

funds for legal services to the promoter, and must take all reasonable steps to safeguard the advanced funds.

(c) When in the course of representation before the Office a practitioner is in possession of property in which both the practitioner and another person claim interests, the practitioner shall keep the property separate until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the practitioner shall keep the portion in dispute separate until the dispute is resolved.

(d) A practitioner, in connection with a client having immediate or prospective business before the Office, shall:

(1) Promptly notify a client of the receipt of the client's 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 practitioner and render appropriate accounts to the client regarding them; and

(4) Promptly pay and deliver to the client or another as requested by such person the funds, securities, or other properties in the possession of the practitioner that such person is entitled to receive.

(e) *Funds, securities or other properties.* Funds, securities or other properties held by a practitioner or law firm as a fiduciary in connection with a client having immediate or prospective business before the Office shall be maintained in separate fiduciary accounts, and the practitioner or law firm shall not commingle the assets of such fiduciary accounts in a common account (including a book-entry custody account), except in the following cases:

(1) Funds may be maintained in a common escrow account subject to the provisions of paragraphs (a) and (c) of this section when authorized by professional conduct rules for lawyers in the jurisdiction where the practitioner or law firm is situated; or

(2) Funds, securities or other properties may be maintained in a common account when authorized by professional conduct rules for lawyers in the jurisdiction where the practitioner or law firm is situated.

(f) *Recordkeeping requirements, required books and records.* Every practitioner in regard to his or her practice before the Office shall maintain

or cause to be maintained, on a current basis, books and records that establish compliance with paragraphs (a) and (d) of this section. Whether a practitioner or a law firm maintains computerized records or a manual accounting system, such system shall produce the records or information required by this section.

(1) In the case of funds held in an escrow account subject to this section, the required books and records include:

(i) A cash receipts journal or journals listing all funds received, the sources of the receipts and the date of receipts. Checkbook entries of receipts and deposits, if adequately detailed and bound, may constitute a journal for this purpose. If separate cash receipts journals are not maintained for escrow and non-escrow funds, then the consolidated cash receipts journal shall contain separate columns for escrow and non-escrow receipts;

(ii) A cash disbursements journal listing and identifying all disbursements from the escrow account. Checkbook entries of disbursements, if adequately detailed and bound, may constitute a journal for this purpose. If separate disbursements journals are not maintained for escrow and non-escrow disbursements then the consolidated disbursements journal shall contain separate columns for escrow and non-escrow disbursements;

(iii) A subsidiary ledger containing a separate account for each client and for every other person or entity from whom money has been received in escrow shall be maintained. The ledger account shall be maintained by separate columns or otherwise clearly identify escrow funds disbursed, and escrow funds balance on hand. The ledger account for a client or a separate subsidiary ledger account for a client shall clearly indicate all fees paid from trust accounts; and

(iv) Reconciliations and supporting records required under this section.

(2) The records required under paragraph (f)(1) of this section shall be preserved for at least five full calendar years following termination of the fiduciary relationship.

(3) In the case of funds or property held by a practitioner or law firm as a fiduciary subject to paragraph (c) of this section, the required books and records include:

(i) An annual summary of all receipts and disbursements and changes in assets comparable to an accounting that would be required of a court supervised fiduciary in the same similar capacity. Such annual summary shall be in sufficient detail as to allow a reasonable person to determine whether the practitioner is properly discharging the

obligations of the fiduciary relationship; and

(ii) Original source documents sufficient to substantiate and, when necessary, to explain the annual summary required under paragraph (f)(2)(A) of this section.

(4) The records required under paragraph (f)(3) of this section shall be preserved for at least five full years following the termination of the fiduciary relationship.

(g) *Required escrow accounting procedures.* The following minimum accounting procedures are applicable to all escrow accounts subject to paragraphs (a) and (c) of this section by practitioners in regard to practice before the Office.

(1) Insufficient fund check reporting.

(i) *Clearly identified escrow accounts required.* A practitioner or law firm shall deposit all funds held in escrow in a clearly identified account, and shall inform the financial institution in writing of the purpose and identity of the account. Practitioner escrow accounts shall be maintained only in financial institutions authorized by these rules.

(ii) *Overdraft notification.* A financial institution may report to the Office of Enrollment and Discipline if any instrument which would be properly payable if sufficient funds were available, is presented against a practitioner escrow account containing insufficient funds, irrespective of whether or not the instrument is honored.

(iii) *Overdraft reports.* All reports made by a financial institution shall be in the following format:

(A) In the case of a dishonored instrument, the report shall be identical of the overdraft customarily forwarded to the depositor, and should include a copy of the dishonored instrument, if such a copy is normally provided to depositors;

(B) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the practitioner or law firm, the account name, the account number, the date of presentation for payment, and the date paid, as well as the amount of the overdraft created thereby; and

(C) Every practitioner or law firm shall be conclusively deemed to have consented to the reporting and production requirements mandated by this section.

(2) *Deposits.* All receipts of escrow money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently