

NOTICE TO FINANCIAL INSTITUTION
TO ESTABLISH NEW INTEREST-BEARING ACCOUNT

My law firm, as required by Iowa Supreme Court Order, is participating in the Interest on Lawyer Trust Accounts program established by the Iowa Supreme Court. Under this program, please open an account subject to negotiable orders of withdrawals paying the highest rate of interest available for which the account qualifies.

Interest on this account should be remitted to the Lawyer Trust Account Commission, Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319. The tax identification number for the Commission is 42-1245104 and must be used in connection with this account.

Interest on the account, computed in accordance with your standard accounting practice (net of any service charge or fee you charge for the bare privilege of maintaining this kind of account) must be remitted by check mailed to the Commission preferably monthly but not less than quarterly. You are not permitted to deduct from interest any charges for transactions involving this account such as stop payment fees, wire transfer fees or check printing fees. These fees are the responsibility of the law firm to pay. With each remittance to the Commission, please transmit a completed remittance report along with a copy of the trust account statement for the reporting period. Remittance report forms are available from the Commission.

Should an overdraft condition ever exist with respect to this account, you are required to provide the Client Security and Attorney Disciplinary Commission a copy of any notice issued the law firm regarding the overdraft condition. The mailing address of this commission is Judicial Branch Building, 1111 E. Court Avenue, Des Moines, Iowa 50319.

PRESENT ACCOUNT NAME

PRESENT ACCOUNT NO.

ALL ACCOUNT SIGNATORIES

DATE

LAWYERS TRUST ACCOUNT COMMISSION
INTEREST REMITTANCE REPORT FOR
POOLED INTEREST-BEARING TRUST ACCOUNTS

TO BE COMPLETED BY FINANCIAL INSTITUTION AND SUBMITTED WITH EACH
REMITTANCE

FINANCIAL INSTITUTION:

Name: _____

Office or Branch: _____

Address: _____

Telephone: _____

Contact Person: _____

(Name and Title)

Alternate Contact Person: _____

(Name and Title)

Report Period: _____ through _____
(MM/DD/YY) (MM/DD/YY)

ATTORNEY/LAW FIRM POOLED INTEREST-BEARING TRUST ACCOUNT:

Name: _____

Address: _____

Account Number: _____

Rate of Interest Applied: _____ %

Interest Earned for Period \$ _____

Less: Service Charges and Fees (if any) (_____)

Net Amount Remitted \$ _____

NOTES :

Attach this report to a copy of the depositor statement.

If remitting a lump sum payment for multiple attorneys/firms, please submit a separate Interest Remittance Report for each pooled interest-bearing trust account.

Even if no interest was earned in a quarter, this report is to be submitted for such account.

Interest should be remitted by check payable to the Lawyer Trust Account Commission, and mailed to:

LAWYER TRUST ACCOUNT COMMISSION
Iowa Judicial Branch Building
1111 E. Court Avenue
DES MOINES, IOWA 50319

Voice (515) 725-8029

Fax (515) 725-8032

CHAPTER 45
CLIENT TRUST ACCOUNT RULES

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CHAPTER 45 CLIENT TRUST ACCOUNT RULES

Rule 45.1 Requirement for client trust account. Funds a lawyer receives from clients or third persons for matters arising out of the practice of law in Iowa shall be deposited in one or more identifiable interest-bearing trust accounts located in Iowa. The trust account shall be clearly designated as “Trust Account.” No funds belonging to the lawyer or law firm may be deposited in this account except:

1. Funds reasonably sufficient to pay or avoid imposition of fees and charges that are a lawyer’s or law firm’s responsibility, including fees and charges that are not “allowable monthly service charges” under the definition in rule 45.5, may be deposited in this account; or

2. Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited in this account, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved. Other property of clients or third persons shall be identified as such and appropriately safeguarded. [Court Order April 20, 2005, effective July 1, 2005]

Rule 45.2 Action required upon receiving funds, accounting, and records.

45.2(1) Authority to endorse or sign client’s name. Upon receipt of funds or other property in which a client or third person has an interest, a lawyer shall not endorse or sign the client’s name on any check, draft, security, or evidence of encumbrance or transfer of ownership of realty or personalty, or any other document without the client’s prior express authority. A lawyer signing an instrument in a representative capacity shall so indicate by initials or signature.

45.2(2) Accounting and returning funds or property. Except as stated in this chapter or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and shall promptly render a full accounting regarding such property.

