

**OTHER PEOPLE'S MONEY:
KEEPING TRUST ACCOUNTS USING **



MSBA
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Minnesota State Bar Association

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Table of Contents

Introduction.....	3
Computerized vs. Handwritten Accounting.....	3
The Rules and Required Books and Records	4
"Separately Maintained For Each Individual Trust Account"	5
Underlying General Notions	6
General Accounting Method.....	7
Your Money in Trust Accounts, and IOLTA Interest	7
Subscribing to CosmoLex and Setting Up Your Law Office.....	8
Preparation for Entering Initial Balances	9
Entering Banks.....	10
Entering Initial Balances for Existing Matters.....	12
Initial Reconciliation	18
Reports to be kept monthly	22
Entering Transactions	27
Receipt of money for client.....	27
Disbursements	28
IOLTA Interest.....	37
Reconciliation	38
Reports: Monthly print-outs.....	43
Backups	48
Additional Trust Accounts.....	49
Closing Request	51

Introduction

Lawyers are often entrusted with other people's money, and with that comes the duty to account. In the English common-law tradition, actions to require accounting by lawyers (or people in similar positions) date back to the 13th century, about the time also when double-entry bookkeeping methods appeared in Europe. Statutes barring commingling of other people's money with lawyers' go back about 200 years. So the duty, the methods, and the basic rules that lawyers should follow when they take other people's money (not yet earned) have been around for some time.

Yet trust account problems remain one of the more frequent areas in which lawyers become subject to discipline. From January 1, 2006 through the date of this writing, the Minnesota Supreme Court has issued 120 public disciplinary decisions in which the misconduct included trust account violations.¹ The [August 2015 annual report](#) of the Minnesota Lawyers Professional Responsibility Board (LPRB) showed that issues about trust account books and records were investigated in a third of the Board's cases. Ten lawyers were disciplined for trust account violations during that report's covered period. In four out of five inquiries closed without discipline, changes were nonetheless recommended in the lawyers' trust accounting books, records, or practices.

Some of the misconduct was intentional, of course. But many of the lawyers were guilty more of negligence or failure to be organized about what they may have perceived as complex requirements, than of intentional thefts. Such problems are avoidable; the basic principles are not all that complex, and a little organization goes a long way. This guide shows a way to keep all Minnesota's required trust account books and records using [CosmoLex](#), an online accounting program. It's simple.

Programs are not magic, however. Their work has to be overseen just like people's. A lawyer cannot delegate her duties to a person blindly, without giving them instruction and verifying the results, Minnesota Rules of Professional Conduct 5.3, and lawyers have been disciplined for blindly trusting accountants or bookkeepers. Likewise, one cannot simply "trust" a program or computer to do things correctly, via some "magic" built in by the programmers. "That's how the software did it" will not be an accepted excuse. One must know what the rules require, what the books and records should show, and how things ought to add up. You ultimately are responsible for it all.

Computerized vs. Handwritten Accounting

No rule requires you to use a computer. All required books and records can be kept with ink and paper, using double-entry methods that date back to the 13th century: every amount being entered twice—once as a debit and once as a credit, to separate accounts (asset and liability); and money moving between the credit (right) side of one account and the debit (left) side of another. Indeed, the LPRB offers a guide² showing how to keep Minnesota's required books manually, with ink and paper. The fact that you could do it with paper and ink should be encouraging.

But of course using a program or software service dedicated to accounting has some big advantages over ink and paper, and even over a simple spreadsheet program (although you could use that, too). Not everyone likes to do arithmetic, for one, either in their head or with a calculator. Double-entry chores are eased, as one types a number only once instead of twice (or more often, considering the business accounting side); backups are more easily assured; and reporting becomes simpler (and maybe more legible).

¹ Counted by examining results from a Casemaker date-limited search on <"trust account" AND violat* AND "disciplinary action">).

² As of the date of writing, the LPRB's guide, revised on September 20, 2015, was available here at the following URL:

[http://lprb.mncourts.gov/LawyerResources/TADocuments/Operating%20Lawyer%20Trust%20Accounts%20\(Sept%202015\).pdf](http://lprb.mncourts.gov/LawyerResources/TADocuments/Operating%20Lawyer%20Trust%20Accounts%20(Sept%202015).pdf)