



Lawyer Trust Funds Guidelines

published by



THE MISSISSIPPI BAR

This handbook is provided by The Mississippi Bar as a public service only. It is designed as a practical non-authoritative guide in making trust account decisions which remain the ultimate responsibility of the individual lawyer.



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Lawyer Trust Funds Guidelines

Ethical Obligations

Mississippi's Rules of Professional Conduct impose strict fiduciary standards on any Mississippi lawyer who holds the property of others. These rules prohibit a lawyer from placing client or third party funds in an account that would earn interest for the lawyer or firm's benefit. Responsibility for compliance with these rules cannot be delegated to others. Many of these rules are absolute, and a lawyer's intent will not excuse a violation. Violations can result in professional disciplinary proceedings including disbarment. Therefore, it is in the lawyer's and the client's best interest that the lawyer thoroughly understand these fiduciary standards and rules.

The fiduciary nature of the attorney's duty and the need for public confidence in the legal profession places several burdens on a lawyer. First, in handling trust funds or property of others, the lawyer must act properly.

The lawyer is obligated to utilize certain protective procedures to minimize the possibility of wrongdoing and under no circumstances can the lawyer benefit either directly or indirectly from the handling of trust funds or property of others.

1. All property that is the property of clients or third parties must be kept separate and apart from the lawyer's business and personal property. See Rule 1.15 (a), MRPC.
2. All monies must be placed in one or more trust accounts. Separate trust accounts may be warranted when administering money from estates or acting in similar fiduciary capacities.
3. All securities and properties of a client or third party shall be identified, labeled and promptly safeguarded. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances.

Each lawyer is personally responsible for the proper deposit and maintenance of trust funds. While necessity often requires delegation of administrative duties within a law practice, the lawyer still must establish, be familiar with and ensure the proper operation of adequate procedures for the handling of trust funds. Specifically; lawyers who delegate any part of their trust fund account responsibilities to staff must provide effective guidelines for the proper handling and maintenance of these accounts and supervise staff activities.

Who Must Maintain A Trust Account

Every licensed Mississippi attorney who is engaged in the private practice of law, whether full-time or part-time and who, in that capacity, holds funds in which a client or third party has an interest must maintain a trust account for the deposit of those funds.

What Funds Are Trust Funds

Mississippi Rule of Professional Conduct 1.15, entitled "Safekeeping Property," defines trust funds as funds in a lawyer's possession in which a client or third party has an interest.

Among the funds which are to be treated as trust funds are:

1. advances for fees received from clients, until they are actually earned by the attorney and
2. funds of clients or third parties that are being held for disbursement at a later time, such as personal injury awards, support payments, real estate conveyance funds and litigation settlements.

It is the lawyer's responsibility to exercise good judgment in determining what funds shall be deposited in the trust account.

Where to Deposit Trust Funds

Rule 1.15(a) requires that trust funds be deposited in an account separate and apart from the lawyer's, at a financial institution in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third party.

The lawyer or law firm should deposit trust funds in one of, or when necessary a combination of, the following insured checking accounts which provide for:

1. a separate interest-bearing account for each matter, on which the interest will be paid to the client or a third party;
2. a pooled interest-bearing account containing the funds from several matters, with sub-accounting that will provide for computation of interest earned in each matter and payment thereof to the proper person or entity.
3. a pooled interest-bearing account for the deposit of all trust funds that are nominal in amount or expected to be held for a short period of time, with interest earnings paid to the Mississippi Bar Foundation, Inc. or
4. a pooled non-interest-bearing account for the deposit of all trust funds that are not invested for the benefit of the client or third party.

As a practical matter, it is the lawyer's responsibility to exercise good judgment in determining how trust funds are to be deposited or invested. Usually, when a lawyer holds a substantial amount of funds clearly identifiable to a client or third party for a long period of time, the lawyer should deposit those funds in a separate interest-bearing account for the benefit of the client or third party. The definition of "substantial" depends on the circumstances of each case—the larger the amount of funds, the shorter the period of time needed to justify the establishment of separate accounts for the funds and vice versa. Another option is the lawyer may pool such trust funds in a single account if and only if the lawyer can sub-account for all of the interest attributable to each party's funds and see that such interest is applied to that client or third party's balance.

