

Rule 1.15B. Account Requirements.

## **Colorado Court Rules**

### **Colorado Rules of Professional Conduct**

#### **Client-lawyer Relationship**

*As amended through Rule Change 2018(6), effective April 12, 2018*

#### **Rule 1.15B. Account Requirements**

- (a) Every lawyer in private practice in this state shall maintain in the lawyer's own name, or in the name of the lawyer's law firm:
- (1) A trust account or accounts, separate from any business and personal accounts and from any other fiduciary accounts that the lawyer or the law firm may maintain as executor, guardian, trustee, or receiver, or in any other fiduciary capacity, into which the lawyer shall deposit, or shall cause the law firm to deposit, all funds entrusted to the lawyer's care and any advance payment of fees that have not been earned or advance payment of expenses that have not been incurred. A lawyer shall not be required to maintain a trust account when the lawyer is not holding such funds or payments.
  - (2) A business account or accounts into which the lawyer shall deposit, or cause the law firm to deposit, all funds received for legal services. Each business account, as well as all deposit slips and all checks drawn thereon, shall be prominently designated as a "business account," an "office account," an "operating account," or a "professional account," or with a similarly descriptive term that distinguishes the account from a trust account and a personal account.
- (b) One or more of the trust accounts may be a Colorado Lawyer Trust Account Foundation ("COLTAF") account. A "COLTAF account" is a pooled trust account for funds of clients or third persons that are nominal in amount or are expected to be held for a short period of time, and as such would not be expected to earn interest or pay dividends for such clients or third persons in excess of the reasonably estimated cost of establishing, maintaining, and accounting for trust accounts for the benefit of such clients or third persons. Interest or dividends paid on a COLTAF account shall be paid to COLTAF, and the lawyer and the law firm shall have no right or claim to such interest or dividends.
- (c) Each trust account, as well as all deposits slips and checks drawn thereon, shall be prominently designated as a "trust account," provided that each COLTAF account shall be designated as a "COLTAF Trust Account." A trust account may bear any additional descriptive designation that is not misleading.

- (d) Except as provided in this paragraph (d), each trust account, including each COLTAF account, shall be maintained in a financial institution that is approved by the Regulation Counsel pursuant to Rule 1.15E. If each client and third person whose funds are in the account is informed in writing by the lawyer that Regulation Counsel will not be notified of any overdraft on the account, and with the informed consent of each such client and third person, a trust account in which interest or dividends are paid to the clients or third persons need not be in an approved institution.
- (e) Each trust account, including each COLTAF account, shall be an interest-bearing, or dividend-paying, insured depository account; provided that, with the informed consent of each client or third person whose funds are in the account, an account in which interest or dividends are paid to clients or third persons need not be an insured depository account. For the purpose of this provision, an "insured depository account" shall mean a government insured account at a regulated financial institution, on which withdrawals or transfers can be made on demand, subject only to any notice period which the financial institution is required to reserve by law or regulation.
- (f) The lawyer may deposit, or may cause the law firm to deposit, into a trust account funds reasonably sufficient to pay anticipated service charges or other fees for maintenance or operation of the account. Such funds shall be clearly identified in the lawyer's or law firm's records of the account.
- (g) All funds entrusted to the lawyer shall be deposited in a COLTAF account unless the funds are deposited in a trust account described in paragraph (h) of this Rule. The foregoing requirement that funds be deposited in a COLTAF account does not apply in those instances where it is not feasible for the lawyer or the law firm to establish a COLTAF account for reasons beyond the control of the lawyer or law firm, such as the unavailability in the community of a financial institution that offers such an account; but in such case the funds shall be deposited in a trust account described in paragraph (h) of this Rule.
- (h) If funds entrusted to the lawyer are not held in a COLTAF account, the lawyer shall deposit, or shall cause the law firm to deposit, the funds in a trust account that complies with all requirements of paragraphs (c), (d), and (e) of this Rule and for which all interest earned or dividends paid (less deductions for service charges or fees of the depository institution) shall belong to the clients or third persons whose funds have been so deposited. The lawyer and the law firm shall have no right or claim to such interest or dividends.
- (i) If the lawyer or law firm discovers that funds of a client or third person have mistakenly been held in a COLTAF account in a sufficient amount or for a sufficiently long time so that interest or dividends on the funds being held in such account exceeds the reasonably estimated cost of establishing, maintaining, and accounting for a trust account for the benefit of such client or third person (including without limitation administrative costs of the lawyer or law firm, bank service charges, and costs of preparing tax reports of such

income to the client or third person), the lawyer shall request, or shall cause the law firm to request, a refund from COLTAF, for the benefit of such client or third persons, of the interest or dividends in accordance with written procedures that COLTAF shall publish and make available through its website and shall provide to any lawyer or law firm upon request.

- (j) Every lawyer or law firm maintaining a trust account in this state shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements by financial institutions mandated by Rule 1.15E and shall indemnify and hold harmless the financial institution for its compliance with such reporting and production requirement.
- (k) If a lawyer discovers that the lawyer does not know the identity or the location of the owner of funds held in the lawyer's COLTAF account, or the lawyer discovers that the owner of the funds is deceased, the lawyer must make reasonable efforts to identify and locate the owner or the owner's heirs or personal representative. If, after making such efforts, the lawyer cannot determine the identity or the location of the owner, or the owner's heirs or personal representative, the lawyer must either (1) continue to hold the unclaimed funds in a COLTAF or other trust account or (2) remit the unclaimed funds to COLTAF in accordance with written procedures published by COLTAF and available through its website or upon request. A lawyer remitting unclaimed funds to COLTAF must keep a record of the remittance pursuant to Rule 1.15D(a)(1)(C). If, after remitting unclaimed funds to COLTAF, the lawyer determines both the identity and the location of the owner or the owner's heirs or personal representative, the lawyer shall request a refund for the benefit of the owner or the owner's estate, in accordance with written procedures that COLTAF shall publish and make available through its website and shall provide upon request.

**Cite as RPC 1.15B**

**History.** Rule 1.15 Repealed and Readopted by the Court, En Banc, June 17, 2014, effective immediately; amended November 3, 2016, effective immediately.

**Note:**

See comments following Rule 1.15A.