45.2(3) Maintaining records.

a. A lawyer who practices in this jurisdiction shall maintain current financial records as provided in these rules and required by Iowa R. of Prof’l Conduct 32:1.15 and shall retain the following records for a period of six years after termination of the representation:

(1) Receipt and disbursement journals containing a record of deposits to and withdrawals from client trust accounts, specifically identifying the date, source, and description of each item deposited, as well as the date, payee and purpose of each disbursement;

(2) Ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions and amounts of charges or withdrawals, and the names of all persons or entities to whom such funds were disbursed;

(3) Copies of retainer and compensation agreements with clients as required by Iowa R. of Prof’l Conduct 32:1.5;

(4) Copies of accountings to clients or third persons showing the disbursement of funds to them or on their behalf;

(5) Copies of bills for legal fees and expenses rendered to clients;

(6) Copies of records showing disbursements on behalf of clients;

(7) The physical or electronic equivalents of all checkbook registers, bank statements, records of deposit, prenumbered canceled checks, and substitute checks provided by a financial institution;

(8) Records of all electronic transfers from client trust accounts, including the name of the person authorizing transfer, the date of transfer, the name of the recipient, and the trust account name or number from which money is withdrawn;

(9) Copies of monthly trial balances and monthly reconciliations of the client trust accounts maintained by the lawyer; and

(10) Copies of those portions of client files that are reasonably related to client trust account transactions.

b. With respect to trust accounts required by Iowa R. of Prof’l Conduct 32:1.15:

(1) Only a lawyer admitted to practice law in this jurisdiction or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account;

(2) Receipts shall be deposited intact and records of deposit should be sufficiently detailed to identify each item; and

(3) Withdrawals shall be made only by check payable to a named payee and not to cash, or by authorized bank transfer.

c. Records required by this rule may be maintained by electronic, photographic, computer, or other media provided that the records otherwise comply with these rules and that printed copies can be produced. These records shall be accessible to the lawyer.

d. Upon dissolution of a law firm or of any legal professional corporation, the partners shall make reasonable arrangements for the maintenance of the records specified in this rule.

e. Upon the sale of a law practice, the seller shall make appropriate arrangements for the maintenance of the records specified in this rule.

[Court Order April 20, 2005, effective July 1, 2005; February 20, 2012]

Rule 45.3 Type of accounts and institutions where trust accounts must be established. Each trust account referred to in rule 45.1 shall be an interest-bearing account in a bank, savings bank, trust company, savings and loan association, savings association, credit union, or federally regulated investment company selected by the law firm or lawyer in the exercise of ordinary prudence. The financial institution must be authorized by federal or state law to do business in Iowa and insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. Interest-bearing trust funds may be placed in accounts at credit unions only to the extent that each individual client's funds are eligible for insurance. Interest-bearing trust funds shall be placed in accounts from which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to observe by law or regulation.

[Court Order April 20, 2005, effective July 1, 2005; April 25, 2008]

Rule 45.4 Pooled interest-bearing trust account.

45.4(1) Deposits of nominal or short-term funds. A lawyer who receives a client's or third person's funds shall maintain a pooled interest-bearing trust account for deposits of funds that are nominal in amount or reasonably expected to be held for a short period of time. A lawyer shall inform the client or third person that the interest accruing on this account, net of any allowable monthly service charges, will be paid to the Lawyer Trust Account Commission established by the supreme court.

45.4(2) Exceptions to using pooled interest-bearing trust accounts. All client or third person funds shall be deposited in an account specified in rule 45.4(1) unless they are deposited in:

a. A separate interest-bearing trust account for the particular third person, client, or client's matter on which the interest, net of any transaction costs, will be paid to the client or third person; or

b. A pooled interest-bearing trust account with subaccountings that will provide for computation of interest earned by each client's or third person's funds and the payment thereof, net of any transaction costs, to the client or third person.

45.4(3) Accounts generating positive net earnings. If the client's or the third person's funds could generate positive net earnings for the client or third person, the lawyer shall deposit the funds in an account described in rule 4 5.4(2). In determining whether the funds would generate positive net earnings, the lawyer shall consider the following factors:

a. The amount of the funds to be deposited;

b. The expected duration of the deposit, including the likelihood of delay in the matter for which the funds are held;

c. The rates of interest or yield at the financial institution in which the funds are to be deposited;

d. The cost of establishing and administering the account, including service charges, the cost of the lawyer's services, and the cost of preparing any tax reports required for interest accruing to a client's benefit;

e. The capability of financial institutions described in rule 45.3 to calculate and pay interest to individual clients; and

f. Any other circumstances that affect the ability of the client's funds to earn a net return for the client.