In making the determination as to where to deposit trust funds, the lawyer should consider the costs of establishing and administering these types of accounts, including the cost of the lawyer and staff service and the cost of preparing any tax reports for interest accruing to a client or third party's benefit.

Another consideration in making the determination as to where to deposit trust funds is to ensure that all trust funds are adequately protected by FDIC coverage. The FDIC will impose a \$100,000 limit on any bank account, irrespective of the apparent number of owners or beneficiaries, UNLESS there is proper evidence of the fiduciary nature of the account from the deposit account records at the institution and the ongoing office records maintained by the attorney on behalf of the owner(s) of the money on deposit at the institution. As an alternative, the lawyer may require the financial institution to pledge assets in order to protect the funds within the accounts.

Trust funds that are not invested for the benefit of a client or third party must be deposited in an IOLTA interest-bearing account(s), with the interest being paid to the Mississippi Bar Foundation, Inc. To enroll the lawyer or law firm's trust account in this charitable program, the lawyer or law firm should obtain and complete a "Notice to Financial Institutions" form. The interest generated on such funds is taxable to the Mississippi Bar Foundation, Inc.—not to the lawyer, the client or third party.

Opening a Trust Checking Account

When a lawyer or law firm opens a trust checking account(s), it is recommended that consideration be given to:

1. establishing the trust account at an institution other than that where the lawyer's or law firm's operating account is located;
2. including "Trust Account" in the title of the account to ensure evidencing the fiduciary nature of the account;
3. selecting checks of a different color than those of the operating account and
4. depositing a reasonable, small amount of funds in the trust account to handle bank charges- See section "Handling Bank Charges," on page 5.

The lawyer or law firm may not open an interest-bearing trust account, for the deposit of trust funds, for the benefit of that particular lawyer or law firm. This practice is unethical and will subject the lawyer or law firm to professional disciplinary proceedings. See Rule 1.15(d)(2), MRPC.

For more information on IOLTA please review the Interest on Lawyer Trust Accounts Handbook located at www.msbar.org which serves as a guide for both lawyers and financial institutions for this mandatory program.

General Accounting Procedures

The accounting system that documents the trust funds can be as uncomplicated as the manual approach described in this pamphlet or as sophisticated as necessary using a computerized accounting package.¹

However, a lawyer need not be an accountant to keep proper trust account records. The lawyer should establish and maintain a system which ensures that the lawyer can document:

1. the amount on deposit in the trust account at all times;
2. the amount on deposit in the trust account belonging to each client or third party; and,
3. how each transaction is processed.

A system that incorporates internal controls and properly documents the activity occurring in the trust account should be adequate for these record-keeping requirements.

A recommended accounting system should consist of the preparation and maintenance of a Trust Account Checkbook, Trust Account Receipts Journal, Trust Account Disbursements Journal and a Trust Ledger.

A description of the significance of each separate component of this system and how they work together follows.

Trust Account Checkbook. Utilizing the checkbook register or stub, a lawyer can easily maintain an accurate record of the running balance within the trust account by maintaining a chronological journal of the receipt and disbursement activity. Each receipt or deposit transaction should show the date, source of funds, name of person with an interest in the account and a brief explanation. Likewise, each disbursement transaction should show the date, check number, payee, and a brief explanation of purpose or person for whose benefit the money is paid and the amount.

Good internal control dictates that access to the trust account checkbook be limited to only the authorized signatories.

Trust Account Receipts Journal. This is nothing more than a chronological listing of all funds received. This journal is a recapitulation of the same information required to be maintained in the checkbook register or stub. This would include the date, source of funds, name of person with an interest in the account and a brief explanation (see Trust Account Receipts Journal Sheet, page 6).

Trust Account Disbursements Journal. This is a chronological listing of every disbursement made from the trust account. This journal is a recapitulation of the same information required to be maintained on the checkbook register or stub and reflects the date, check number, payee, purpose or person for whose benefit the money is paid and the amount (see Trust Account Disbursements Journal Sheet page 9).

