REGISTRATION OF ATTORNEYS

PART 118 RULES OF THE CHIEF ADMINISTRATOR

§ 118.1 Filing requirement.

(a) Every attorney admitted to practice in New York State on or before January 1, 1982, whether resident or nonresident, and whether or not in good standing, shall file a registration statement with the Chief Administrator of the Courts no later than March 1, 1982, and during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York bar.

(b) Every attorney admitted to practice in New York State after January 1, 1982, and on or before January 1, 1986, whether resident or nonresident, and whether or not in good standing, shall file a registration statement within 60 days of the date of such admission and during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York bar.

(c) Every attorney admitted to practice in New York State after January 1, 1986, whether resident or nonresident, and whether or not in good standing, shall file a registration statement prior to taking the constitutional oath of office, and during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York bar.

(d) The registration statement shall be filed in person at the Office of Court Administration, 25 Beaver Street, 8th Floor, in the City of New York, or by means of an online program implemented by the Chief Administrator, or by ordinary mail addressed to Office of Court Administration, General Post Office, PO Box 29327, New York, N.Y. 10087-9327.

(e) The registration statement shall be on a form provided by the Chief Administrator and shall include the following information, attested to by affirmation:

(1) name of attorney; (2) date of birth; (3) name when admitted to the bar; (4) law school from which degree granted; (5) year admitted to the bar; (6) judicial department of admission to the bar; (7) office addresses (including department); (8) home address; (9) business telephone number; (10) social security number; (11) e-mail address (optional); (12) race, gender, ethnicity and employment category (optional); and (13) compliance with child support obligations.

(f) In the event of a change in any of the information required to be provided pursuant to subdivision (e) of this section, the attorney shall file an amended statement within 30 days of such change.

(g) Each registration statement filed pursuant to this section shall be accompanied by a registration fee of $375. No fee shall be required from an attorney who certifies that he or she has retired from the practice of law. For purposes of this section, the "practice of law" shall mean the giving of legal advice or counsel to, or providing legal representation for, a particular body or individual in a particular situation in either the public or private sector in the State of New York or elsewhere; it shall include the appearance as an attorney before any court or administrative agency. An attorney is "retired" from the practice of law when, other than the performance of legal services without compensation, he or she does not practice law in any respect and does not intend ever to engage in acts that constitute the practice of law. For purposes of section 468-a of the Judiciary Law, a full-time judge or justice of the Unified Court System of the State of New York, or of a court of any other state or of a Federal court, shall be deemed "retired" from the practice of law. An attorney in good standing, at least 55 years old and with at least 10 years experience, who participates without compensation in an approved pro bono legal services program, may enroll as an "attorney emeritus."

(h) Failure by any attorney to comply with the provisions of this section shall result in referral for disciplinary action by the Appellate Division of the Supreme Court pursuant to section 90 of the Judiciary Law.

§ 118.2 Public access to attorney registration information.

(a) Except as otherwise provided in this section, the information contained in the registration statement filed pursuant to section 118.1 of this Part shall be made available to the public upon submission of a written request and the payment of a charge for production, pursuant to the following schedule:

(1) Information for individual registered attorney by name: (i) no charge for single inquiry; (ii) $2.50 for each additional name.

(2) Names and business addresses of registered attorneys by geographical area: (i) $25.00 for 100 or fewer names; (ii) $1.00 for each additional 100 names; (iii) $100 for list of all registered attorneys.

Other requests may entail additional fees as circumstances warrant. Fees may be waived for requests by government agencies. Written requests for information shall be made to the **Attorney Registration Unit, Office of Court Administration, 25 Beaver Street, 8th Floor, New York, N.Y. 10004.**

(b) **(1)** The home address of an attorney shall be made available to the public only in the following circumstances: (i) where no office is listed, the home address will be made public; (ii) where an office address is listed, but a request for information alleges that the attorney cannot be located at that address, the home address will be made public only if the Chief Administrator determines, by independent inquiry, that the attorney cannot be located at the listed office address.

(2) The date of birth, social security number, race, gender, ethnicity and employment category of the attorney shall not be made available to the public.

(c) All information relating to a particular attorney will be provided to that attorney or, on the attorney's written request, to any person or agency.

(d) All information will be available at all times to the attorney discipline committees of the Appellate Divisions.

Rule 1.15 [former section 1200.46]: Preserving Identity of Funds and Property of Others; Fiduciary Responsibility; Commingling and Misappropriation of Client Funds or Property; Maintenance of Bank Accounts; Record Keeping; Examination of Records.

(a) Prohibition Against Commingling and Misappropriation of Client Funds or Property. A lawyer in possession of any funds or other property belonging to another person, where such possession is incident to his or her practice of law, is a fiduciary, and must not misappropriate such funds or property or commingle such funds or property with his or her own.

(b) Separate Accounts.

