

Lawyer Escrow and Fiduciary Accounts Under Virginia's New Ethics Rules¹

by David Ross Rosenfeld²

INTRODUCTION

Rule 1.15 of Virginia's new *Rules of Professional Conduct* ("Rule 1.15")³ defines the obligations of every lawyer engaged in the practice of law in Virginia regarding the management of escrow accounts⁴ and funds that are or should be held in an lawyer's escrow account.⁵ Paragraph 20 of Part 6, Section IV, *Rules, Supreme Court of Virginia* ("Para. 20"), defines a lawyer's obligations and responsibilities regarding the generation of interest on funds maintained in the lawyer's escrow accounts⁶ and the technical requirements with which escrow accounts maintained by lawyers engaged in the practice of law in the Commonwealth of Virginia must comply. Unlike other provisions of Virginia's ethics rules that may be subject to differing interpretations and philosophic debate, these rules and regulations require literal and strict compliance.

Today, virtually all lawyers in private practice render legal services to clients, which either routinely or occasionally require that the lawyer receive and exercise at least temporary control over other people's money. This is as true for the lawyer engaged in criminal defense, corporate law, intellectual property or immigration law as it is for the general practitioner, the trust and estates lawyer or the lawyer handling plaintiff's personal injury litigation. Hence, these escrow account rules and regulations will have application to virtually every lawyer engaged in private practice.

Admittedly, compliance with the escrow account rules may, in some instances, occasion minor inconvenience and require additional administrative time and lawyer attention. However, conscientious adherence to escrow account mandates can have a salutary effect for every lawyer. It can end the headaches and anxieties associated with a severely out-of-balance escrow account. It can help thwart the temptation to "borrow" escrow funds when economic pressures abound. In any case, compliance will insure the integrity of client funds and enhance the public's perception of our profession.

This article addresses the "what," "why," and "how to" of Rule 1.15, and Paragraph 20 and lawyer escrow accounts. It is intended to guide Virginia lawyers through the labyrinth of escrow accounting procedures and the rules governing interest on lawyer escrow accounts. My purpose in writing this article is to enable the reader to easily and effectively incorporate these ethical rules and requirements into daily practice.

WHAT ARE ESCROW FUNDS?

Escrow funds are "[A]ll funds received or held by a lawyer or law firm on behalf of a client,⁷ . . . other than reimbursement of advances for costs and expenses . . ." Rule 1.15(a). Thus, the following funds received by a lawyer must be placed in the lawyer's escrow account:

- a) funds placed with the lawyer for present or future use on the client's behalf or at the client's direction;
- b) funds received by the lawyer for **future** litigation expenses;⁸

- c) funds received by the lawyer for the benefit of the client or his designees; and
- d) funds given to the lawyer by a client that are to be applied against future fees.⁹

WHAT FUNDS ARE NOT ESCROW FUNDS?

Funds which, at the time they are in the hands of the lawyer, belong to the lawyer or law firm are not escrow funds. Such funds may not be held in the escrow account unless they have been placed there "to pay bank charges . . ." [Rule 1.15(a)(1)] or the lawyer's entitlement to them "is disputed by the client . . ." Rule 1.15(a)(2).

Quite frequently, a lawyer will receive funds which belong in part to the lawyer and in part to the client. Examples include personal injury or real estate settlement checks from which the lawyer will draw legal fees and costs. These funds, referred to in "mixed escrow and non-escrow funds,"¹⁰ must be deposited in the escrow account. Rule 1.15(a)(2). However, once the deposit has cleared the bank, the "portion belonging to the lawyer or law firm [i.e., the lawyer's fees and accrued costs] must be withdrawn." Rule 1.15(a)(2).

Notwithstanding the utter clarity of this language, lawyers often deposit their own funds into the escrow account or allow the "non-escrow portion" to remain in the escrow account. Rationalizations offered for this obvious violation include: the need for a buffer in the event a check deposited into escrow is returned for insufficient funds;¹¹ the need to hide money from creditors, the I.R.S., or a spouse; the use of the escrow account as a "personal" or office savings account or as a mechanism for budgeting and managing cash flow; and even the desire to maintain a high enough escrow account balance to qualify for the bank's offer of interest payments or free checking. None of these reasons override the clear and unequivocal ethical prohibition against commingling client's and lawyer's funds.