Trust Ledger. A separate page or sheet should be prepared for each pending matter. This ledger sheet documents the chronological activity for each client or third party's funds. Entries on this sheet are posted from the activity originating in the checkbook register whereby funds have been received in trust showing the date received or the amounts of any disbursements, and any unexpended balance, with the balances kept up to date and properly organized so that accurate accounting of all trust funds can be provided immediately on request (see Trust Ledger Sheet, page 10). Under no circumstances should the lawyer ever disburse more funds than received in a matter. These separate subsidiary sheets can be organized in two three-ring binders. The first binder would be labeled as the "Open Account" ledger. Within this binder all of the separate subsidiary ledger sheets should be filed and maintained. The second binder would be labeled as the "Closed Account" ledger. This binder would be for the purpose of keeping all subsidiary ledger sheets on closed matters.

Monthly Reconciliation. At the end of each month the trust fund account(s) should be reconciled. A monthly trial balance of the entire subsidiary ledger, also showing the name of each client or third party's sub-account, should agree with the month-end checkbook register's running balance of the trust account. This figure is computed by taking the beginning balance, adding the

1. Because there are many different types of hardware and software capable of performing the tasks and functions described herein, the Bar will not recommend nor endorse any specific program but refers anyone who is interested in this topic to contact the American Bar Association's Resource Center.

total of funds received for the month and deducting the total of funds disbursed for the month (see Receipts/Disbursements Control Sheet, page 11).

Bank Reconciliation. When the month-end bank statements are received, a written reconciliation should be made among the trust account bank balance, the receipts and disbursements journals' totals, the checkbook balance, and the subsidiary ledger trial balance total (see Trust Account Reconciliation Sheet, page 12). This reconciliation should also include month end deposits which do not appear on the bank statements and a listing of all outstanding checks. All reconciliations should be saved with the bank records for future references. If possible, a person who is not normally involved in the client fund bookkeeping activities should perform the reconciliation.

Accounting to Clients or Third Parties. Periodically the lawyer should advise each person whose funds are held of the status of those funds. Adequate description should be provided indicating what receipts and disbursements have occurred and any unexpended balance. If there is objection to any proposed disbursement, such as for earned fees, those funds must remain in the trust account pending the resolution for the dispute.

Deposits to the Trust Accounts

Which Funds? All funds that qualify as trust funds, as defined, shall be deposited into a trust fund account. The law firm should have a clearly expressed written policy, applicable to all attorneys and staff, specifying what funds are deposited into the trust account(s).

When? Promptly. Deposit of funds should be made daily.

Where? Trust funds should be deposited in one or more insured interest-bearing accounts unless the lawyer, or law firm with which the lawyer is associated is exempt from the requirements of Rule 1.15.

How? Sound accounting advice is to never transmit money without written communication. A voucher or other documentation for receipt and instruction should be prepared by the attorney instructing the person performing the bookkeeping function to deposit the funds into the trust fund account on behalf of the person or entity named in the voucher or receipt. Written communication avoids later arguments regarding deposit instructions and provides a needed audit trail.

Notification. Rule 1.15(b) requires that the client or third party be notified promptly of the receipt of their funds, securities, or other properties. Compliance avoids misunderstanding, mistakes and mistrust.

Funds Availability. A sound business practice dictates that before disbursement of trust funds, the client's or third party's check must clear through the banking process and be available for disbursement. If this precaution is not taken, and the initially receipted check or draft is returned for insufficient funds or a stop payment order is issued, the trust funds of other clients or third parties will be disbursed wrongfully. Since even cashier checks and certified checks are occasionally dishonored, the best policy is to be assured that the initial receipts clear the banking process. Rule 1.15(j), MRPC, lists four exceptions to the "collected funds" requirement based upon the uncollected deposit being of limited risk and the attorney having sufficient funds available (that are not client funds) to replace the uncollected funds. Please see Rule 1.15 (j), MRPC, for more information.

Disbursed Amounts. Trust fund disbursements from a particular ledger must not exceed the funds received from or on behalf of that person. Otherwise, a wrongful taking of other client trust funds occurs, resulting in both civil and disciplinary liability. As a precautionary measure, the individual signing the check should have a photocopy of the particular subsidiary ledger sheet of the client or third party before authorizing disbursement of trust funds.

Disbursement procedures should be clearly stated in established rules for the firm.

Transaction Authority. Each disbursement transaction should be based upon a written voucher or other documentation, which provides the identity of the client or third party's account to be charged, the reason for the transaction, authority and approval for issuance of a trust account check by the lawyer.

