Ethics Assistance Via Technology

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Are you still maintaining your trust account records with a pencil and a ledger pad?

Have you thought about converting your manual trust account records to computerized records but neglected to do so because you were worried you would never again be able to balance or reconcile them?

Have you ever been confronted with an ethical issue and thought "I know there was a *Bench & Bar* article covering this issue - but I can't remember which one?"

Have you ever found yourself citing the Minnesota Rules of Professional Conduct and wondering whether the Rules you were citing included the most recent amendments?

If your answer to any of these four questions is "yes," you may be able to take advantage of two new developments offered by the Lawyers Board and the Director's Office. The first is a new publication entitled *Instructions for using Quicken® 5.0 with Windows 95 or Windows 3.1 for Maintaining, Balancing and Reconciling Minnesota Lawyer Trust Accounts*, which was released in April at the annual District Ethics Committee Professional Responsibility Seminar. The second is the new Internet home pages for the Lawyers Board, Director's Office, and the Client Security Board, which premiered on Law Day (May 1st) together with the Minnesota Supreme Court's new home page.

KEEPING ACCOUNTS

> Keeping accounts, Sir, is of no use when a man is spending his own money, and has nobody to whom he is to account. You won't eat less beef today, because you have written down what it cost yesterday. -- *Samuel Johnson (1709-84), quoted in James Boswell,* Life of Samuel Johnson, *1783 (1791)*.

Even 200 years ago, people appreciated the differing obligations associated with handling one's own funds and those belonging to others. The difference between these obligations is magnified in the legal profession where, due in part to lawyer defalcations, client trust account requirements have necessarily become comprehensive and imperative. As part of a continuing effort to assist lawyers in complying with these requirements, the Quicken® instructional brochure was created.

The Quicken® instructional brochure is the second publication created by the Director's Office to assist lawyers in trust account compliance.[Ftn 1] It has been designed to provide simple step-by-step instructions for even unsophisticated users on how to: set up a trust account using Quicken®; convert an existing trust account to electronic Quicken® records; properly enter trust account transactions; automatically maintain individual client ledgers; electronically reconcile the Quicken® records with the monthly bank statement; and, most importantly, create a trial balance report, with one click of a button to show that the account balances. One of the most useful components of the brochure is the reproduction of the various Quicken® screens[Ftn 2] (and the required settings) which accompany each of the step-by-step instructions on how to set up and use Quicken®. Our experience has been that "seeing" is preferable to "reading" for most users.

The Quicken® brochure was designed with the plight of the small or solo practitioner in mind. Compliance with the trust account requirements is a very important obligation; serious consequences can result when the obligation is not fulfilled.[Ftn 3] For the small practitioner, complying with these requirements can be a recurring, time-consuming task for which oftentimes there is no client to bill. This is especially true where the lawyer is maintaining manual (*i.e.*, handwritten) records which typically require double entry in order to comply with the requirements. Few are in a position to be able to either afford or justify employing a professional to handle the account or a programmer to design special trust account software. Yet, if the public is to be adequately protected, there must be compliance. The Quicken® brochure has been designed to help address these issues.

Any member of the Minnesota bar can obtain a copy of the Quicken® brochure at no charge by either writing or calling the Director's Office at (612) 296-3952. The brochure has already been used by the Director's Office as part of a computer presentation at several CLE programs designed to teach lawyers how to use Quicken® for trust account record keeping. Further training sessions using the brochure and computer are planned for presentation sessions in the future.

Quicken® is not the only available application or software capable of maintaining trust account records and generating the reports necessary to comply with the Minnesota trust account requirements. Many other similar commercial software programs can be, and in fact are being, used to meet these requirements.

INTERNET HOMEPAGES

Question: What do the chair of the Minnesota Lawyers Board, the Student of the Month at Upsala High School, and the abbott of the Inkamana Abbey have in common?

Answer: You can find the name of each of these persons on an Internet homepage.

In an effort to make information about the lawyer discipline system more readily available to the public and the bar, the Lawyers Board homepage has appeared on the Internet since May 1, 1996, as a part of the Minnesota state court system's homepage which is located at: http://www.courts.state.mn.us.

Although the court system page is still under construction, lawyers can now view, and even download, the weekly decisions of the Minnesota Supreme Court and Court of Appeals immediately upon their issuance. Supreme Court decisions are released on Thursdays at 1:00 p.m. and the Court of Appeals decisions are released on Tuesdays at 1:00 p.m. Unpublished opinions and order decisions are also available for viewing or downloading at these times.

The Lawyers Board home page[Ftn 4] is similarly in the ongoing development stage. Initially we have developed the page to provide information generally sought by the public. Information that can currently be accessed on the Lawyers Board home page or site includes: a Lawyers Board member directory, a staff attorney directory for the Director's Office, directions on how to file a complaint, the complaint form provided to complainants, a brochure explaining the complaint process, and a brochure explaining the new pilot program involving mediation of ethics complaints.[Ftn 5] Resources which lawyers will likely find more useful include: the current Minnesota Rules of Professional Conduct and Rules on Lawyers Professional Responsibility, the Opinions of the Lawyers Professional Board, and an index of all of the "Professional Responsibility" articles authored by the Director's Office or Lawyers Board members which have appeared in *Bench & Bar* since February 1971. Unfortunately, the articles themselves are currently not available on the page.

There is also a site for the Minnesota Client Security Board[Ftn 6] which includes: a board member and staff directory, a brochure explaining the claim filing and consideration process, the claim form provided to those filing security fund claims, the Client Security Board Rules which govern the claim process, and the board's last annual report. The Client Security Board site is also accessible at the court system address listed above.

The Director’s Office is considering other resources for placement on the Internet homepages. Several options and suggestions include: a database of Minnesota publicly disciplined lawyers, information on the annual reporting requirements for professional corporations, professional limited liability corporations and limited liability companies; summaries of recurring advisory opinions and private admonitions; Lawyers Board meeting agendas; and proposed changes to the Rules of Professional Conduct, Rules on Lawyers Professional Responsibility, and Lawyers Board Opinions. The Director’s Office and the board would welcome any other suggestions for improving these pages to make them more useful to the bar and the public.

NOTES

1 *The first publication entitled "Attorney Business and Trust Accounts: Books and Records Requirements and Sample Trust Account Transactions, Trial Balances and Reconciliations" was released in May 1989.* See *Wemz, "Trust Account Brochure," 46* Bench & Bar *5 (May/June 1989). This brochure is still available upon request from the Director's Office.*

2 *The Quicken® screens were reproduced with permission from Intuit Corporation, Mountain View, California, the proprietor of Quicken®.*

3 See e.g. In re Haugen, *543 N.W.2d 372, 375 (Minn. 1996), in which the Court stated "[w] e take trust account violations seriously and will not hesitate to impose a disciplinary suspension to protect the public from attorneys who either intentionally or unintentionally fail to exercise care in handling client funds."*

4 *The address for the Lawyers Board site is: http://www.state.min.us/courts/lprb/lprb.html.*

5 *The Pilot Mediation Program is authorized by Rule 6X of the Rules on Lawyers Professional Responsibility. See, Marcia Johnson, "Mediation, Arbitration and Consumer Satisfaction,"* 52 Bench & Bar 6 *(July 1995).*

6 *The direct address for the Client Security Board is: http://www.state.nm.us/courts/csb/csb.html.*