

**JOINT ORDER OF THE DEPARTMENTS OF THE NEW YORK STATE SUPREME  
COURT, APPELLATE DIVISION**

The Judicial Departments of the Appellate Division of the New York State Supreme Court, pursuant to the authority vested in them, do hereby amend Part 1200, Rule 1.15 (Rules of Professional Conduct) and Part 1300 of Title 22 of the Official Compilation of the Codes, Rules, and Regulations of the State of New York, as follows, effective April 1, 2021 (deletions in strikethrough, additions underlined).

Rule 1.15: 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 and overdraft 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. No special account or trust account aforementioned may have overdraft protection.

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Part 1300. Dishonored Check and Overdraft Reporting Rules for Attorney Special, Trust and Escrow Accounts

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Section 1300.1

Dishonored and overdraft check reports.

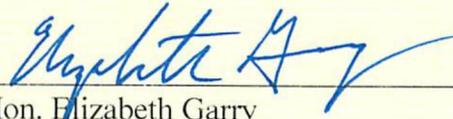
- (a) Special bank accounts required by rule 1.15 of the Rules of Professional Conduct (22 NYCRR 1200.0) shall be maintained only in banking institutions which have agreed to provide dishonored check and overdraft reports in accordance with the provisions of this section.
- (b) An agreement to provide dishonored check and overdraft reports shall be filed with the Lawyers' Fund for Client Protection, which shall maintain a central registry of all banking institutions which have been approved in accordance with this section, and the current status of each such agreement. The agreement shall apply to all branches of each banking institution that provides special bank accounts for attorneys engaged in the practice of law in this State, and shall not be cancelled by a banking institution except on 30 days' prior written notice to the Lawyers' Fund for Client Protection.
- (c) A dishonored check and overdraft report by a banking institution shall be required whenever a properly payable instrument is presented against an attorney special, trust or escrow account which contains insufficient available funds, irrespective of whether the instrument is honored and the banking institution dishonors the instrument for that reason. A properly payable instrument means an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of the State of New York.
- (d) A dishonored check and overdraft report shall be substantially in the form of the notice of dishonor which the banking institution customarily forwards to its customer, and may include a photocopy or a computer-generated duplicate of such notice. In the case of an instrument that is 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, as well as the amount of overdraft created thereby.
- (e) Dishonored check and overdraft reports shall be mailed to the Lawyers' Fund for Client Protection, 119 Washington Avenue, Albany, NY 12210, within five banking days after the date of presentment against insufficient available funds.
- (f) The Lawyers' Fund for Client Protection shall hold each dishonored check and overdraft report for 10 business days to enable the banking institution to withdraw a report provided by inadvertence or mistake; except that the curing of an insufficiency of

available funds by a lawyer or law firm by the deposit of additional funds shall not constitute reason for withdrawing a dishonored check and overdraft report.

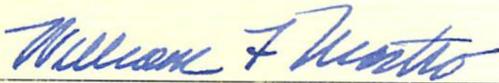
- (g) After holding the dishonored check and overdraft report for 10 business days, the Lawyers' Fund for Client Protection shall forward it to the attorney disciplinary committee for the judicial department or district having jurisdiction over the account holder, as indicated by the law office or other address on the report, for such inquiry and action that attorney disciplinary committee deems appropriate.
- (h) Every lawyer admitted to the Bar of the State of New York shall be deemed to have consented to the dishonored check and overdraft reporting requirements of this section. Lawyers and law firms shall promptly notify their banking institutions of existing or new attorney special, trust, or escrow accounts for the purpose of facilitating the implementation and administration of the provisions of this section.



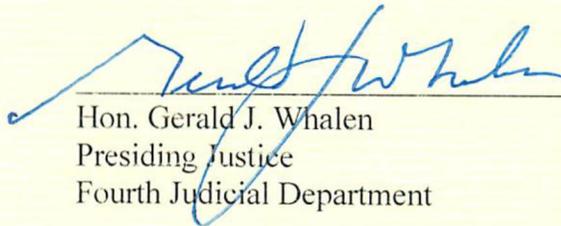
Hon. Rolando T. Acosta  
Presiding Justice  
First Judicial Department



Hon. Elizabeth Garry  
Presiding Justice  
Third Judicial Department



Hon. William F. Mastro  
Presiding Justice  
Second Judicial Department



Hon. Gerald J. Whalen  
Presiding Justice  
Fourth Judicial Department

Date: <sup>April 7,</sup> ~~March~~, 2021