
E-81-4 Computer trust accounts

Question

May a lawyer (or a law firm) transfer its accounting to a computer system, and in connection therewith, place all funds received by the lawyer (or the law firm) in one account—the trust account—although the computer system will account for the funds as though two separate accounts existed (client trust account and firm operating account)?

Discussion*Commingling of Funds*

SCR 20.50 states in part:

- (1) All funds of clients paid to a lawyer or a law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank account(s) maintained in the state in which the law firm is situated, and no funds belonging to the lawyer or law firm may be deposited in such account except as follows:
 - (a) Funds reasonably sufficient to pay bank charges may be deposited in the account.
 - (b) Funds belonging in part to a client and in part, presently or potentially, to the lawyer or law firm must be deposited in the account, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion may not be withdrawn until the dispute is finally resolved.

The plan described in the above question does not comport with the requirements of SCR 20.50(1).

The accounting distinctions that the computer will make will satisfy the accounting requirements of SCR 20.50(2)(c), but they do not satisfy the requirements that a physically separate bank account for client's funds alone be maintained.

Preservation of Client Confidentiality

ABA Informal Opinion 1364 states that use of outside data processing accounting for *general* legal services (which do not disclose the amount or nature of the client's property) is proper. However, use of such an outside system in connection with the client trust fund presents a closer question. SCR 20.22 provides that a lawyer shall not reveal a confidence or secret of his client without the client's consent. A literal reading of that rule prohibits disclosure of a client's interest in the trust account to a third party, such as a data processing firm.

However, use of a data processing firm to do the accounting for the client trust fund may be acceptable if the rationale of Informal Opinion 1364 (regarding accounting for *general* legal services) is applied. That opinion viewed an independent computerized data processing service as comparable to the use of employees (such as legal secretaries and in-hours bookkeepers) and, therefore, is embraced within the rule which refers to "others whose services are utilized by the lawyer." SCR 20.22(3). If the rationale of Informal Opinion 1364 is applied to the instant situation, and the provisions of SCR 20.22 are complied with, the client confidentiality issue would not appear to bar use of the computerized system.

Opinion

1. SCR 20.50 prohibits the placing of all of a firm's funds in the firm's trust account, with the sole exception permitted by said rule.
2. The use of a computerized system so fashioned as to comply with SCR 20.50 and SCR 20.22 may be used for accounting purposes.