TECHNICAL REQUIREMENTS FOR ESCROW ACCOUNTS

The "Financial Institution"

Unless the client expressly directs the lawyer to do otherwise, lawyer escrow accounts may be maintained "only in financial institutions approved by the Virginia State Bar." Rule 1.15(f)(1)(i).¹² To be approved by the Virginia State Bar as an entity qualified to hold lawyer escrow funds, the entity must:

- a) be a regulated state or federally chartered bank, saving institution or credit union;
- b) have its deposits insured by an agency of the Federal Government;
- c) have signed an agreement with the Virginia State Bar (in a form provided by the Bar) that the bank will file a timely report with the Virginia State Bar in the event of an overdraft on a lawyer's escrow account;¹³
- d) agree to cooperate with the bar and produce lawyer escrow account records "upon receipt of a subpoena therefore." Rule 1.15(f)(1)(ii).

In maintaining an escrow account in an “approved” financial institution, the depositing lawyer or law firm is also “conclusively deemed to have *consented*” to the reporting requirements of the disciplinary rule. Rule 11.15(f)(1)(v).

Limiting lawyer escrow accounts to those institutions approved by the bar enhances the bar’s ability to oversee lawyer compliance with escrow account requirements and to act swiftly in the event of a breach of the rules. Limiting escrow accounts to approved financial institutions also permits the bar to establish effective procedures for the enforcement of the “insufficient funds” reporting requirements discussed below.

The Properly Identified Account

Each account must be “clearly identified” as a escrow account. Also, the financial institution must be informed “in writing of the purpose and identity of such account.” Rule 1.15(f)(1).

“Insufficient Funds” Reporting Requirement

The term “insufficient funds” is defined as “an overdraft in the commonly accepted sense of there being an insufficient balance as shown on the bank’s accounting records . . .” Rule 1.15(f)(1)(vi).

In the past, the State Bar’s rules required a bank to report an overdraft on a lawyer escrow account **only** when the check drawn on that account was **returned** for insufficient funds and only if the lawyer and bank were unable to resolve the matter within three banking days (i.e., if the lawyer had not made the check good within three days). This allowed the lawyer to cover the overdraft without a report going to the bar. The current rule is quite different.

Under Rule 1.15, whenever “any instrument” (i.e., check) is presented against a lawyer’s escrow account that has insufficient funds on deposit to cover payment of the instrument, the bank or financial institution **must** report that event to the Virginia State Bar, and this obligation to report applies whether or not the bank honors the instrument. Rule 1.15(f)(1)(ii). If the bank “dishonors” the instrument, the bank must file the “insufficient funds” report with the State Bar “within the time provided by law for notice of dishonor to the depositor . . .” *Id.* If the bank “honors” the instrument, the report must be made to the Bar “within five (5) banking days of the date of presentation for payment . . .” Rule 1.15(f)(1)(iii)(a). In either case, the bank has agreed that in consideration of it being an institution “approved” for maintaining lawyer trust accounts, it will make such reports and the lawyer will not be able to avoid such a report (and the adverse consequences that might result therefrom) by covering the bad check.

INTEREST ON ESCROW FUNDS¹⁴

1. Background

As noted above, the rules governing interest on lawyer escrow accounts are found in Part 6, Section IV, Paragraph 20 of the Rules of the Virginia Supreme Court (“Para. 20”).¹⁵ By way of background, Virginia’s Interest on Lawyers’ Trust Accounts (IOLTA) program was initiated in 1983 as a voluntary program in which lawyers who chose to do so could enroll their pooled escrow accounts, with the interest income on the aggregate balances in these accounts being paid to the Virginia Law Foundation for use in making charitable grants in those

activities approved by the Internal Revenue Service for use of IOLTA proceeds.¹⁶ In 1989, the Virginia Supreme Court converted the program to one allowing lawyers to “opt-out,” and thereby decline to participate.

In 1991, the program was made mandatory, requiring Virginia lawyers with offices in Virginia to enroll their pooled escrow accounts in the IOLTA program. However, following complaints about the mandatory program from bar members and financial institutions, the Virginia Supreme Court amended its rules and the General Assembly has enacted legislation that has returned the program to “opt-out” status.

Nevertheless, the program remains true to the goals that gave rise to its creation, i.e., to provide economic support to the legal aid societies operating in Virginia. Accordingly, both the revised court rule and the legislation provided that effective July 1, 1995, all IOLTA proceeds would be remitted by participating financial institutions directly to the Legal Services Corporation of Virginia for distribution to the legal aid programs only.

2. The Lawyer’s Options

Under these rules, unless the lawyer specifically opts out of participation in the IOLTA program, the lawyer must deposit client escrow funds into “an interest-bearing trust (IOLTA) bank account . . .” As an alternative to participation in the IOLTA program, a lawyer may “opt out” and deposit funds of clients in “one or more interest-bearing accounts,” provided the lawyer has established and maintains strict procedures for accounting and paying to each client “the interest on such client’s funds . . .” Para. 20(A). However, to opt out, the lawyer must satisfy the provisions of Paragraph 20(F) by filing the appropriate “election form” with the Legal Services Corporation of Virginia within the time provided for under the rules.

3. Rules Governing IOLTA Accounts

To qualify for establishing an IOLTA account, the lawyer must reasonably expect that the interest generated from these funds “would equal or exceed the pro rata interest on such client’s funds . . .” Para. 20(B)(1). In addition, the bank must agree to:

- a) Remit no less than quarterly to the Legal Services Corporation of Virginia (LSCV) all interest or dividends paid on the average monthly balance of the IOLTA account [Para. 20(B)(2)(a)]; and
- b) Transmit to LSCV and to the lawyer with each remittance, a statement identifying the lawyer or law firm, the rate of interest applied, and other details concerning the remittance. Para. 20(B)(2)(b).

To participate in the IOLTA program, the bank must also agree:

- c) To provide an interest rate “not . . . less than the rate paid by such bank to regular, non-attorney depositors”;
- d) “Charge no fees against an IOLTA trust account that are greater than the fees charged to non-attorney depositors” except a fee to defray the bank’s administrative costs attributable to calculating and remitting the interest to LSCV”;

- e) "Collect no fees from the principal deposited in the IOLTA trust account"; and
- f) "Pay all or part of the funds deposited in such interest-bearing trust account upon demand or order." Para. 20(B)(2).

4. Client Consent

As long as a lawyer maintains an IOLTA escrow account that complies with Paragraph 20, client consent for the collection of interest is not required, nor is the lawyer required to report to the client the collection of IOLTA interest and the payment of that interest to LSCV. Para. 20(C).

RECORD KEEPING AND ACCOUNTING REQUIREMENTS OF RULE 1.15

Although the language of Rule 1.15(e) is somewhat technical, the record keeping and accounting requirements of the rule are clear and easy to follow. Furthermore, if the volume of funds being held in escrow is not great, techniques for compliance can be greatly simplified.

Storage Period for Escrow Account Records

Under Rule 1.15(e)(1)(v), escrow account records (as defined below) must be maintained for "at least five full years calendar following the termination of the fiduciary relationship." Therefore, for purposes of compliance as well as ease of retrieval, lawyers must establish an effective and efficient system for indexing, storing, and retrieving these records.

Receipts and Disbursements Journals

In simplest terms, the record keeping requirements of Rule 1.15(e)(1) require only that the lawyer establish and practice sound procedures for recording cash received into escrow (the "cash receipts journal"), cash being paid out from escrow (the "cash disbursements journal"), and a consistent, reliable, and **separate** system for recording the escrow account transactions relating to each individual client (the "subsidiary ledger"). Where the lawyer is serving as a fiduciary, however, the "required books and records" include annual summaries "of all receipts and disbursements" "comparable to an accounting that would be required of a court supervised fiduciary [serving] in the same or similar capacity." The fiduciary must also retain "original source documents" and preserve the summaries and source documents for "at least five full calendar years following the termination of the fiduciary relationship." Rule 1.15(e)(2).

The Cash Receipts Journal (See Form 1)

This record, required by Rule 1.15(e)(1)(i), need be nothing more than regular entries in the escrow account check book which identify the date **(i)** and amount of funds deposited **(ii)**¹⁷ and the client **(iii)** on whose behalf the funds were received. A lawyer may maintain a separate "journal" or "ledger" or any other type of record in addition to, or in lieu of check book stub entries. As long as the record being maintained produces a running balance (necessary for other Rule 1.15 accounting requirements) and provides the details concerning the dollar amount, client identity, and date of deposit, that record satisfies Rule 1.15. Bear in mind, however, that for routine record keeping purposes as well for compliance with Rule 1.15, the lawyer should maintain additional records which articulate "the purpose" underlying the receipt of funds into

escrow (i.e., invoices, transmittal letters with explanation, etc.).

There are now numerous computer software programs available on the market for use in maintaining lawyer escrow account records that are simple to install, use and maintain.¹⁸ However, any system utilized by the lawyer, computer based or otherwise, which produces a clear cash receipts and disbursements report, and other "records and information" discussed below will suffice for Rule 1.15. Rule 1.15(e).

Regardless of the type of accounting system used, a "duplicate deposit slip" or other record "which shows the identity of each item" must be retained by the lawyer. Rule 1.15(f)(2). This "identity" includes, of course, the date and amount of funds deposited, the client on whose behalf the funds were received and the identity of the source of the funds.

The Cash Disbursements Journal (See Form 2)

Required by Rule 1.15(e)(1)(ii), this document is maintained by the same methods described above for the "cash receipts journal." In fact, checkbook stubs would suffice. Regardless of the system used, every disbursement from escrow must be recorded and must always clearly detail the date **(i)** and amount of funds **(ii)** disbursed or paid out and the identity of the client **(iii)** on whose behalf the funds were disbursed. Although not required by the rules, it is good practice to have this record or journal also identify the recipient of the specific funds and the purpose **(iv)** for which the disbursement was made.

As with the cash receipts journal, for routine record keeping purposes and to satisfy the requirements of Rule 1.15, the lawyer needs to maintain sufficient supplemental documentation which will corroborate "the purpose" giving rise to each disbursement of client funds being held in escrow.

The Subsidiary Ledger (See Form 3)

Rule 1.15(e)(1)(iii) requires the lawyer to maintain "a separate account ["record"] for each client **(ii)** and for every other person or entity from whom money has been received in escrow . . ." To comply with other Rule 1.15 requirements and sound accounting procedures and to help avoid math errors that might be made along the way, this "subsidiary ledger" must also identify the date **(vi)** and amount of each deposit **(x)** for that particular client and the date **(vi)** and amount of each disbursement **(ix)** and the identity of the recipient **(vii)**. The rule requires that "all fees paid from escrow" be "clearly identified."¹⁹

A simple, non-computer based method by which a solo practitioner or small firm may comply with the rule is as follows:

- 1) For each client with funds on deposit in the firm's escrow account, prepare a separate client subsidiary ledger card ("client ledger card") following the format of **Form 3**;
- 2) Maintain the ledger cards for all active clients and matters in one loose leaf notebook, and ledger cards for closed matters in a second notebook;
- 3) When all of a funds held in the escrow account on the client's behalf have been disbursed, the ledger card reflects a zero balance, and the matter for that client has been concluded, the card should be removed from the notebook of active matters and

placed in the “closed matters” notebook for storage, easy access and retrieval, and future reference.

As noted above, there are many systems available for escrow accounting. However, the bottom line is that any system you select or procedure you follow must insure preservation of all critical escrow account records, documents and receipts, and must provide a mechanism for easy storage and retrieval or records and information.

Escrow Account Reports

At first glance, the rules addressing the various escrow account reports appear complex and confusing. However, once understood and implemented, production of these reports will require relatively little time and effort. Moreover, the reports will be helpful in generating a clear, solid paper trail of all escrow account transactions and a perfectly balanced set of escrow account books and records. This will, in turn, insure your ability to accurately account to each client and the State Bar and receive all of the fees and costs due you from a particular case.

The Periodic Trial Balance (See Form 4)

The Rule 1.15(f)(4) “periodic trial balance” requires merely that at least once every three months someone in the office balances the subsidiary ledger cards. As set out in **Form 4**, the following simple procedure can be used in performing this task:

Divide a sheet of accounting paper into columns titled: QUARTER ENDING DATE; CLIENT NAME; BEGINNING BALANCE; TOTAL QUARTER RECEIPTS; TOTAL QUARTER DISBURSED; QUARTER END BALANCE; and LAWYER INITIALS/DATE

Record on one line:

- 1) In the first two columns the QUARTER ENDING DATE and the CLIENT NAME;
- 2) Next, calculate the total amount of escrow funds being held for a client at the end of the quarter and record this sum under QUARTER END BALANCE (column A on Form 4);
- 3) Next, identify the balance of escrow funds held for this client at the beginning of the quarter and record this sum under BEGINNING BALANCE (column B on Form 4);²⁰
- 4) Then, add up all of the escrow funds received on behalf of this client during the quarter and record this sum under TOTAL QUARTER RECEIPTS (column C on Form 4);
- 5) Next, add up all of the disbursements made from escrow on behalf of this client during the quarter and record this sum under TOTAL QUARTER DISBURSED (column D on Form 4);
- 6) Now, add the BEGINNING BALANCE (column B) to the TOTAL QUARTER RECEIPTS for the quarter (column c) and subtract the TOTAL QUARTER DISBURSED for the quarter (column D). The resulting sum must equal the QUARTER END BALANCE (column A). If it does not, go back to the first step (periodic trial balance, above), recheck all entries and calculations and try it again.

