

# “An Ounce of Prevention . . .” Continued.

by Janean S. Johnston

This is the fourth installment in the “Firm Fitness Check-up” series. This time I am addressing an issue that seems to cause more stress for Virginia lawyers than any other single topic involved in law office management.

Financial management—especially trust accounting ethics requirements—usually bring a groan or a rolling of eyes from attorneys. Lawyers can handle their clients’ legal matters and focus their time and energies on those duties. Frequently they have little experience in handling financial records, beyond balancing their own checkbooks. (A few do not get around to it for years.) I have seen younger lawyers who learned their trust accounting procedures from older, experienced attorneys who have not been accounting correctly for years. Do not assume every certified public accountant knows our ethical requirements, either.

Because our law school experience has not trained us to maintain client trust accounts, this article will focus on the general record-keeping provisions of Rule 1.15(e) of the Rules of Professional Conduct. While most attorneys attempt to comply with the recording of the cash receipts and cash disbursements, some do not maintain required client subsidiary ledgers. Properly used, subsidiary ledgers perform an important risk management function. Double-checking in these records deters lawyers from stealing or borrowing clients’ funds.

Reconciling the three records above is the most frequently overlooked requirement that I have observed during my work in Virginia. Monthly reconciliations are required for cash balances. These are derived from the receipts and disbursements journals—or a bound, detailed checkbook—that reconciles the escrow account check-

book balance with the escrow account bank statement balance.

The greatest error in maintaining proper procedures in trust accounting is not performing a periodic trial balance at least quarterly (within thirty days of the end of the quarter). The trial balance of each client’s individual subsidiary ledger (showing the balance on hand at the end of the period) must be totaled and must agree with the beginning balance for that period, increased by deposits or decreased by disbursements, and must agree with the cash balance on hand. Have the reconciliations approved by the lawyer—especially if another person has been the preparer.

Part of the escrow accounting requirements includes clearly identifying the escrow account and ensuring that the account is in a financial institution approved by the Virginia State Bar. A list of approved banking institutions can be found on the bar’s Web site at [www.vsb.org/site/members/trust-account-depositaries/](http://www.vsb.org/site/members/trust-account-depositaries/). These banks have an agreement with the bar to timely notify the VSB whenever there are insufficient funds in the escrow account, regardless of whether the instrument is honored. If you want a visit from the VSB’s disciplinary office, overdrawing your escrow account is how to get one.

Manual and computerized systems help manage trust account records. Two popular accounting software programs are Quicken and QuickBooks. QuickBooks offers an online tutorial at [www2.mnbar.org/qbguide/qbguide1.htm](http://www2.mnbar.org/qbguide/qbguide1.htm) for using this program to maintain trust accounts.

Frank A. Thomas III has forms in the appendix of his Virginia CLE book, *Lawyers and Other People’s Money*, for those who use a manual system. A

third edition is in the process of being updated, and it should be available next year.

Now, let’s find out how you are doing with your own trust accounting procedures.



## Trust Fund Accounting and Control

- Is there a separation of trust and general operating funds?
- Do you avoid comingling your funds with your clients’ funds?
- Is your trust accounting current?
- Do you reconcile your trust accounts monthly?
- In addition to your cash receipts and cash disbursement journals (or adequately detailed and bound checkbook entries for each), do you maintain a subsidiary ledger for each client?
- Do you perform a quarterly (at least) trial balance of the subsidiary ledgers?
- Do you initial and date the above periodic reconciliations, in order to demonstrate your oversight of the trust funds?
- Are two signatures required for all withdrawals of funds from client trust accounts? (This does not apply to solos.)
- Are clients provided a complete accounting before funds are disbursed?
- Do you keep all financial records for at least five years following the termination of the fiduciary relationship?
- Do you know it is a “best practices” procedure to have an annual review/audit by an accountant of all trust accounts?

Because I have not covered this important topic in detail, please read Rule 1.15. If you have other trust accounting questions, call me at (703) 567-0088. ☞