

Practice Rules Compliance Committee

Credit Card Transactions - Practice Standard

Law Society Rules Part V - Uniform Trust Account Rules

Withdrawals and transfers from trust accounts

5.04 (2) *A member shall not withdraw or transfer money from a trust account except*

(b) money required to reimburse the member for money properly expended or for expenses properly incurred on behalf of a client.

Code of Professional Conduct (2013) - Chapter 3, Section 3.6 Fees and Disbursements

Reasonable Fees and Disbursements rule 3.6-1, commentary [2]

[2] The fiduciary relationship between lawyer and client requires full disclosure in all financial dealings between them and prohibits the acceptance by the lawyer of any hidden fees. No fee, extra fees, reward, costs, commission, interest, rebate, agency or forwarding allowance, or other compensation related to professional employment may be taken by the lawyer from anyone other than the client without full disclosure to and the consent of the client or, where the lawyer's fees are being paid by someone other than the client, such as a legal aid agency, a borrower, or a personal representative, without the consent of such agency or other person.

(Emphasis added)

The Law Society Auditors have noted that credit cards are being used to make payments for disbursements on behalf of clients. For example, payments to the Registry of Deeds and to the Sheriff's office are charged to the member's or the firm's credit card.

The Practice Rules Compliance Committee reminds members that funds must not be withdrawn from the trust bank account to reimburse the member's or the firm's credit card account until after the expense incurred has been posted to the credit card account.

The Law Society Rules prescribe that members must maintain adequate supporting documentation in the file. The Practice Rules Compliance Committee recommends that when the member has completed the transaction and obtains a receipt, the amount should be reimbursed directly from the trust bank account. The receipt should be itemized for each transaction and a copy highlighting the respective amount be placed in each file.

Members are directed to adhere to the practice standard prescribed by the Law Society Rules and the Code of Professional Conduct (2013).

Issued: May 2006

Revised: April 2013