When the resulting sum equals the amount shown in your column A,

- 7) Record in the ATTY INITIALS/DATE column, the date the trial balance was performed, the name of the person conducting this “periodic balance,” and, if performed by someone other than a lawyer, the name of the lawyer that reviewed the calculations. This record then becomes your proof of compliance with Rule 1.15(f)(4) and should be stored in a separate file for future reference.

The Monthly Reconciliation—Mandated by Rule 1.15(f)(5)(i), requires nothing more than the periodic balancing of your escrow account checkbook.

The Periodic Reconciliation—Required by rule 1.15(f)(5)(ii), must be accomplished at least once every three months and is the litmus test for a satisfactorily balanced set of escrow account records. The following is a three-step process which may be utilized to accomplish the task. Utilizing a form such as that seen in Form 5,

- 1) Compute and record on your periodic reconciliation form the escrow account balances for each client as reflected on the individual subsidiary ledger card, (which balances have already been proven by the periodic trial balances, above) and total and record on the form the combined balance of these subsidiary ledger cards;
- 2) Enter on the periodic reconciliation form the account balance shown in the escrow account check book at the end of the quarter (which has also been confirmed as accurate by your having performed the required “monthly reconciliation”) and confirm this figure with the escrow funds figure you came up with after totaling the individual client’s subsidiary ledger cards and confirm that these two figures match;
- 3) Record on the periodic reconciliation form, the date the periodic reconciliation was performed and the beginning and ending dates of the quarter. The preparer of this record (if someone other than a lawyer) and the approving lawyer are identified and this record is now your proof of compliance with Rule 1.15(f)(5) and should be stored in a separate file for future reference.

SOME GENERAL RULES

The only way to insure the accuracy of escrow records and compliance with the disciplinary rules is to meticulously follow each and every one of the technical requirements of Rule 1.15.

Whether in a large or a small firm, most lawyers prefer to delegate this task to a secretary, bookkeeper or office manager. However, the ultimate responsibility for compliance with Rule 1.15 rests with the lawyer. Therefore, every lawyer in the firm should be thoroughly familiar with the escrow account record keeping system utilized by that firm, and periodic review of escrow account records and reports should be on the agenda for periodic law firm business meetings.

Never disburse escrow funds without specific written authorization. This authorization can be in the form of a specific paragraph in a retainer agreement which authorizes the lawyer to expend sums for litigation and other costs of representation, or it can be a separate and specific written instruction from the client.

Keep clients informed of all transactions involving funds being held in escrow. This can easily be accomplished by including the details of escrow account transactions on behalf of that client as part of the client's monthly billing or statement of account.

When a case has been completed, be sure that the balance on the client's "subsidiary ledger" is brought to zero, that all earned fees and expense reimbursements have been transferred out of the escrow account, and that any remaining funds are appropriately disbursed.

Under no circumstances should a personal checking or savings account be used for either the office escrow or operating account.

To avoid deposit or check writing errors, consider using different color checks for escrow and operating accounts. Some law firms even go so far as to use different banks for their escrow and operating accounts.

CONCLUSION

Obviously, no accounting system for escrow accounts is foolproof. However, the degree of success of a given system is directly proportional to the quality and quantity of lawyer attention to, involvement with, and supervision of the system.

Ours is a public service profession trading and relying upon the public's confidence in lawyers. Ethical and responsible escrow account management and respectful treatment of client funds and property held in escrow by lawyers is one of the surest ways to foster, nurture and perpetuate public faith and confidence in our profession and our legal system.

David Ross Rosenfeld is the author of *Lawyer Discipline in Virginia*, a book published by the Virginia Law Foundation. He provides ethics counsel to attorneys, law firms and judges and representation in disciplinary matters, disqualification motions and related ethics matters before federal and state courts and disciplinary and regulatory administrative agencies. He is an adjunct professor teaching ethics at George Mason University School of Law, he writes and lectures extensively on the subject, and has qualified as an expert witness on legal ethics. He is a former chair of the Virginia State Bar Disciplinary Board. Rosenfeld received his J.D. degree in 1968 from the George Washington University Law School and is a principal in the Alexandria law firm of David Ross Rosenfeld, P.C.

