

## Practice Advisory

### Withdrawals and Transfers from Trust Accounts

#### *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*

- (a) money properly required for payment on behalf of a client,*
- (b) money required to reimburse the member for money properly expended or for expenses properly incurred on behalf of a client,*
- (c) money properly required for or toward payment of the members fees for which a billing or other written notification has been delivered to the client,*
- (d) money that is directly transferred into another trust account and held on behalf of a client, or*
- (e) money that has been deposited inadvertently into a trust account in contravention of this Rule,*

*but in no case shall withdrawals or transfers exceed the balance of the money held in trust for the client.*

The Law Society would like to remind members that client trust ledgers cannot be cleared by billing and transferring funds to the general account, except as permitted by Rule 5.04(2) outlined above. Further, all transfers must be **properly documented** in the client files with an explanation of what the trust funds were held for and why they are being withdrawn/transferred. Members have a duty to ensure that the purpose for which the funds were held has been fulfilled. If the purpose was fulfilled without need for the trust funds (example: release of mortgage registered by bank), the funds must be returned to the client, or, if the client cannot be found after reasonable attempts to locate him or her, forwarded to the Law Society as unclaimed trust funds. Members who are unsure about how to deal with a trust ledger balance should contact the Law Society Auditor or the Law Society for direction.

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