

# LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

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## APPENDIX 1 TO THE MINNESOTA RULES OF PROFESSIONAL CONDUCT

### MAINTENANCE OF BOOKS AND RECORDS

**Adopted September 30, 2005,  
with amendments through July 1, 2010**

Pursuant to Rule 1.15(i), Minnesota Rules of Professional Conduct (MRPC), the Lawyers Professional Responsibility Board adopted the following as the books and records required by Rule 1.15(h), MRPC:

Every attorney engaged in the private practice of law must maintain the books and records described in this Appendix to comply with the applicable provisions of the MRPC relating to funds and property received and disbursed on behalf of clients or otherwise held in a fiduciary capacity. Equivalent books and records demonstrating the same information in an easily accessible manner and in substantially the same detail are acceptable. Books and records may be prepared manually or by computer.

**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 IOLTA program, pooled with allocation of interest, or individual, including the client name. *See* Rules 1.15(e), (f)(1), and (f)(2), MRPC.
2. A check register for each trust account that chronologically shows all deposits and checks.

- a. Each deposit entry must include the date of the deposit, the amount, the identity of the client(s) for whom the funds were deposited, and the purpose of the deposit.
  - b. Each check entry must include the date the check was issued, the payee, the amount, the identity of the client for whom the check was issued (if not the payee), and the purpose of the check.
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 IOLTA program in the same month it is credited.
  - c. An attorney maintaining non-IOLTA accounts pursuant to Rule 1.15(f), MRPC, shall record on each client subsidiary ledger the monthly accrual of interest, and the date and amount of each interest disbursement, including disbursements from accrued interest for costs of establishing and administering the account.
4. A monthly trial balance of the subsidiary ledgers identifying each client matter, the balance of funds held on behalf of the client matter at the end of each month, and the total of all the client balances. No balance for a client matter may be negative at any time.

5. A monthly reconciliation of the checkbook balance, the subsidiary ledger trial balance total, and the adjusted bank statement balance. The adjusted bank statement balance is determined from the month-end bank statement balance by adding outstanding deposits and subtracting outstanding checks.

[Sample trial balances and reconciliations are available from the Office of Lawyers Professional Responsibility].

6. Bank statements, canceled checks or copies of canceled checks if they are provided with the bank statements, bank wire or electronic fund transfer confirmations and duplicate deposit slips. Cash fee payments must be documented by copies of receipts countersigned by the payor. Attorneys making deposits using substitute checks pursuant to the Check Clearing for the 21st Century Act must request and retain image statements from the bank for each such deposit. For withdrawal by bank wire or electronic fund transfer, an attorney or law firm must create a written memorandum authorizing the transaction, signed by the attorney responsible for the transaction. The bank wire or electronic fund transfer must be entered in the check register and include all the identifying information listed in paragraphs I(2)(b) and I(3)(a) of this Appendix.
7. **Electronic Record Retention.** An attorney who maintains trust account records by computer must print and retain, on a monthly basis, the checkbook register, the trial balance of the subsidiary ledgers, and the reconciliation report. The checkbook register must contain all of the information identified in paragraph 2. Electronic records should be regularly backed up by an appropriate storage device. The frequency of the back-up procedure should be directly related to the volume of activity in the trust account.
8. A record showing all property, specifically identified, other than cash, held in trust from time-to-time for clients or others, provided that routine files, documents and items, such as real estate abstracts, which are not expected to be held indefinitely, need not be so recorded but should be documented in the files of the lawyer as to receipt and delivery.

**II. Business Account Records.** An attorney or law firm must maintain at least one bank account, other than the trust account, for funds and property received and disbursed outside the attorney's fiduciary capacity. The following books and records should be maintained for such accounts:

1. A record in the form of a fees book or file of copies of billing invoices reflecting all fees charged and other billings to clients.
2. Copies of receipts, countersigned by the payor, for all cash fee payments.
3. Check registers, bank statements, canceled checks, and duplicate deposit slips sufficient to establish the receipt of earned fee payments from clients, costs advanced on behalf of clients, and similar receipts and disbursements.
4. A periodic reconciliation of the checkbook balance and the bank statement balance.