CLE: TOP 10 TRUST ACCOUNTING MISTAKES
(AND HOW TO AVOID THEM)
REST EASY KNOWING YOUR LAW LICENSE IS SAFE FROM COMMON TRUST ACCOUNT "IRREGULARITIES"
SKEPSIS
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Welcome.

To your baptism by fire.

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No problem,
right?

So… it's hopeless?
Gee, thanks for that CLE. It was really helpful.

10. Misunderstanding How Trust Accounting Relates to Licensing

RPC 1.1
COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

[Adopted effective September 1, 1985; Amended effective September 1, 2006.]

RPC 5.3
RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

[Adopted effective September 1, 1985; Amended effective September 1, 2006.]

10. Misunderstanding How Trust Accounting Relates to Ethics and Licensing

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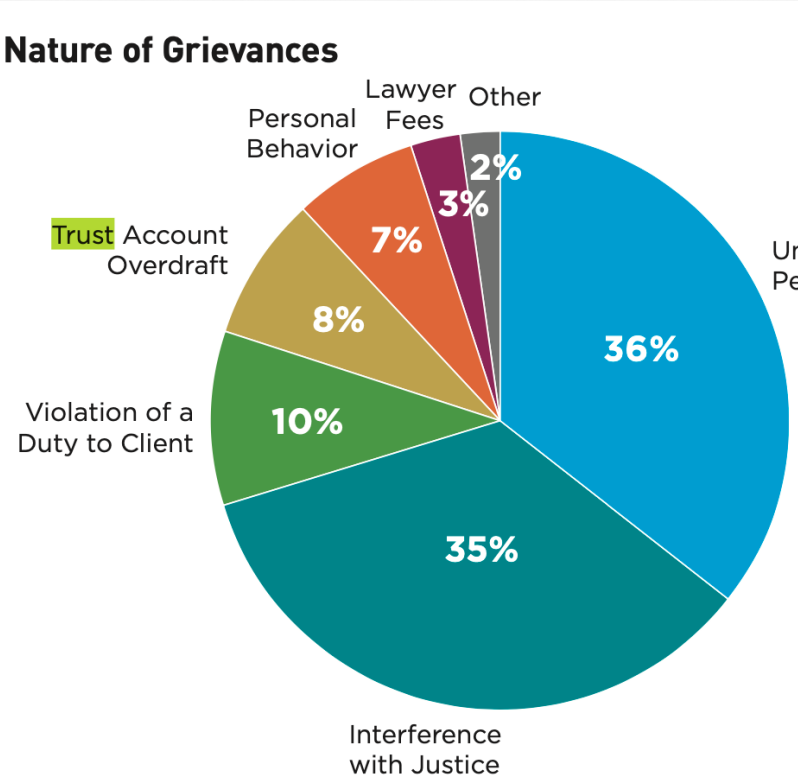
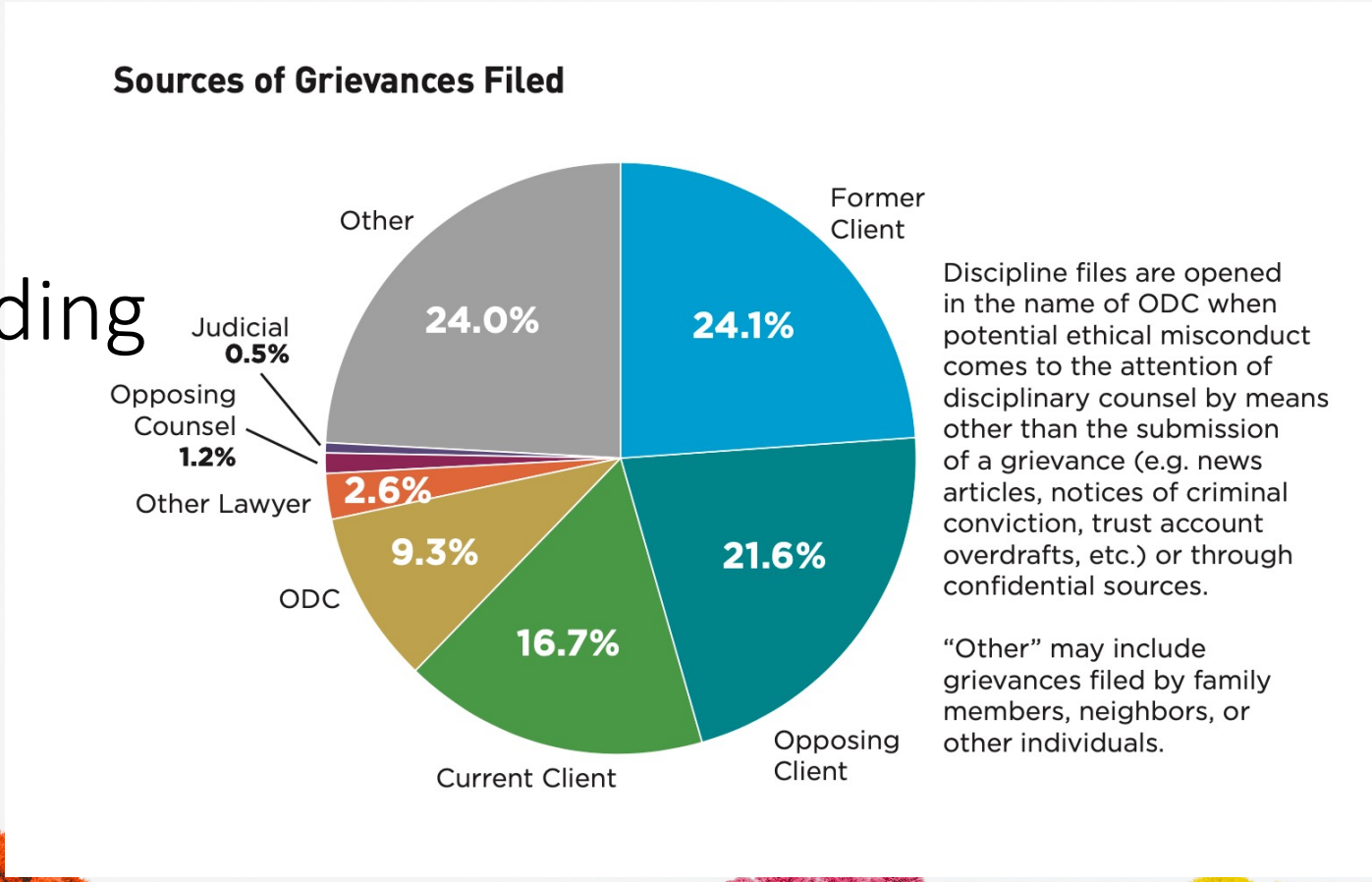
10. Misunderstanding How Trust Accounting Relates to Licensing



