

Committee Opinion  
February 9, 1993

LEGAL ETHICS OPINION 1510

TRUST ACCOUNTS: DEPOSIT OF  
LAWYER'S FUNDS TO PAY TRUST  
ACCOUNT BANK CHARGES.

You have presented a hypothetical situation in which a lawyer occasionally does legal work involving the handling of a client's funds and maintains a special account for that purpose. The lawyer prefers to maintain this account rather than open an account each time and use counter or other nonprofessional-looking checks, or cashier's checks. The bank does not require a minimum balance to maintain the account but imposes a service charge of \$5.00 per month (which may be re-credited every few months to the account at the discretion of the branch manager). The lawyer must maintain his own funds on deposit in the account most of the time in order to keep it open and to pay the service charges, at least pending possible recrediting every few months. The bank will close the account if it carries a zero balance for thirty days.

You have asked the Committee to opine, under the facts of the inquiry, as to the maximum amount of the lawyer's own funds that may be kept on deposit in the trust account and/or the amount of time for which he may provide for monthly service charges. You have also asked whether the answer would be different (1) if the charges are not to be re-credited and (2) if the charges may be, but not necessarily are, re-credited.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:9-102(A)(1), which states that all funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except that funds reasonably sufficient to pay bank charges may be deposited therein.

The Committee believes that the clear language of DR:9-102(A)(2) provides that an attorney may deposit funds in his trust account reasonably sufficient to pay bank charges. The Committee is cognizant of the fact that individual banks may assess different service charge amounts. The Committee, therefore, declines to establish a specific maximum amount that may be deposited. Rather, the Committee is of the opinion that if the amount of an attorney's own funds which are deposited in his trust account is an amount reasonably sufficient to pay bank charges for a two-year period, then there would be no violation of DR:9-102(A)(1).

The Committee is of the view that both variations on your inquiry, i.e., (1) the charges not to be re-credited, and (2) the charges possibly, but not necessarily, being credited, are immaterial to the conclusions reached.

Committee Opinion  
February 9, 1993