Authorized Signatures. A determination as to the proper person(s) to sign trust checks is probably best left for each firm to decide. Generally, the person who prepares the checks should not have sole signatory authority. Good internal control dictates that access to the trust account checkbook be limited to authorized signatories, and that two signatures be required on all trust account checks. Regardless, no individual should sign a check unless presented with written documentation that the disbursement is proper, along with notice that the original receipted funds have cleared the banking process and are available for disbursement. The subsidiary ledger account should reflect the availability of the trust funds.

Internal Audit Controls. The reconciliation process should be performed entirely by personnel who are not involved in the bookkeeping process. The lawyer or firm administrator also should be involved in the process.

Internal controls are weakened when the same person who prepares the check also signs the check. Ideally, these functions should be separated, preferably between staff personnel and professional or management personnel. Also, bonding of the individuals who are signatories on the trust account is recommended.

Handling Bank Charges. The lawyer or law firm should consider depositing a small amount of funds in the trust account to cover bank charges for the costs of printing checks; deposit tickets; monthly service charges; a returned deposit item or some special charge. This practice might appear to be the commingling of the lawyer's personal funds with that of others. Although not specifically authorized, this practice is a recognized exception to the general rule of commingling since the funds are deposited with the purpose of being consumed rather than being disbursed and such funds will prevent the misappropriation of a client's or third party's funds. The lawyer or law firm properly accounts for such funds in the trust account, as with any other matter, by preparing a Trust Ledger sheet and calling it "Bank Charges." Charges are then recorded as they are incurred. When the balance on the ledger sheet becomes low, a new small deposit of funds is made to bring the balance up to a comfortable level.

Record Retention. All records of trust account funds and other property shall be kept by the lawyer and should be preserved for a period of seven (7) years after the termination of the representation. See Rule 1.15 (a), MRPC.

Rule 1.15 "Safekeeping Property" of Mississippi's Rules of Professional Conduct

(a) A lawyer shall hold clients' and third persons' property separate from the lawyer's own property. Funds shall be kept in a separate trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such trust account funds and other property shall be kept and preserved by the lawyer for a period of seven years after termination of the representation.

(b) 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 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.

(c) When a lawyer is in possession of property in which both the lawyer and another person claim an interest, the property shall be kept separate by the lawyer until completion of an accounting and severance of their respective interests. If a dispute arises concerning their respective interests, the lawyer shall disburse the portion not in dispute, and keep separate the portion in dispute until the dispute is resolved.

(d) Except as provided in paragraph (f) of this rule, a lawyer or law firm shall create and maintain an interest- or dividend-bearing trust account (IOLTA Account) for all funds which are nominal or short term funds that cannot earn income for the client or third party in excess of the costs incurred to secure such income (IOLTA eligible Funds), pursuant to the following:

(1) All trust Funds shall be deposited in a lawyer's or law firm's IOLTA Account unless in the lawyer's judgment the funds can earn income for the client or third party in excess of the costs incurred to secure such income.

(2) No earnings from such an IOLTA Account shall be made available to a lawyer or law firm.

(3) IOLTA Accounts shall be established only with financial institutions:

- i. authorized by federal or state law to do business in Mississippi;
- ii. the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or any successors thereof;
- iii. which pay a rate of interest or dividend on IOLTA Accounts that is no less than the highest rate generally available to its own non-IOLTA Account depositors when the IOLTA

Account meets the same minimum balance or other eligibility requirements, provided however that: (a) IOLTA Accounts may be maintained in an interest-bearing checking account or an interest or dividend-bearing account with check-writing and with a sweep feature which is tied to either a money market account insured by an agency of the federal government or a money market fund or daily overnight repurchase agreement invested solely in or fully collateralized by U.S. Government securities (defined as U.S. Treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof) so long as there is no impairment of the right to immediately withdraw and transfer principal as soon as permitted by law; (b) institutions may choose to pay these rates on a qualifying IOLTA checking account instead of establishing the higher rate product; and (c) institutions may also elect to pay a higher interest or dividend rate and may waive any fees on IOLTA Accounts.

