Attorney Escrow Accounts

Rules, Regulations and Related Topics

Third Edition

Peter V. Coffey, Esq., Editor Anne Reynolds Copps, Esq., Assistant Editor New York State Bar Association Continuing Legal Education publications are intended to provide current and accurate information to help attorneys maintain their professional competence. Publications are distributed with the understanding that NYSBA does not render any legal, accounting or other professional service. Attorneys using publications or orally conveyed information in dealing with a specific client's or their own legal matters should also research original sources of authority.

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ISBN: 1-57969-291-5
Product Number: 40269

INTRODUCTION TO THE THIRD EDITION

This handy publication of the New York State Bar Association will be an invaluable resource for attorneys on the rules and regulations that govern the establishment, maintenance and disbursement of monies held in escrow accounts and the proper handling of interest on trust accounts. In updating their comprehensive review of the legal and ethical requirements pertaining to the handling of client funds to reflect the new Rules of Professional Conduct, the editors and authors of *Attorney Escrow Accounts: Rules, Regulations and Related Topics* give practitioners useful and practical advice on how to avoid client complaints of misconduct and disciplinary proceedings.

Our legal community in New York prides itself on encouraging ethical conduct in the delivery of high quality legal services to all clients. Whether a new or experienced lawyer, one of the potential pitfalls of practice is the mishandling of monies belonging to a client or a third party. This book provides a blueprint for the development of appropriate record-keeping systems to administer and account for clients' funds. Adherence to proper procedures for the receipt and distribution of escrow funds is the best insurance against ethical violations.

The New York State Bar Association has long been a proponent of adequate funding for the provision of legal services to those in need. Each year, millions of dollars are channeled to the many legal organizations that provide these essential services with funding derived from the Interest on Lawyer Account Fund (IOLA). The chapter in this publication on IOLA explains how to establish such an account and when its use is required. Through the mandatory use of IOLA, the legal community continues to fulfill its obligation to enhance public access to the justice system.

There is also a chapter that explains the Lawyers' Fund for Client Protection, which reimburses clients for losses resulting from attorney thefts. Dependent on revenue from attorney registration fees, the Fund evaluates and processes the claims of clients victimized by attorney misconduct or criminal acts. This chapter serves as a reminder of the need to emphasize ethics and professional responsibility in legal education and training.

We owe a debt of gratitude to the contributors for their work on this reference tool that offers important guidance to practitioners.

Victoria A. Graffeo Associate Judge, New York Court of Appeals

INTRODUCTION

The New York State Bar Association, and the contributing authors, are to be highly commended for this publication of *Attorney Escrow Accounts: Rules, Regulations and Related Topics*. The work comprehensively covers the most common situations where attorneys handle the funds of clients. A cursory examination of any recent volume of the Appellate Division Reports, Second Series, shows that mistakes in administering and accounting for clients' funds—well short of any actual theft—are among the most prevalent sources of complaints and findings of attorney misconduct and the imposition of disciplinary sanctions. Thus, this book will provide a real benefit to both attorneys *and* clients.

First, it details by citation to and explanation of formal rules and courts decisions what a lawyer is ethically required to do in receiving, administering and disbursing monies of clients. Quite possibly, the most important lesson being driven home relates to the record-keeping responsibilities of attorneys with respect to clients' funds, and the pitfalls of sloppy practices making it impossible to account therefor.

In suceeding chapters, the publication addresses the governing principles and practical aspects of acting as an escrow agent (particularly when an attorney acts as such in a client's transaction) and the setting up and proper use of an Interest on Lawyer Account (IOLA). Finally, *Attorney Escrow Accounts* gives a full explanation of the function and operation of the Lawyers' Fund for Client Protection—a program initiated by the New York State Bar Association and now fully codified in state law.

For the first time, attorneys will be able to turn to a single volume to find a concise yet thorough exposition of their legal and ethical obligations in connection with the control and disposition of clients' funds. *Attorney Escrow Accounts: Rules, Regulations and Related Topics* will be a reference work widely used by both new and experienced practitioners.

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