10. Misunderstanding How Trust Accounting Relates to Licensing



10. Misunderstanding How Trust Accounting Relates to Licensing

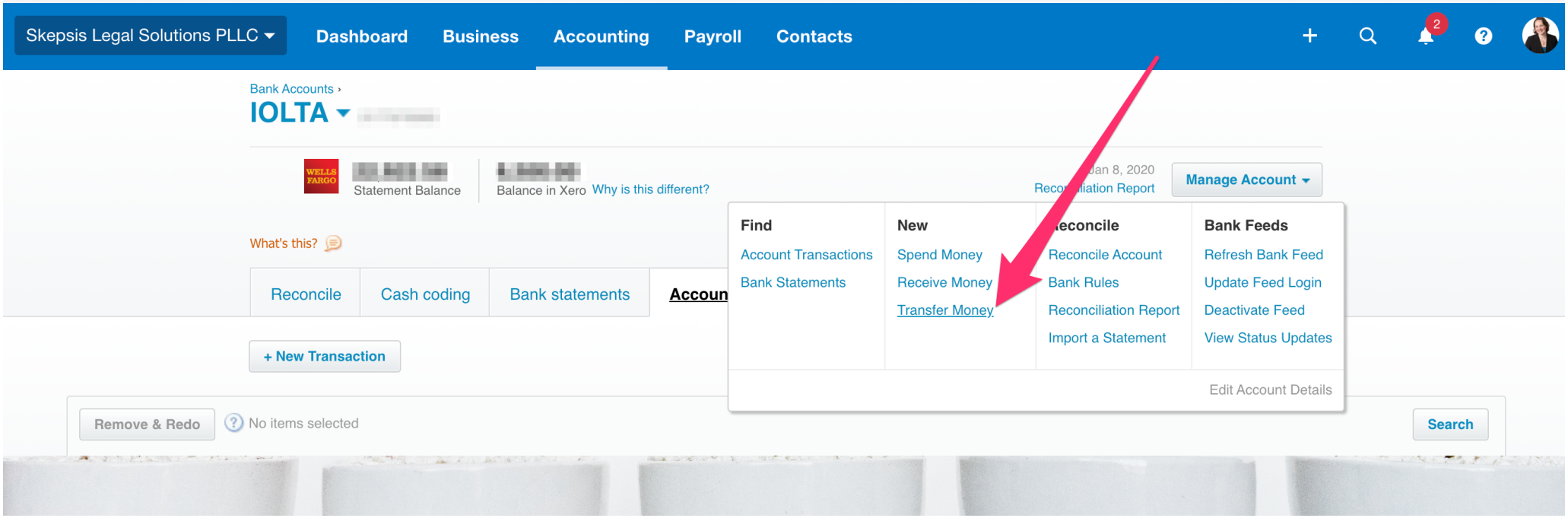
204 New Audit Files

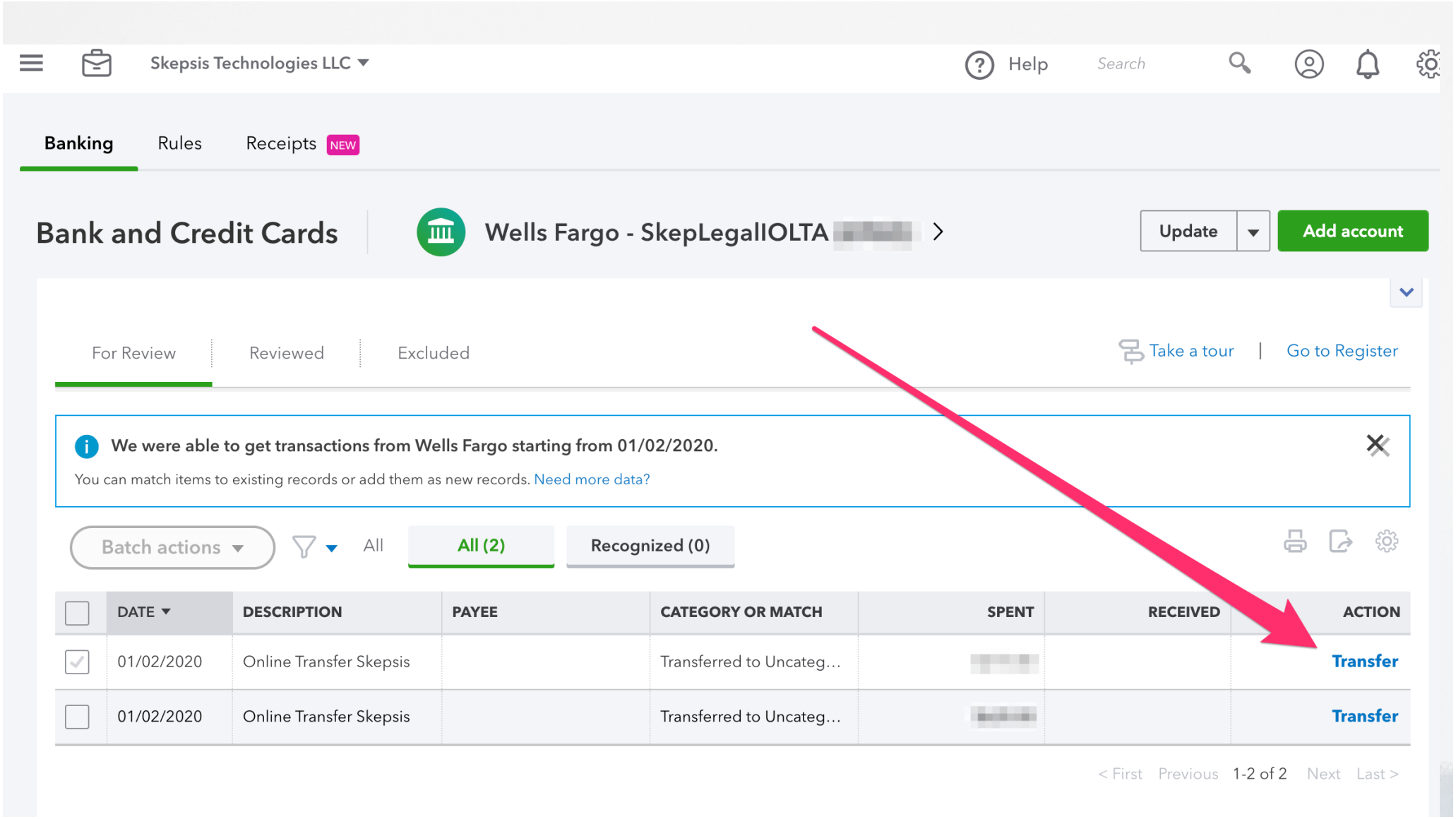
106 Overdraft (52%)