(1) A lawyer who is in possession of funds belonging to another person incident to the lawyer's practice of law shall maintain such funds in a banking institution within New York State that agrees to provide dishonored check reports in accordance with the provisions of 22 N.Y.C.R.R. Part 1300. "Banking institution" means a state or national bank, trust company, savings bank, savings and loan association or credit union. Such funds shall be maintained, in the lawyer's own name, or in the name of a firm of lawyers of which the lawyer is a member, or in the name of the lawyer or firm of lawyers by whom the lawyer is employed, in a special account or accounts, separate from any business or personal accounts of the lawyer or lawyer's firm, and separate from any accounts that the lawyer may maintain as executor, guardian, trustee or receiver, or in any other fiduciary capacity; into such special account or accounts all funds held in escrow or otherwise entrusted to the lawyer or firm shall be deposited; provided, however, that such funds may be maintained in a banking institution located outside New York State if such banking institution complies with 22 N.Y.C.R.R. Part 1300 and the lawyer has obtained the prior written approval of the person to whom such funds belong specifying the name and address of the office or branch of the banking institution where such funds are to be maintained.

(2) A lawyer or the lawyer's firm shall identify the special bank account or accounts required by Rule 1.15(b)(1) as an "Attorney Special Account," "Attorney Trust Account," or "Attorney Escrow Account," and shall obtain checks and deposit slips that bear such title. Such title may be accompanied by such other descriptive language as the lawyer may deem appropriate, provided that such additional language distinguishes such special account or accounts from other bank accounts that are maintained by the lawyer or the lawyer's firm.

(3) Funds reasonably sufficient to maintain the account or to pay account charges may be deposited therein.

(4) Funds belonging in part to a client or third person and in part currently or potentially to the lawyer or law firm shall be kept in such special account or accounts, 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 or third person, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(c) Notification of Receipt of Property; Safekeeping; Rendering Accounts; Payment or Delivery of Property. A lawyer shall:

(1) promptly notify a client or third person of the receipt of funds, securities, or other properties in which the client or third person has an interest;

(2) identify and label securities and properties of a client or third person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;

(3) maintain complete records of all funds, securities, and other properties of a client or third person coming into the possession of the lawyer and render appropriate accounts to the client or third person regarding them; and

(4) promptly pay or deliver to the client or third person as requested by the client or third person the funds, securities, or other properties in the possession of the lawyer that the client or third person is entitled to receive.

(d) Required Bookkeeping Records.

(1) A lawyer shall maintain for seven years after the events that they record:

(i) the records of all deposits in and withdrawals from the accounts specified in Rule 1.15(b) and of any other bank account that concerns or affects the lawyer's practice of law; these records shall specifically identify the date, source and description of each item deposited, as well as the date, payee and purpose of each withdrawal or disbursement;

(ii) a record for special accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts, and the names of all persons to whom such funds were disbursed;

(iii) copies of all retainer and compensation agreements with clients;

(iv) copies of all statements to clients or other persons showing the disbursement of funds to them or on their behalf;

(v) copies of all bills rendered to clients;

(vi) copies of all records showing payments to lawyers, investigators or other persons, not in the lawyer's regular employ, for services rendered or performed;

(vii) copies of all retainer and closing statements filed with the Office of Court Administration; and

(viii) all checkbooks and check stubs, bank statements, prenumbered canceled checks and duplicate deposit slips.

(2) Lawyers shall make accurate entries of all financial transactions in their records of receipts and disbursements, in their special accounts, in their ledger books or similar records, and in any other books of account kept by them in the regular course of their practice, which entries shall be made at or near the time of the act, condition or event recorded.

(3) For purposes of Rule 1.15(d), a lawyer may satisfy the requirements of maintaining "copies" by maintaining any of the following items: original records, photocopies, microfilm, optical imaging, and any other medium that preserves an image of the document that cannot be altered without detection.

(e) Authorized Signatories.

All special account withdrawals shall be made only to a named payee and not to cash. Such withdrawals shall be made by check or, with the prior written approval of the party entitled to the proceeds, by bank transfer. Only a lawyer admitted to practice law in New York State shall be an authorized signatory of a special account.

(f) Missing Clients.

Whenever any sum of money is payable to a client and the lawyer is unable to locate the client, the lawyer shall apply to the court in which the action was brought if in the unified court system, or, if no action was commenced in the unified court system, to the Supreme Court in the county in which the lawyer maintains an office for the practice of law, for an order directing payment to the lawyer of any fees and disbursements that are owed by the client and the balance, if any, to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

(g) Designation of Successor Signatories.

(1) Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory for such trust, escrow or special account, who shall be a member of the bar in good standing and admitted to the practice of law in New York State.

(2) An application to designate a successor signatory shall be made to the Supreme Court in the judicial district in which the deceased lawyer maintained an office for the practice of law. The application may be made by the legal representative of the deceased lawyer's estate; a lawyer who was affiliated with the deceased lawyer in the practice of law; any person who has a beneficial interest in such trust, escrow or special account; an officer of a city or county bar association; or counsel for an attorney disciplinary committee. No lawyer may charge a legal fee for assisting with an application to designate a successor signatory pursuant to this Rule.