- (4) Financial institutions are prohibited from using interest from one IOLTA Account to pay fees or charges in excess of the interest earned on another IOLTA Account. If not waived by the financial institution, such fees, if any, are the responsibility of the lawyer or the law firm.
- (5) Lawyers or law firms depositing funds in an IOLTA Account established pursuant to this rule shall direct the depository institution:
 - i. to remit all interest, net of reasonable service charges or fees, if any, on the average monthly balance in the account, or as otherwise computed in accordance with the institution's standard accounting practice, at least quarterly, to the Mississippi Bar Foundation, Inc. For the purposes of this paragraph, reasonable services charges or fees shall not include fees for wire transfers, insufficient funds, bad checks, stop payments, account reconciliation, negative collected balances and check printing;
 - ii. to transmit with each remittance to the Foundation a report showing the following information for each IOLTA Account: the name of the lawyer or law firm, the amount of interest or dividends earned, the rate and type of interest or dividend applied, the amount of any services charges or fees assessed during the remittance period, the net amount of interest or dividends remitted for the period, the average account balance for the period for which the interest was earned and such other information as is reasonably required by the Foundation;
 - iii. to transmit to the depositing lawyer or law firm a periodic account statement in accordance with normal procedures for reporting to depositors.
- (e) Any IOLTA Account which has or may have the net effect of costing the IOLTA program more in fees than earned in interest over a period of time may, at the discretion of the Foundation, be exempted from and removed from the IOLTA program. Exemption of an IOLTA Account from the IOLTA program revokes the permission to use the Foundation's tax identification number for that account. Exemption of such account from the IOLTA program shall not relieve the lawyer and/or law firm from the obligation to maintain the nominal or short term funds of clients and third persons separately, as required above, in a non-interest bearing account.
- (f) Every lawyer admitted to practice in this State shall annually certify to this Court that all IOLTA eligible Funds are held in an IOLTA Account, or that the lawyer is exempt because the lawyer:
 - (1) is not engaged in the private practice of law;
 - (2) does not have an office within the State of Mississippi;
 - (3) is a judge, attorney general, public defender, U.S. attorney, district attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law;
 - (4) is a corporate counsel or teacher of law and is not otherwise engaged in the private practice of law;
 - (5) has been exempted pursuant to Section (e) above; or
 - (6) has been exempted by an order of general or special application of this Court which is cited in the certification.
- (g) In the exercise of a lawyer's good faith judgment in determining whether funds can earn income in excess of costs, a lawyer may take into consideration all reasonable factors including, without limitation:
 - (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 or yield at the financial institutions where the funds are to be deposited;
- (4) the cost of establishing and administering the account, including the cost of the lawyer's services, accounting fees, and tax reporting costs and procedures;
- (5) the capability of a financial institution, a lawyer or a law firm to calculate and pay income to individual clients; and
- (6) any other circumstances that affect the ability of the funds to earn a net return for the client.
- (h) A lawyer shall review the IOLTA Account at reasonable intervals to determine whether changed circumstances require further action with respect to the funds of any client.
- (i) The determination of whether funds are nominal or short-term so that they can not earn income in excess of costs shall rest in the sound judgment of the lawyer or law firm. No lawyer shall be charged with an ethical impropriety or other breach of professional conduct based on the good faith exercise of such judgment.
- (j) A lawyer generally may not use, endanger, or encumber money held in trust for a client or third person without the permission of the owner given after full disclosure of the circumstances. Except for disbursements based upon any of the four categories of limited-risk uncollected deposits enumerated in paragraph (1) below, a lawyer may not disburse funds held in trust unless the funds are collected funds. For purposes of this provision, "collected funds" means funds deposited, finally settled, and credited to the lawyer's trust account.
- (1) Certain categories of trust account deposits are considered to carry a limited and acceptable risk of failure so that disbursements of trust account funds may be made in reliance on such deposits without disclosure to and permission of clients and third persons owning trust account funds that may be affected by such disbursements. Provided the lawyer has other sources of funds available at the time of disbursement (other than client or third party funds) sufficient to replace any uncollected funds, notwithstanding that a deposit made to the lawyer's trust account has not been finally settled and credited to the account, the lawyer may disburse funds from the trust account in reliance on such deposit under any of the following circumstances:
 - (i) when the deposit is made by certified check or cashier's check;
 - (ii) when the deposit is made by a bank check, official check, treasurer's check, money order, or other such instrument where the payer is a bank, savings and loan association, or credit union;
 - (iii) when the deposit is made by a check issued by the United States, the State of Mississippi, or any agency or political subdivision of the State of Mississippi; or
 - (iv) when the deposit is made by a check or draft issued by an insurance company, title insurance company, or a licensed title insurance agency authorized to do business in the State of Mississippi.

