was presented against insufficient funds, whether or not the instrument was honored, shall promptly notify Disciplinary Counsel in writing The lawyer shall include a full explanation of the cause of the overdraft." See ORPC 1.15(2)(i) for further details.
- Q.** What do I do when a client overpays a billing statement?
- A.** You must deposit the entire client payment to the trust account. Only the amount due the lawyer or law firm can be disbursed from trust in payment of the client's bill. Contact the client and get instructions on whether you should refund the overpayment or leave the money in the trust account for future costs.
- Q.** How long must I wait to withdraw funds from the trust account once I have done work for a client?
- A.** Generally you may withdraw funds from a trust account when earned and invoiced, unless you expect the client to dispute the amount due. ORPC 1.15-1(e). However, until the bill is received, the client will be unaware of the amount of the bill. You may want to wait a reasonable period – such as 30 days – after invoicing the client before withdrawing earned funds. OSB Legal Ethics Op No 2005-149.
- Q.** What happens when a sole signatory on the trust account dies?
- A.** When the sole signatory on a trust account dies, the court may take jurisdiction and appoint one or more lawyers in good standing with the OSB to act as custodian of the affected lawyer's law practice. ORS 9.705-9.755. This process is slow and can be expensive. A better practice is for sole practitioners to plan ahead for the unexpected by selecting an "assisting attorney." This process is described in the PLF handbook, *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death*. If you would like assistance, call the PLF to meet with a practice management advisor. *Planning Ahead: A Guide to Protecting Your Clients' Interests in the Event of Your Disability or Death* can be accessed or ordered on the PLF website, www.osbplf.org.
- Q.** How long must I keep trust account records?
- A.** ORPC 1.15-1(a) states, "Complete records of [trust] account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation."

- Q.** What are complete trust account records?
- A.** ORPC 1.15-1(a) does not state what constitutes complete records. The ABA Model Rules for Client Trust Account Records advises retaining these records: receipts and disbursement journals containing a detailed record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee, and purpose of each disbursement; ledger records for each separate client or third person; copies of retainers and fee agreements; copies of accountings to clients or third persons; copies of bills for legal fees and costs given to each client; copies of records showing disbursements on behalf of clients; the physical or electronic equivalent of checkbook registers, bank statements, deposit records, cancelled checks; copies of trial balances and reconciliations of the lawyer trust accounts; and copies of those portions of client files reasonably related to lawyer trust account transactions.
- Q.** Where can I get additional help with trust accounting or IOLTA requirements?
- A.** Visit the OLF website at www.oregonlawfoundation.org and click on the Info for Lawyer's link or call the OLF Administrator, (503) 620-0222 or 1-800-452-8260. For assistance with setting up a system for trust accounting, call the practice management advisors of the PLF, (503) 639-6911 or 1-800-452-1639 or visit the PLF website, www.osbplf.org. For assistance with reconciling your trust account ongoing, contact a local bookkeeper or accountant.

SAMPLE REPORT USING QUICKBOOKS®

(QuickBooks® replica report reflecting trust account activity and individual client transactions.
Actual reports generated in this program will differ in format and detail.)

11:42 a.m.
02/29/2016
Cash Basis

Type	Date	Num	Memo	Paid Amount	Balance
Client Trust Accounts					
David Jones					
Deposit	1/13/2016		Deposit	3,000.00	3,000.00
Check	1/25/2016	0001	Filing Fee	-250.00	2,750.00
Total David Jones				2,750.00	2,750.00
Harold Anderson					
Deposit	1/13/2016		Deposit	5,000.00	5,000.00
Total Harold Anderson				5,000.00	5,000.00
Sharon Brown					
Deposit	1/27/2016		Deposit	2,500.00	2,500.00
Check	2/11/2016	0002	Medical Report	-300.00	2,200.00
Total Sharon Brown				2,200.00	2,200.00
Total Client Trust Accounts				9,950.00	9,950.00
TOTAL				9,950.00	9,950.00

SAMPLE REPORT USING QUICKEN®

(Quicken® replica report reflecting trust account activity and individual client transactions.
Actual reports generated in this program will differ in format and detail.)

Trust Account by Client

03/01/16 through 03/31/16

	Date	Num	Description	Category	Paid Amount
David Jones	3/1/2016		Deposit	Retainer	3,000.00
	3/14/2016	0001	eFiling	Cost - Filing Fee	-250.00
					2,750.00
Harold Anderson	3/2/2016		Deposit	Retainer	5,000.00
					5,000.00
Sharon Brown	3/4/2016		Deposit	Retainer	2,500.00
	3/22/2016	0002	Check	Cost - Medical Report	-300.00
					2,200.00
OVERALL TOTAL					9,950.00

CHART OF ACCOUNTS

TRUST ACCOUNT

Category	Type	Description
Retainer	Income	Received from client
Settlement Funds	Income	Received on behalf of client
Attorney Fees	Expense	Fees paid
Bank Charges	Expense	Check printing and other bank charges
Client Net	Expense	Net proceeds to client
Costs	Expense	Paid on behalf of client
Deposition	Sub	Court reporter fees
Filing Fee	Sub	Court, county, etc.
Recording Fees	Sub	Court, county, etc.
Reports	Sub	Hospital, doctor, investigator, etc.
Service Fees	Sub	Process service
Witness Fees	Sub	Witness fee, mileage, etc.
[Trust]	Bank	Lawyer's Trust Account

TRUST ACCOUNT RECONCILIATION

For the Month Ended _____

		<u>Amounts</u>
Lawyer Individual Trust Account Ledger Balances ¹		
Client _____	\$	_____
Client _____		_____
Attorney Funds for Bank Charges, if any		_____
1. Total Lawyer Individual Trust Account Ledger Balances	\$	_____ *
2. Lawyer Trust Account Journal (or Check Register) Balance	\$	_____ *
Bank Statement Balance	\$	_____
Less Outstanding Checks	-	_____
Plus In-Transit Deposits	+	_____
3. Reconciled Bank Statement Balance	\$	_____ *

** These amounts (1, 2, and 3) must be identical to each other for the trust account to balance.*

¹ Note: Need separate line for each person's account on a separate ledger card/page.