ENDNOTES

- 1 This is a revision and up-date of an article by Mr. Rosenfeld which appeared in the April 1997 edition of the *Virginia Lawyer*.
- 2 Mr. Rosenfeld is a recognized authority on legal ethics and professional responsibility. He provides ethics counsel and risk management services to

attorneys, law firms and in-house corporate legal staff and represents attorneys in disciplinary matters, disqualification motions and related ethics matters before federal and state courts and disciplinary and regulatory administrative agencies. He is an adjunct Professor teaching Ethics at the George Mason University School of Law, a member of the Board of Governors of the Corporate Counsel Section of the Virginia State Bar, a former Chairman of the Virginia State Bar Disciplinary Board, and the author of *Lawyer Discipline in Virginia*, 2nd Edition, published by the Virginia Law Foundation. He writes and lectures extensively on the subject and has qualified as an expert witness on legal ethics. He received his J.D. degree in 1968 from the George Washington University Law School and is a principal in the Alexandria, Virginia law firm of David Ross Rosenfeld, P.C. Additional information regarding Mr. Rosenfeld's professional credentials as well as other articles he has written may be found on his Web site at <http://www.drpc.com>.

- 3 Effective January 1, 2000, Virginia moved from the *Code of Professional Responsibility, based upon the American Bar Association ("ABA") "Model Code" format, to the Rules of Professional Responsibility, based upon the ABA "Model Rules" format. This transition involved not only a revision of the format, but substantive changes to some of the basic rules. Those substantive changes impacting upon lawyer trust account management will be highlighted. These Rules and all other regulations governing lawyer escrow accounts referenced in this article may be found on line at <http://www.vsb.org/profguides/index.html>, in the *Virginia Lawyer Professional Guidelines published annually*.*
- 4 DR 9-103 used the terms "trust account" and "escrow account" interchangeably. However, in expanding the escrow reporting requirements to cover funds being held by lawyers in fiduciary accounts pursuant to wills, trust instruments, deeds of trust and the like, Rule 1.15, treats the word "trust" as a term of art referring to a fund established pursuant to an instrument. See e.g., Rule 1.15(d)(2)(i) ("trust instrument").
- 5 The term "lawyer" is defined to include both lawyers admitted to the Virginia Bar and "any member of the bar of any other jurisdiction while engaged, *pro hac vice* or otherwise, in the practice of law in Virginia . . ." Rule 1.15(f)(1)(vi).
- 6 Rule 20 is currently titled "Maintenance of Trust Accounts; Notice of Election Requirements" and speaks about the maintenance of "trust" accounts. It is expected that a future revision to Rule 20 will substitute the term "escrow" for "trust" in both the title and text.
- 7 Rule 1.15(f)(1)(vi) defines "client" to include any individual, firm, or entity for which a lawyer performs any legal service, including acting as an escrow agent or as legal representative of a fiduciary, but not as a fiduciary. The term does not include a public or private entity of which a lawyer is a full-time employee.
- 8 Only funds received by the lawyer for "reimbursement of advances for costs and expenses" are excluded from the requirement. District of Columbia, Maryland, Tennessee, West Virginia and North Carolina all have similar rules.
- 9 By definition, this includes flat fees charged by the lawyer and received from the client for the future performance of legal services. See Va.LEO #1606, November 22, 1994.
- 10 Rule 1.15(f)(3).
- 11 This certainly cannot be a justification for commingling funds since no escrow account check should ever be drawn against a escrow account deposit unless and until sufficient time has passed to insure that the deposit has cleared the bank. See Rule 1.15(f)(3).
- 12 "Regulations for the Approval of Financial Institutions as a Depository for Attorney Trust Accounts in Virginia" may be found on line at <http://www.vsb.org> to maintain "a separate account ["record"] for each client (ii) and for every other person or entity from whom money has been received in escrow . . ." To comply with other Rule 1.15 requirements and sound accounting procedures and to help avoid math errors that might be made along the way, this "subsidiary ledger" must also identify the date (vi) and amount of each deposit (x) for that particular client and the date (vi) and amount of each disbursement (ix) and the identity of the recipient (vii). The rule requires that "all fees paid from escrow" be "clearly identified."
- 13 "No escrow account shall be maintained in any financial institution which does not agree to make such reports." Rule 1.15(f)(1)(ii).
- 14 The first two paragraphs of this section were written by Thomas Edmonds, Executive Director and Chief Operating Officer of the Virginia State Bar.
- 15 Part 6, §IV, Para. 20, was adopted on May 1, 1995, and became effective July 1, 1995.
- 16 The Virginia Law Foundation is a charitable, educational and research foundation established by the Virginia State Bar to improve the administration of justice, study of law, legal reform, and accessibility of legal services. The IOLTA funds previously received by the Foundation through the IOLTA program were used to further the purposes and goals of the Foundation.

