

STATE OF MINNESOTA

IN SUPREME COURT

C1-84-2140

IN RE THE LAWYER
TRUST ACCOUNT BOARD

ORDER

By order filed December 27, 1982, the Court amended the Minnesota Rules of Professional Conduct to create the Interest on Lawyer Trust Account (IOLTA) program. In the same order, the Court formed the Lawyer Trust Account Board to manage and distribute funds generated by the IOLTA program. The Lawyer Trust Account Board has performed its duties well for twenty-seven years, supporting a variety of legal services programs through its stewardship of IOLTA funds.

The Court has oversight of two committees that distribute grant funds for legal services and other public purposes: the Legal Services Advisory Committee and the Lawyer Trust Account Board. After soliciting comments from legal services programs and the Minnesota State Bar Association about the necessity for two grant committees serving the same clientele, the Court reviewed the stakeholder feedback and is fully apprised of the opinions provided.

After reviewing the committee's responsibilities, the Court has decided that one committee can administer and distribute statutory and dedicated funds for civil legal services, including the monies from the IOLTA revenue. This consolidation of responsibility will save money and result in other administrative efficiencies, while still providing the necessary review of the IOLTA program and other grant funds.

IT IS HEREBY ORDERED that administration of the IOLTA funds is transferred to the Legal Services Advisory Committee as the successor state entity and that the IOLTA

funds shall be deposited in a special fund in the State Treasury pursuant to Minn. Stat. § 481.01 effective July 1, 2010. Because the IOLTA revenue is deemed a separate fund under the jurisdiction of the Legal Services Advisory Committee, it is not subject to the statutory distribution formula specified by Minn. Stat. § 480.242, subd. 2 for legislative appropriations. The purpose of the IOLTA program remains to enhance the availability of legal services for the poor and to support programs of law related education for the public and programs for the enhancement of the administration of justice. The Legal Services Advisory Committee may make and adopt rules to govern the administration of the IOLTA program that are not inconsistent with this order. Effective July 1, 2010, the Rules of the Lawyer Trust Account Board are repealed.

IT IS FURTHER ORDERED that the attached amendments to the Minnesota Rules of Professional Conduct, including Appendix 1, Maintenance of Books and Records, be, and the same are, proscribed and promulgated to be effective July 1, 2010.

DATED: April ____, 2010 BY THE COURT:

Eric J. Magnuson
Chief Justice

AMENDMENTS TO THE MINNESOTA RULES OF PROFESSIONAL CONDUCT

[Note: new material is indicated by underscoring;
deleted material is indicated by strikethrough.]

MINNESOTA RULES OF PROFESSIONAL CONDUCT

Rule 1.15. Safekeeping Property

(o) Definitions.

"IOLTA account" is a pooled trust account in an eligible financial institution that has agreed to:

(1) remit the earnings accruing on this account, net of any allowable reasonable fees, monthly to the ~~Lawyer Trust Account Board (LTAB)~~ IOLTA program as established by the Minnesota Supreme Court;

(2) transmit with each remittance a report ~~on a form approved by the LTAB~~ that shall identify each lawyer or law firm for whom the remittance is sent, the amount of remittance attributable to each IOLTA account, the rate and type of earnings applied, the amount of earnings accrued, the amount and type of fees deducted, if any, and the average account balance for the period in which the report is made; and

(3) transmit to the depositing lawyer or law firm a report in accordance with normal procedures for reporting to its depositors.

APPENDIX 1. MAINTENANCE OF BOOKS AND RECORDS

I. Trust Account Records. The following books and records must be maintained for funds and property received and disbursed in a fiduciary capacity, whether for clients or for others:

1. An identification of all trust accounts maintained, including the name of the bank or other depository, account number, account name, date account opened, and an agreement with the bank establishing each account and its interest bearing nature. A record should also be maintained showing clearly the type of each such account whether pooled, with net interest paid to the ~~Lawyers Trust Account Board (IOLTA account)~~ IOLTA program, pooled with allocation of interest, or individual, including the client name. See Rules 1.15(e), (f)(1), and (f)(2), MRPC.

3. Subsidiary ledgers for each client matter for whom the attorney receives trust funds.

a. For every trust account transaction, attorneys must record on the appropriate client subsidiary ledger the date of receipt or disbursement, the amount, the payee and check number (for disbursements), the purpose of the transaction, and the balance of funds remaining in the account on behalf of that client matter. An attorney shall not disburse funds from the trust account that would create a negative balance on behalf of an individual client matter.

b. A separate subsidiary ledger for nominal funds of the attorney held in the trust account pursuant to > Rule 1.15(a)(1), MRPC, to accommodate reasonably expected bank fees and charges. This ledger should also record any monthly service charges not offset or waived by the bank in the same month. A separate ledger should be maintained to record interest accrued but not transferred by the bank to the ~~Lawyers Trust Account Board~~ IOLTA program in the same month it is credited.