

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 964

Amending the Code of
Professional Responsibility, DR
9-102 concerning IOLTA.

IT IS ORDERED:

DR 9-102 is amended to provide:

(A) All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable insured depository accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay services charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

For purposes of this rule, "insured depository accounts" shall mean government insured accounts at a regulated financial institution on which withdrawals or transfers can be made on demand, subject only to any notice period which the institution is required to reserve by law or regulation.

(B) A lawyer shall

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client 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 coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

(C) Unless an election not to participate is submitted in accordance with the procedure set forth in paragraph (D), a [A] lawyer or law firm shall [MAY ELECT TO] establish and maintain an interest bearing insured depository account into which must [MAY] be deposited funds of clients which are nominal in amount or are expected to be held for a short period of time, but only in compliance with the following provisions:

(1) No earnings from such account shall be made available to the lawyer or law firm and the lawyer or law firm shall have no right or claim to such earnings.

(2) Only funds of clients which are nominal in amount or are expected to be held for a short period of time may be deposited in such account. Funds which reasonably may be expected to generate in excess of one hundred dollars interest may not be deposited in such account.

(3) The depository institution shall be directed by the lawyer or law firm establishing such account:

(a) To remit earnings from such account, net of any service charges or fees, as computed in accordance with the institution's standard accounting practice to the Alaska Bar Foundation, Inc., at least quarter-annually; and

(b) To transmit with each remittance of earnings a statement showing the name of the lawyer or law firm on whose account the remittance is sent and the rate of interest applied, with a copy of such statement to such lawyer or law firm.

(4) The lawyer or law firm shall review the account at reasonable intervals to determine if changed circumstances required further action with respect to the funds of any client.

(D) A lawyer or law firm who elects not to maintain the account described in paragraph (C) shall make such election on or before September 1, 1989 on a Notice of Election form provided by the Alaska Bar Association. If a Notice of Election is not submitted, the lawyer or law firm shall maintain the account described in paragraph (C). A lawyer or law firm who wishes to change a previous election may do so at any time by notifying the Alaska Bar Association.

DATED: March 30, 1989

EFFECTIVE DATE: July 15, 1989

Chief Justice Matthews

Justice Rabinowitz

Justice Burke

Justice Compton

Justice Moore