- 17 Reference numbers are keyed to the forms.
- 18 Some of the more popular include Quicken and Quickbooks. A more exhaustive list of software accounting programs designed specifically for lawyers can be found on line at <http://www.digital-lawyer.com/resource/software.html>.
- 19 If a combined transfer is being made from client's funds held in escrow into the lawyer or firm operating account which transfer is intended to both cover legal fees and reimburse for previous disbursements, the best procedure would be to clearly identify on the client's subsidiary ledger the dollar amounts being transferee for each, i.e., "Transfer to firm: Fees - \$xxx.xx; Costs - \$yy.yy.
- 20 Note that the amount of the QUARTER END BALANCE (here - A1: \$340.00) will always be the same as the amount of the very next BEGINNING QUARTER BALANCE (here - B2: \$340.00).

(Please note: charts will appear clear when printed)

FORM #1

CASH RECEIPTS JOURNAL

DEPOSIT RECORD

DATE (i)	SOURCE (ii)	AMOUNT (iii)
6/18	Doe - fees & costs	\$500.00
6/19	Stevens - costs	\$216.00
6/30	ABC, Inc -Doe Settl'mt	\$16,000.00
TOTAL		\$17,216.00

FORM #2

CASH DISBURSEMENTS JOURNAL (Check Stubs)

			21,139	30	
	<i>1259</i>		BAL		
			BRO'T		
			FWD		
		<i>(i)</i>			
	June 5		20 00		
		<i>(iv)</i>			
TO	Phil Photographer, Inc				
		<i>(iii)</i>			
FOR	John Doe		TOTAL	21,139	30
		<i>(iv)</i>	THIS		<i>(ii)</i>
	Photo blowups		CHECK	115	00
			OTHER		
			BALANCE	21,024	30
				21,024	30
	<i>1260</i>		BAL		
			BRO'T		
			FWD		
		<i>(i)</i>	Deposit		
				17,216	00
	June 28		20 00		
		<i>(iii)</i>			
TO	Client Stan Stone				
		<i>(iv)</i>			
FOR	Disbursement of PI proceeds		TOTAL	38,240	30
			THIS		<i>(ii)</i>
			CHECK	10,017	30
			OTHER		
			BALANCE	28,223	30

FORM #3

ESCROW ACCOUNT # 1212-1

(i) STEVEN C W TAYLOR, ESQUIRE
111 MAIN STREET
RICHMOND, VIRGINIA 23207

(iii) 4275
FILE NO.

(iv) 1
PAGE

(ii) John Doe Client
2345 Rain Tree Street
Richmond, Virginia

(v) _____
CLOSED FILE NO.

(vi) DATE BALANCE	(vii) DESCRIPTION	(viii) CK#	(ix) DISBURSE	(x) REC'D	(xi)
<u>1999</u> 12/15	New Client				0
<u>2000</u> 1/3	Rec'd from client - Fees & Costs			1,000	1,000
1/15	Carl Court Rp'tr, Inc - Smith depo	1025	63		935
1/15	Paym't to firm - Courier reimb	1026	45		890
2/15	Pay't to firm: Fees \$250 & Costs \$25	1131	275		615
3/16	Carl Court Rep'tr, Inc - Harris depo	1211	200		415
3/16	Rec'd from client for fees & costs			500	915
3/30	Pay't to firm: Fees \$500 & costs \$75	1245	575		A1 B2 340
	TRIAL BALANCE (4/1/00)		D1 1,160	C1 1,500	
4/3	Sheriff - Alex Process service	1251	30		310
6/5	Phil Photographer, Inc - photo blowups	1259	115		195
6/8	Rec'd from client - Fees & Costs			500	695
6/30	Rec'd from carrier - Settlement			16,000	16695
	TRIAL BALANCE (7/1/00)		D2 145	C2 16,500	

