

## Client-Lawyer Relationship

### Rule 1.15-2 General Rules

- (a) **Entrusted Property.** All entrusted property shall be identified, held, and maintained separate from the property of the lawyer, and shall be deposited, disbursed, and distributed only in accordance with this Rule 1.15.
- (b) **Deposit of Trust Funds.** All trust funds received by or placed under the control of a lawyer shall be promptly deposited in either a general trust account or a dedicated trust account of the lawyer. Trust funds placed in a general account are those which, in the lawyer's good faith judgment, are nominal or short-term. General trust accounts are to be administered in accordance with the Rules of Professional Conduct and the provisions of 27 NCAC Chapter 1, Subchapter D, Sections .1300.
- (c) **Deposit of Fiduciary Funds.** All fiduciary funds received by or placed under the control of a lawyer shall be promptly deposited in a fiduciary account or a general trust account of the lawyer.
- (d) **Safekeeping of Other Entrusted Property.** A lawyer may also hold entrusted property other than fiduciary funds (such as securities) in a fiduciary account. All entrusted property received by a lawyer that is not deposited in a trust account or fiduciary account (such as a stock certificate) shall be promptly identified, labeled as property of the person or entity for whom it is to be held, and placed in a safe deposit box or other suitable place of safekeeping. The lawyer shall disclose the location of the property to the client or other person for whom it is held. Any safe deposit box or other place of safekeeping shall be located in this state, unless the lawyer has been otherwise authorized in writing by the client or other person for whom it is held.
- (e) **Location of Accounts.** All trust accounts shall be maintained at a bank in North Carolina or a bank with branch offices in North Carolina except that, with the written consent of the client, a dedicated trust account may be maintained at a bank that does not have offices in North Carolina or at a financial institution other than a bank in or outside of North Carolina. A lawyer may maintain a fiduciary account at any bank or other financial institution in or outside of North Carolina selected by the lawyer in the exercise of the lawyer's fiduciary responsibility.
- (f) **Segregation of Lawyer's Funds.** No funds belonging to a lawyer shall be deposited in a trust account or fiduciary account of the lawyer except:
- (1) funds sufficient to open or maintain an account, pay any bank service charges, or pay any tax levied on the account; or
  - (2) funds belonging in part to a client or other third party and in part currently or conditionally to the lawyer.
- (g) **Mixed Funds Deposited Intact.** When funds belonging to the lawyer are received in combination with funds belonging to the client or other persons, all of the funds shall be deposited intact. The amounts currently or conditionally belonging to the lawyer shall be identified on the deposit slip or other record. After the deposit has been finally credited to the account, the lawyer may withdraw the amounts to which the lawyer is or becomes entitled. If the lawyer's entitlement is disputed, the disputed amounts shall remain in the trust account or fiduciary account until the dispute is resolved.
- (h) **Items Payable to Lawyer.** Any item drawn on a trust account or fiduciary account for the payment of the lawyer's fees or expenses shall be made payable to the lawyer and shall indicate on the item the client balance on which the item is drawn. Any item that does not capture this information may not be used to withdraw funds from a trust account or a fiduciary account for payment of the lawyer's fees or expenses.
- (i) **No Bearer Items.** No item shall be drawn on a trust account or fiduciary account made payable to cash or bearer and no cash shall be withdrawn from a trust account or fiduciary account by means of a debit card.
- (j) **No Personal Benefit.** A lawyer shall not use or pledge any entrusted property to obtain credit or other personal benefit for the lawyer or any person other than the legal or beneficial owner of that property.
- (k) **Bank Directive.** Every lawyer maintaining a trust account or fiduciary account at a bank shall file with the bank a written directive requiring the bank to report to the executive director of the North Carolina State Bar when an instrument drawn on the account is presented for payment against insufficient funds. No trust account or fiduciary account shall be maintained in a bank that does not agree to make such reports.
- (l) **Notification of Receipt.** A lawyer shall promptly notify his or her client of the receipt of any entrusted property belonging in whole or in part to the client.

(m) Delivery of Client Property. A lawyer shall promptly pay or deliver to the client, or to third persons as directed by the client, any entrusted property belonging to the client and to which the client is currently entitled.

(n) Property Received as Security. Any entrusted property or document of title delivered to a lawyer as security for the payment of a fee or other obligation to the lawyer shall be held in trust in accordance with this Rule 1.15 and shall be clearly identified as property held as security and not as a completed transfer of beneficial ownership to the lawyer. This provision does not apply to property received by a lawyer on account of fees or other amounts owed to the lawyer at the time of receipt; however, such transfers are subject to the rules governing legal fees or business transactions between a lawyer and client.

(o) Duty to Report Misappropriation. A lawyer who discovers or reasonably believes that entrusted property has been misappropriated or misapplied shall promptly inform the North Carolina State Bar.

(p) Interest on Deposited Funds. Under no circumstances shall the lawyer be entitled to any interest earned on funds deposited in a trust account or fiduciary account. Except as authorized by Rule .1316 of subchapter 1D of the Rules and Regulations of the North Carolina State Bar, any interest earned on a trust account or fiduciary account, less any amounts deducted for bank service charges and taxes, shall belong to the client or other person or entity entitled to the corresponding principal amount.

(q) Abandoned Property. If entrusted property is unclaimed, the lawyer shall make due inquiry of his or her personnel, records and other sources of information in an effort to determine the identity and location of the owner of the property. If that effort is successful, the entrusted property shall be promptly transferred to the person or entity to whom it belongs. If the effort is unsuccessful and the provisions of G.S. 116B-53 are satisfied, the property shall be deemed abandoned, and the lawyer shall comply with the requirements of Chapter 116B of the General Statutes concerning the escheat of abandoned property.

History Note: Statutory Authority G. 84-23

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