(3) The Supreme Court may designate a successor signatory and may direct the safeguarding of funds from such trust, escrow or special account, and the disbursement of such funds to persons who are entitled thereto, and may order that funds in such account be deposited with the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

(h) Dissolution of a Firm.

Upon the dissolution of any firm of lawyers, the former partners or members shall make appropriate arrangements for the maintenance, by one of them or by a successor firm, of the records specified in Rule 1.15(d).

(i) Availability of Bookkeeping Records: Records Subject to Production in Disciplinary Investigations and Proceedings.

The financial records required by this Rule shall be located, or made available, at the principal New York State office of the lawyers subject hereto, and any such records shall be produced in response to a notice or subpoena duces tecum issued in connection with a complaint before or any investigation by the appropriate grievance or departmental disciplinary committee, or shall be produced at the direction of the appropriate Appellate Division before any person designated by it. All books and records produced pursuant to this Rule shall be kept confidential, except for the purpose of the particular proceeding, and their contents shall not be disclosed by anyone in violation of the attorney-client privilege.

(j) Disciplinary Action.

A lawyer who does not maintain and keep the accounts and records as specified and required by this Rule, or who does not produce any such records pursuant to this Rule, shall be deemed in violation of these Rules and shall be subject to disciplinary proceedings.

Rev. 4/1/2009

SUPREME COURT - APPELLATE DIVISION, 1ST DEPARTMENT
[22 NYCRR § 603.15]

§ 603.15 Random Review and Audit.

(a) Availability of Bookkeeping Records; Random Review and Audit.
The financial records required to be maintained pursuant to Rule 1.15 of the Rules of Professional Conduct (22 N.Y.C.R.R. Part 1200 [Rule 1.15]), or by any other rule of this Court, shall be made available for inspection, copying and determination of compliance with court rules, to a duly authorized representative of the court pursuant to the issuance, on a randomly selected basis, of a notice or subpoena by the Departmental Disciplinary Committee.

(b) Confidentiality.
All matters, records and proceedings relating to compliance with Rule 1.15 of the Rules of Professional Conduct (22 N.Y.C.R.R. Part 1200 [Rule 1.15]) and this section, including the selection of an attorney for review hereunder, shall be kept confidential in accordance with applicable law, as and to the extent required of matters relating to professional discipline.

(c) Regulations and Procedures for Random Review and Audit.
Prior to the issuance of any notice or subpoena in connection with the random review and audit program established by this section, the Departmental Disciplinary Committee shall propose regulations and procedures for the proper administration of the program. The court shall approve such of the regulations and procedures of the Departmental Disciplinary Committee as it may deem appropriate, and only such regulations and procedures as have been approved by the court shall become effective.

(d) Biennial Affirmation of Compliance.
Any attorney subject to this court's jurisdiction shall execute that portion of the biennial registration statement provided by the Office of Court Administration, affirming that the attorney has read and is in compliance with Rule 1.15 of the Rules of Professional Conduct (22 N.Y.C.R.R. Part 1200 [Rule 1.15]) and with this section. The affirmation shall be available at all times to the Departmental Disciplinary Committee.

No affirmation of compliance shall be required from a full-time judge or justice of the Unified Court System of the State of New York, or of a court of any other state, or of a federal court.

Amended June 23, 2009

SUPREME COURT - APPELLATE DIVISION, 2ND DEPARTMENT
[22 NYCRR § 691.12]

§ 691.12 Regulations and Procedures for Random Review and Audit and Biennial Affirmation of Compliance.

(a) Availability of bookkeeping records; random review and audit.
The financial records required by rule 1.15 of part 1200 of this Title shall be available at the principal New York State office of the attorneys subject hereto, for inspection, copying and determination of compliance with sAID Rule 1.15, to a duly authorized representative of the court pursuant to the issuance, on a randomly selected basis, of a notice **or** subpoena by this court or the appropriate grievance committee.

(b) Confidentiality.
All matters, records and proceedings relating to compliance with rule 1.15 of part 1200 of this Title, including the selection of an attorney for review hereunder, shall be kept confidential in accordance with applicable law, as and to the extent required of matters relating to professional discipline.

(c) Prior to the issuance of any notice or subpoena in connection with the random review and audit program established by this section, the appropriate Grievance Committee shall propose regulations and procedures for the proper administration of the program. The Court shall approve such of the regulations and procedures of the Grievance Committee as it may deem appropriate, and only such regulations and procedures as have been approved by the Court shall become effective.

(d) Any attorney subject to this court's jurisdiction shall execute that portion of the biennial registration statement provided by the Office of Court Administration affirming that the attorney has read and is in compliance with rule 1.15 of part 1200 of this Title. The affirmation shall be available at all times to the grievance committees. No affirmation of compliance shall be required from a full-time judge or justice of the Unified Court System of the State of New York or of a court of any other state, or of a Federal court.

Amended March 25, 2009