In any of the above circumstances, a lawyer's disbursement of funds from a trust account in reliance on deposits that are not yet collected funds is at the risk of the lawyer making the disbursement. If any of the deposits fail, for any reason, the lawyer, upon obtaining knowledge of the failure, must immediately act to protect the property of the lawyer's clients and third persons. If the lawyer accepting any such check personally pays the amount of any failed deposit within three business days of receipt of notice that the deposit has failed, the lawyer will not be considered guilty of professional misconduct based upon the disbursement of uncollected funds.

- (2) A lawyer's disbursement of funds from a trust account in reliance on deposits that are not yet collected funds in any circumstances other than those four categories set forth above, when it results in funds of clients or third persons being used, endangered, or encumbered, will be grounds for a finding of professional misconduct.

[Amended effective January 1, 2007, to provide for mandatory IOLTA participation.]

Comment

A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property which is the property of clients or third persons should be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities.

Lawyers often receive funds from third parties from which the lawyer's fee will be paid. If there is a risk

that the client may divert the funds without paying the fee, the lawyer is not required to remit the portion from which the fee is to be paid. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds should be kept in trust and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

Third parties, such as a client's creditors, may have just claims against funds or other property in a lawyer's custody. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client, and accordingly may refuse to surrender the property to the client. However, a lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party.

The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction.

Interest on Lawyer's Trust Accounts. Each lawyer or law firm, unless specifically excluded in paragraph (f), is required to establish an IOLTA Account. Only IOLTA eligible funds - those nominal or short term funds that cannot earn income for the client or third party in excess of the costs incurred to secure such income may be placed in the IOLTA Account. This definition of IOLTA eligible funds is in compliance with the decision in *Brown v. Legal Foundation of Washington*, 538 U.S. 216 (2003), which upheld the constitutionality of the IOLTA concept.

No earnings on the IOLTA Accounts may be made available to or utilized by the lawyer or law firm. Upon the request of the client, earnings may be made available to the client whenever possible upon deposited funds which are neither nominal in amount nor to be held for a short period of time; however, traditional attorney client relationships do not compel lawyers either to invest clients' funds or to advise clients to make their funds productive.

IOLTA eligible funds shall be retained in an interest - or dividend - bearing trust account with the interest (net of any reasonable service charge or fees) made payable to the Mississippi Bar Foundation, Inc., said payments to be made by the financial institution at least quarterly. The determination of whether client or third party funds are nominal in amount or to be held for a short period of time so that they cannot earn net income over costs rests in the sound judgment of each lawyer or law firm and no charge of ethical impropriety or other breach of professional conduct shall attend a lawyer's exercise of judgment in that regard.

Annual certification required in (f) above shall be through a form that is made a part of the members's annual membership fees statement.

The decision to deposit client or third party funds in an IOLTA Account rests with the lawyers, so notification of such a deposit to clients whose funds are nominal in amount or to be held for a short period of time is unnecessary. This is not to suggest that many lawyers will not want to notify their clients of their participation in the program in some fashion. There is no impropriety in a lawyer or law firm advising all clients of how their participation advances the administration of justice in Mississippi.

Unclaimed Property. Any lawyer holding property or monies belonging to clients with whom he has lost contact must retain and account for said funds, subject to the Mississippi Uniform Disposition of Unclaimed Property Act.

Trust Account Receipts Journal

Month of

Date	Source	Person or Entity With Interest in Funds	Case or File No.	Amount	Total Daily Deposit

Trust Account Reconciliation Sheet

As of the Month Ended _____, 20__.

Trust Ledger Balances

Amounts

\$ _____

Attorney Funds (Bank Charges) _____

Total Trust Ledger Balances

\$ _____

Receipts/Disbursements Control Sheet Balance

\$ _____

Trust Account Checkbook Balance

\$ _____

Bank Statement Balance

\$ _____

Less: outstanding checks

\$ _____

Add: outstanding checks

\$ _____

Reconciled Bank Statement Balance

\$ _____ *

*These amounts must be identical to each other

Trust Account Receipts/Disbursements Control Sheet

Trust Funds			
Month	Received	Disbursed	Balance*
	-----		\$
January	\$	\$	\$
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
TOTAL			-----

"This amount should agree with the Trust Account Checkbook register's running balance.

