

Sec. 2-27. Clients' Funds; Lawyer Registration

(Amended June 29, 2007, to take effect Jan. 1, 2008.)

(a) Consistent with the requirement of Rule 1.15 of the Rules of Professional Conduct, each lawyer or law firm shall maintain, separate from the lawyer's or the firm's personal funds, one or more accounts accurately reflecting the status of funds handled by the lawyer or firm as fiduciary or attorney, and shall not use such funds for any unauthorized purpose.

(b) Each lawyer or law firm maintaining one or more trust accounts as defined in Rule 1.15 of the Rules of Professional Conduct and Section 2-28 (b) shall keep records of the maintenance and disposition of all funds of clients or of third persons held by the lawyer or firm in a fiduciary capacity from the time of receipt to the time of final distribution. Each lawyer or law firm shall retain the records required by Rule 1.15 of the Rules of Professional Conduct for a period of seven years after termination of the representation.

(c) Such books of account and statements of reconciliation, and any other records required to be maintained pursuant to Rule 1.15 of the Rules of Professional Conduct, shall be made available upon request of the Statewide Grievance Committee or its counsel, or the disciplinary counsel for review, examination or audit upon receipt of notice by the Statewide Grievance Committee of an overdraft notice as provided by Section 2-28 (f). Upon the filing of a grievance complaint or a finding of probable cause, such records shall be made available upon request of the Statewide Grievance Committee, its counsel or the disciplinary counsel for review or audit.

(d) Each lawyer shall register with the Statewide Grievance Committee, on a form devised by the committee, the address of the lawyer's office or offices maintained for the practice of law, the lawyer's office e-mail address and business telephone number, the name and address of every financial institution with which the lawyer maintains any account in which the funds of more than one client are kept and the identification number of any such account. Such registrations will be made on an annual basis and at such time as the

lawyer changes his or her address or addresses or location or identification number of any such trust account in which the funds of more than one client are kept. The registration forms filed pursuant to this subsection and pursuant to Section 2-26 shall not be public; however, all information obtained by the Statewide Grievance Committee from these forms shall be public, except the following: trust account identification numbers; the lawyer's home address; the lawyer's office e-mail address; and the lawyer's birth date. Unless otherwise ordered by the court, all nonpublic information obtained from these forms shall be available only to the Statewide Grievance Committee and its counsel, the reviewing committees, the grievance panels and their counsel, the bar examining committee, the standing committee on recommendations for admission to the bar, disciplinary counsel, the client security fund committee and its counsel, a judge of the Superior Court, a judge of the United States District Court for the District of Connecticut, any grievance committee or other disciplinary authority of the United States District Court for the District of Connecticut or, with the consent of the lawyer, to any other person. In addition, the trust account identification numbers on the registration forms filed pursuant to Section 2-26 and this section shall be available to the organization designated by the judges of the Superior Court to administer the IOLTA program pursuant to Rule 1.15 of the Rules of Professional Conduct. The registration requirements of this subsection shall not apply to judges of the Supreme, Appellate or Superior Courts, judge trial referees, family support magistrates, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges.

(e) The Statewide Grievance Committee or its counsel may conduct random inspections and audits of accounts maintained pursuant to Rule 1.15 of the Rules of Professional Conduct to determine whether such accounts are in compliance with the rule and this section. If any random inspection or audit performed under this subsection discloses an apparent violation of this section or the Rules of Professional Conduct, the matter may be referred to a grievance panel for further investigation or to the disciplinary counsel for presentment to the Superior Court. Any lawyer whose accounts are selected for inspection or audit under this section shall fully cooperate with the inspection or audit, which cooperation shall not be construed to be a violation of Rule 1.6 (a) of the Rules of Professional Conduct. Any records, documents or information obtained or produced pursuant to a random inspection or audit shall

remain confidential unless and until a presentment is initiated by the disciplinary counsel alleging a violation of Rule 1.15 of the Rules of Professional Conduct or of this section, or probable cause is found by the grievance panel, the Statewide Grievance Committee or a reviewing committee. Contemporaneously with the commencement of a presentment or the filing of a grievance complaint, notice shall be given in writing by the Statewide Grievance Committee to any client or third person whose identity may be publicly disclosed through the disclosure of records obtained or produced in accordance with this subsection. Thereafter, public disclosure of such records shall be subject to the client or third person having thirty days from the issuance of the notice to seek a court order restricting publication of any such records disclosing confidential information. During the thirty day period, or the pendency of any such motion, any document filed with the court or as part of a grievance record shall refer to such clients or third persons by pseudonyms or with appropriate redactions, unless otherwise ordered by the court.

(f) Violation of this section shall constitute misconduct.