FORM #4

PERIODIC TRIAL BALANCE

(B plus C less D equals A)

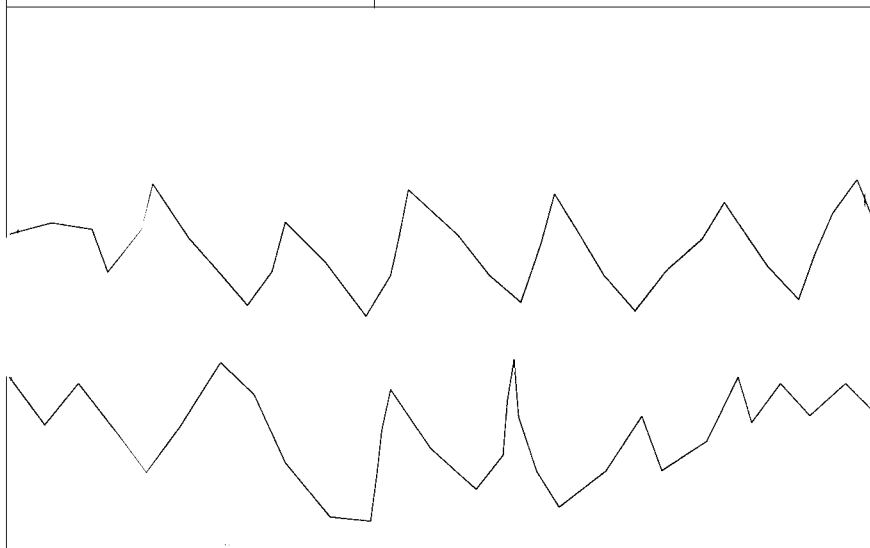
QUARTER ENDING DATE	CLIENT	BEGINNING QUARTER BALANCE	TOTAL QUARTER RECEIPTS	TOTAL QUARTER DISBURSED	QUARTER END BALANCE	ATTY INITIALS/ DATE
12/31/99	Doe	0	0	0	0	<i>DR</i> 1/1/99
		B1	C1	D1	A1	
3/31/00	Doe	0	1,500.00	1,1600.00	340.00	<i>DR</i> 4/1/00
		B2	C2	D2	A2	
6/30/00	Doe	340.00	16,500	145.00	16,695.00	<i>DR</i> 7/1/00

FORM #5
PERIODIC RECONCILIATION

PERIODIC RECONCILIATION
for
TRUST ACCT # 1212-1

QUARTER: Beginning 4/1/00 & Ending 6/30/00

CLIENT	SUBSIDIARY LEDGER BALANCE
Doe	16,695.00
Jones	200.00
Brown	10,010.00
Stevens	216.15
Green	1,102.15



TOTAL	28,223.30
CHECK BOOK BALANCE AT END OF QUARTER	28,223.20
ATTY INITIALS/DATE	<i>DRR - 7/1/00</i>

LEDGER CARD

- (i) NAME AND ADDRESS OF LAW FIRM - A convenient place for this information if the client is provided with a copy of this card along with the client's monthly bill as a way of keeping the client advised of escrow account activity.
- (ii) NAME AND ADDRESS OF CLIENT - Essential for proper identification of client during the record-keeping process.
- (iii) FILE NUMBER - Useful where file numbers are assigned to clients or client matters.
- (iv) PAGE - Useful where the volume of escrow account transactions for a particular client require multiple pages.
- (v) CLOSED FILE NO. - Useful where "Closed File" numbers are assigned to closed files.
- (vi) DATE - Every escrow account transaction on behalf of a client, whether a receipt or a disbursement, must identify the date of the transaction.
- (vii) DESCRIPTION - Every escrow account transaction on behalf of a client, whether a receipt or a disbursement, must be accurately described.
- (viii) CK #- Used to record the check number of each escrow account disbursement on behalf of a client.
- (i x) DISBURSED - The dollar amount of each disbursement is recorded in this column.
- (x) RECEIVED - The dollar amount of funds received from or on behalf of a client from any source is recorded in this column.
- (xi) BALANCE - A running balance of the funds being maintained on behalf of a client is reflected in this column. When all funds have been disbursed, the last entry in this column should be ZERO and the total of all entries in the RECEIVED column (x) less the total of all entries in the DISBURSED column (ix) should also equal ZERO.