80 Random (39%)

9. Entering IOLTA > Operating Transfers As Transfers

- A transfer is not a transfer




Skepsis Technologies LLC
Help
Search
Banking
Rules
Receipts NEW
Bank and Credit Cards
Wells Fargo - SkepLegalIOLTA
Update
Add account
For Review
Reviewed
Excluded
Take a tour
Go to Register
We were able to get transactions from Wells Fargo starting from 01/02/2020.
You can match items to existing records or add them as new records. Need more data?
Batch actions
All
All (2)
Recognized (0)
DATE
DESCRIPTION
PAYEE
CATEGORY OR MATCH
SPENT
RECEIVED
ACTION
01/02/2020
Online Transfer Skepsis
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Transfer
01/02/2020
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< First
Previous
1-2 of 2
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9. A Transfer Is Not A Transfer

RPC 1.15A: Safeguarding Property.

(a) …

(b) …

(c) A lawyer must hold property of clients and third persons separate from the lawyer's own property.

(1) A lawyer must deposit and hold in a trust account funds subject to this Rule pursuant to paragraph (h) of this Rule.

9. Entering IOLTA > Operating Transfers As Transfers

- A transfer is not a transfer

- It is a payment from the client to the attorney

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8. Giving Non-Attorney Staff Your Bank Login

- RPC 1.15A(h)(9):

Only a lawyer admitted to practice law or an LLLT may be an authorized signatory on the account.

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8. Giving Non-Attorney Staff Your Bank Login

- Electronic audit trails can incriminate you
- Audit trail doesn't show who did make the mistake or take funds
- Anyone needing login must have their own username and password

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7. Skipping (or Shortcutting) 3-Way Reconciliations

RPC 1.15A(h)(6):

Trust account records must be reconciled as often as bank statements are generated or at least quarterly. The lawyer must reconcile the check register balance to the bank statement balance and reconcile the check register balance to the combined total of all client ledger records required by Rule 1.15B(a)(2).

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7. Skipping (or Shortcutting) 3-Way Reconciliations

RPC 1.15B(a)(2):

- individual client ledger records containing either a separate page for each client or an equivalent electronic record showing all individual receipts, disbursements, or transfers…

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7. Skipping (or Shortcutting) 3-Way Reconciliations

RPC 1.15B(a)(2):

- $300 belongs to Client Mark
- $100 belongs to Client Maria
- $100 belongs to Client Milana

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7. Skipping (or Shortcutting) 3-Way Reconciliations

RPC 1.15B(a)(2):

- $300 belongs to Client Mark
- $100 belongs to Client Maria
- $100 belongs to Client Milana

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6. Missing Documents

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- Cash Deposits Require Receipts
- No cash disbursements
- Keep copies of voided checks or shredding confirmations

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6. Missing Documents

- *Pro Tip: Most online bookkeeping software, like Xero and QBO, allows you to attach backup documentation to individual transactions. Use this feature as much as possible. If you're ever audited, whether the the state bar or the IRS, your audit will be a relative breeze.*

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5. Not Waiting Until Deposits Clear To Disburse Funds

- Same-day disbursements are generally a no-no

- Different banks have different clear periods and different policies; contact your bank to understand their policies

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4. “Cleared” Deposits Are A Myth

- RPC 1.15A(h)(7):

A lawyer must not disburse funds from a trust account until deposits have cleared the banking process and been collected, unless the lawyer and the bank have a written agreement by which the lawyer personally guarantees all deposits to the account without recourse to the trust account.

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4. “Cleared” Deposits Are A Myth

1. Funds must show as “available”

2. Funds must no longer show as “pending”

3. Wait at least five business days

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3. Solving Problems Yourself, Without Consulting the Pros

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- Ask for help early and often
- Most state bars offer ethics hotlines
- Consult a professional bookkeeper with legal and IOLTA expertise
- Hire an IOLTA accountant to do an internal audit of your IOLTA records at least once per year, to catch any mistakes before the bar or an overdraft does

2. Hiring A Generalist Bookkeeper

- Not all bookkeepers are lawyer trust account bookkeepers
- Only entrust your trust accounting to a specialist

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1. Doing It Yourself

Outsourcing your bookkeeping:

- Fulfills your duty of competence
- Increases your profitability
- Provides assurance and insurance

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https://skepsistech.com/letstalkiolta/

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