(P.B. 1978-1997, Sec. 27A.) (Amended June 25, 2001, to take effect Jan. 1, 2002; amended June 24, 2002, to take effect July 1, 2003; May 14, 2003, effective date changed to Oct. 1, 2003; Sept. 30, 2003, effective date changed to Jan. 1, 2004; amended June 26, 2006, to take effect Jan. 1, 2007, and with respect to subsection (e), July 1, 2007; amended June 29, 2007, to take effect Jan. 1, 2008; amended June 30, 2008, to take effect Jan. 1, 2009; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 15, 2018, to take effect Jan. 1, 2019.)

HISTORY—2019: In subsection (d), what is now the fifth sentence was added.

COMMENTARY—2019: The change to this section makes IOLTA trust account information available to the organization designated by the judges of the Superior Court to administer the IOLTA program. This change will improve the ability to ensure compliance with Rule 1.15 regarding IOLTA accounts.

accounts. Funds held in trust include funds held in any fiduciary capacity in connection with a representation in Connecticut, whether as trustee, agent, guardian, executor or otherwise. Where an attorney fiduciary has the right to draw by a properly payable instrument on such trust account in which the funds of more than one client are kept, such account shall be maintained only in financial institutions approved by the Statewide Grievance Committee. No such trust account in which the funds of more than one client are kept shall be maintained in any financial institution in Connecticut which does not file the agreement required by this section. Violation of this subsection shall constitute misconduct.

(c) Attorneys regularly maintaining funds in a fiduciary capacity shall register any account in which the funds of more than one client are kept with the Statewide Grievance Committee in accordance with Section 2-27 (d).

(d) A financial institution shall be approved as a depository for attorney trust accounts only if it files with the Statewide Grievance Committee an agreement, in a form provided by the committee, to report to the committee the fact that an instrument has been presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. No report shall be required if funds in an amount sufficient to cover the deficiency in the trust account are deposited within one business day of the presentation of the instrument. No report shall be required in the case of an instrument presented and paid against uncollected funds.

(e) Any such agreement shall not be cancelled by a financial institution except upon thirty days written notice to the Statewide Grievance Committee. The Statewide Grievance Committee shall establish rules governing approval and termination of approved status for financial institutions, and shall publish annually a list of approved institutions. Any such agreement shall apply to all branches of the financial institution in Connecticut and shall not be cancelled except upon thirty days notice in writing to the Statewide Grievance Committee.

(f) The financial institution shall report to the Statewide Grievance Committee within seven business days from the date of such presentation, any instrument presented against insufficient funds on any trust funds account unless funds in an amount sufficient to cover the deficiency in the account are deposited within one business day of the presentation of the instrument. The report shall be accompanied by a copy of the instrument.

(g) The Statewide Grievance Committee may delegate to the statewide bar counsel the authority

Sec. 2-28. Overdraft Notification

(a) The terms used in this section are defined as follows:

(1) "Financial institution" includes banks, savings and loan associations, credit unions, savings banks and any other business or person which accepts for deposit funds held in trust by attorneys.

(2) "Properly payable" refers to an instrument which, if presented in the normal course of business, is in a form requiring payment under law.

(3) "Insufficient funds" refers to the status of an account that does not contain sufficient funds available to pay a properly payable instrument.

(4) "Uncollected funds" refers to funds deposited in an account and available to be drawn upon but not yet deemed by the financial institution to have been collected.

(b) Attorneys shall deposit all funds held in any fiduciary capacity in accounts clearly identified as "trust," "client funds" or "escrow" accounts, referred to herein as "trust accounts," and shall take all steps necessary to inform the depository institution of the purpose and identity of such

to investigate overdraft notifications and determine that no misconduct has occurred or that no further action is warranted. Any determination that misconduct may have occurred and a grievance complaint should be initiated, unless such complaint is premised upon the failure of an attorney to file an explanation of an overdraft, shall be made by the Statewide Grievance Committee.

(h) Upon receipt of notification of an overdraft, the Statewide Grievance Committee, its counsel or disciplinary counsel may request that the attorney produce such books of account and statements of reconciliation, and any other records required to be maintained pursuant to Section 2-27 (b) for review, examination or audit. Failure of the attorney to respond to inquiries of the Statewide Grievance Committee, its counsel, or disciplinary counsel, or to produce the requested books of account and statements of reconciliation or other records shall be grounds for disciplinary counsel to file an application for an interim suspension in accordance with the provisions of Section 2-42.

(i) Every attorney practicing or admitted to practice in Connecticut shall, as a condition thereof, be conclusively presumed to have authorized the reporting and production requirements of this section. Where an attorney qualifies as executor of a will or as trustee or successor fiduciary, the attorney fiduciary shall have a reasonable time after qualification to bring preexisting trust accounts into compliance with the provisions of this section.

(P.B. 1978-1997, Sec. 27A.1.) (Amended June 24, 2002, to take effect July 1, 2003; May 14, 2003, effective date changed to Oct. 1, 2003; Sept. 30, 2003, effective date changed to Jan. 1, 2004; amended June 26, 2006, to take effect Jan. 1, 2007.)