45.4(4) Directions to depository institutions. As to accounts created under rule 45.4(1), a lawyer or law firm shall direct the depository institution:

a. To remit interest or dividends, net of any allowable monthly service charges, as computed in accordance with the depository institution's standard accounting practice, at least quarterly, to the Lawyer Trust Account Commission;

b. To transmit with each remittance to the Lawyer Trust Account Commission a copy of the depositor's statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, the amount of allowable monthly service charges deducted, if any, and the account balance(s) for the period covered by the report; and

c. To report to the Client Security Commission in the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds. In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors. In the case of instruments that are honored when presented against insufficient funds, the report shall identify the financial institution, the lawyer or law firm, the account number, the date of presentation for payment and the date paid, and the amount of overdraft. If an instrument presented against insufficient funds is not honored, the report shall be made simultaneously with, and within the time provided by law for, any notice of dishonor. If the instrument is honored, the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

[Court Orders April 20, 2005, and July 1, 2005, effective July 1, 2005]

Rule 45.5 Definition of "allowable monthly service charges." For purposes of this chapter, "allowable monthly service charges" means the monthly fee customarily assessed by the institution against a depositor solely for the privilege of maintaining the type of account involved. Fees or charges assessed for transactions involving the account, such as fees for wire transfers, stop payment orders, or check printing, are a lawyer's or law firm's responsibility and may not be paid or deducted from interest or dividends otherwise payable to the Lawyer Trust Account Commission.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.6 Lawyer certification. Every lawyer required to have a client trust account shall certify annually, in such form as the supreme court may prescribe, that the lawyer or the law firm maintains, on a current basis, records required by Iowa R. of Prof'l Conduct 32:1.15(a).

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.7 Advance fee and expense payments.

45.7(1) Definition of advance fee payments. Advance fee payments are payments for contemplated services that are made to the lawyer prior to the lawyer's having earned the fee.

45.7(2) Definition of advance expense payments. Advance expense payments are payments for contemplated expenses in connection with the lawyer's services that are made to the lawyer prior to the incurrence of the expense.

45.7(3) Deposit and withdrawal. A lawyer must deposit advance fee and expense payments from a client into the trust account and may withdraw such payments only as the fee is earned or the expense is incurred.

45.7(4) Notification upon withdrawal of fee or expense. A lawyer accepting advance fee or expense payments must notify the client in writing of the time, amount, and purpose of any withdrawal of the fee or expense, together with a complete accounting. The attorney must transmit such notice no later than the date of the withdrawal.

45.7(5) When refundable. Notwithstanding any contrary agreement between the lawyer and client, advance fee and expense payments are refundable to the client if the fee is not earned or the expense is not incurred.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.8 General retainer.

45.8(1) Definition. A general retainer is a fee a lawyer charges for agreeing to provide legal services on an as-needed basis during a specified time period. Such a fee is not a payment for the performance of services and is earned by the lawyer when paid.

45.8(2) *Deposit.* Because a general retainer is earned by the lawyer when paid, the retainer should not be deposited in the trust account.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.9 Special retainer.

45.9(1) *Definition.* A special retainer is a fee that is charged for the performance of contemplated services rather than for the lawyer's availability. Such a fee is paid in advance of performance of those services.

45.9(2) *Prohibition.* A lawyer may not charge a nonrefundable special retainer or withdraw unearned fees.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.10 Flat fee.

45.10(1) *Definition.* A flat fee is one that embraces all services that a lawyer is to perform, whether the work be relatively simple or complex.

45.10(2) *When deposit required.* If the client makes an advance payment of a flat fee prior to performance of the services, the lawyer must deposit the fee into the trust account.

45.10(3) *Withdrawal of flat fee.* A lawyer and client may agree as to when, how, and in what proportion the lawyer may withdraw funds from an advance fee payment of a flat fee. The agreement, however, must reasonably protect the client's right to a refund of unearned fees if the lawyer fails to complete the services or the client discharges the lawyer. In no event may the lawyer withdraw unearned fees.

[Court Order April 20, 2005, effective July 1, 2005]

Rule 45.11 Designation of successor signatories. A lawyer who is the sole lawyer signatory on an attorney trust account may designate, in an instrument acceptable to the depository for the trust account, a successor signatory, who shall be a member of the bar in good standing and admitted to the practice of law in Iowa, and whose authority shall become effective upon the occurrence of an event or events described in the instrument. The event or events described in the instrument may include death, disappearance, abandonment of law practice, temporary or permanent incapacity, suspension, or disbarment.

[Court Order December 10, 2012]